



**HEALTH BENEFITS
CONSULTANT AGREEMENT**

THIS AGREEMENT is made and entered into January 1, 2022, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as “**CITY**,” and **GALLAGHER BENEFIT SERVICES, INC.**, of 2850 Golf Road, Rolling Meadows, Illinois 60008, hereinafter referred to as “**CONSULTANT**.”

WHEREAS, the **CITY** proposes to hire a benefits consultant for medical, dental, prescription drug, flexible spending accounts, life insurance, stop loss, utilization review/case management, Affordable Health Care Act guidance and bi-annual actuarial GASB 45 reporting, and desires to hire **CONSULTANT** as an independent contractor to perform the services as described in the Scope of Work attached hereto as Exhibit “A” and by this reference made a part hereof.

WHEREAS, the **CITY** has authority to contract for such services, and;

WHEREAS, the **CONSULTANT** represents that he/she is fully qualified to perform such services personally and is in compliance with the Montana Statutes relating to the provisions of such services.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **PURPOSE**: **CITY** agrees to hire **CONSULTANT** as an independent contractor to perform the services as described in the Scope of Work attached hereto as Exhibit “A” and by this reference made a part hereof. In performing these services, the **CONSULTANT** shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

2. **TERM**: This **AGREEMENT** shall be for a period of five (5) years, through December 31, 2026, from the execution of this **AGREEMENT**. This **AGREEMENT** may be extended for five (5) one year options through December 31, 2031, by mutual agreement of both parties, in writing, thirty (30) days prior to termination of each term.



3. **PAYMENT:** In consideration of the services provided by the **CONSULTANT** under this **AGREEMENT**, the **CITY** agrees to pay **CONSULTANT** a on an annual basis, all costs to provide the Scope of Services, including miscellaneous administrative, travel, etc.).

Total maximum annual cost for Benefit Consulting not to exceed:

January – December 2022	\$64,500
January – December 2023	\$64,500
January – December 2024	\$66,500
January – December 2025	\$68,500
January – December 2025	\$70,500

Total Cost for GASB 75 actuarial services not to exceed:

Fiscal Year July 1, 2021 – June 30, 2022 Deliverable July 1, 2022	\$6,250 (presuming roll-forward)
Fiscal Year July 1, 2022 – June 30, 2023 Deliverable July 1, 2023	\$15,000 (presuming full valuation)
Fiscal Year July 1, 2023 – June 30, 2024 Deliverable July 1, 2024	\$6,500 (presuming roll-forward)
Fiscal Year July 1, 2024 – June 30, 2025 Deliverable July 1, 2026	\$15,500 (presuming full valuation)

It is expected that the **CONSULTANT** will provide all items in the Scope of Services outlined in Exhibit A. These fees include all costs, including miscellaneous administrative, travel, etc. In the event scope of work issues arise, the **CONSULTANT** shall immediately discuss them with the Project Manager for the **CITY**. It is understood that the **CONSULTANT** will not perform any work that the **CITY** deems outside the scope prior to receiving written approval from the **CITY**, and at a rate agreed upon by both parties. Any payment for work not agreed upon by the **CITY** shall be denied.

The **CITY** recognizes that at times various projects and services may develop that are not part of the proposed Scope of Services. Below are the overall fixed costs based on desired scope of work. Table rates are guaranteed for two years and assumes 3% annual escalators years 3 – 5.



Level	Rate
Managing Consultant	\$459
Client Consultant	\$371
Financial Benefit Consultant	\$358
Client Manager	\$278
Client Representative	\$178
Benefit Analyst	\$178
Actuary	\$527
Actuarial Analyst	\$242

The prices established in this **AGREEMENT** may be extended to other political subdivisions within the State of Montana solely at the **CONSULTANT'S** discretion.

CONSULTANT may receive supplemental compensation referred to in a variety of terms and definitions, such as contingent commissions, additional commissions and supplemental commissions. As per agreement with the **CITY**, **CONSULTANT** will accept supplemental compensation.

4. INDEPENDENT CONTRACTOR STATUS: The parties agree that **CONSULTANT** is an independent contractor for purposes of this **AGREEMENT** and is not to be considered an employee of the **CITY** for any purpose. **CONSULTANT** is not subject to the terms and provisions of the **CITY's** personnel policies handbook and may not be considered a **CITY** employee for workers' compensation or any other purpose. **CONSULTANT** is not authorized to represent the **CITY** or otherwise bind the **CITY** in any dealings between **CONSULTANT** and any third parties.

5. INDEMNITY AND LIMITATION OF LIABILITY:

The **CONSULTANT** SHALL:

- A. Indemnify, defend and save **CITY**, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of **CONSULTANT** or its agents or employees.
- B. Not indemnify, defend, save and hold the **CITY** harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of the **CITY** occurring during the course of or as a result of the performance of the **AGREEMENT**.
- C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both the **CITY** and the **CONSULTANT**, the

CONSULTANT shall indemnify, defend, save, and hold the **CITY** harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the **CONSULTANT'S** or any subcontractor's wrongful or negligent acts occurring as a result from the **CONSULTANT'S** performance pursuant to this **AGREEMENT**.

- D. Notwithstanding any other term or provision of this **AGREEMENT**, **CONSULTANT** shall only be liable for actual damages incurred by the **CITY** and shall not be liable for any indirect, consequential or punitive damages. Furthermore, the aggregate liability under this Agreement, if any, of **CONSULTANT** to the **CITY** for claimed losses or damages shall not exceed \$20,000,000. This provision applies to the fullest extent permitted by applicable law.

The **CITY** SHALL:

- E. Indemnify, defend and save **CONSULTANT**, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of **CITY** or its agents or employees.
- F. Not indemnify, defend, save and hold the **CONSULTANT** harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of the **CONSULTANT** occurring during the course of or as a result of the performance of the **AGREEMENT**.
- G. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both the **CONSULTANT** and the **CITY**, the **CITY** shall indemnify, defend, save, and hold the **CONSULTANT** harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the **CITY'S** or any subcontractor's wrongful or negligent acts occurring as a result from the **CITY'S** performance pursuant to this **AGREEMENT**.

6. **INSURANCE:** **CONSULTANT** shall at all times during the term of this Agreement and for a period of two (2) years thereafter, obtain and maintain in force the following minimum insurance coverages and limits at its own expense:

- a. Commercial General Liability (CGL) insurance on an ISO form number CG 00 01 (or equivalent) covering claims for bodily injury, death, personal injury, or property damage occurring or arising out of the performance of

this **AGREEMENT**, including coverage for premises, products, and completed operations, on an occurrence basis, with limits no less than \$2,000,000 per occurrence;

- b. Workers Compensation insurance with statutory limits, as required by the state in which the work takes place, and Employer's Liability insurance with limits no less than \$1,000,000 per accident for bodily injury or disease. Insurer will be licensed to do business in the state in which the work takes place;
- c. Automobile Liability insurance on an ISO form number CA 00 01 covering all hired and non-owned automobiles with limit of \$1,000,000 per accident for bodily injury and property damage;
- d. Umbrella Liability insurance providing excess coverage over all limits and coverages with a limits no less than \$10,000,000 per occurrence or in the aggregate;
- e. Errors & Omissions Liability insurance, including extended reporting conditions of two (2) years with limits of no less than \$5,000,000 per claim, or \$10,000,000 in the aggregate;
- f. Cyber Liability, Technology Errors & Omissions, and Network Security & Privacy Liability insurance, including extended reporting conditions of two (2) years with limits no less than \$2,000,000 per claim and in the aggregate, inclusive of defense cost; and
- g. Crime insurance covering third-party crime and employee dishonesty with limits of no less than \$1,000,000 per claim and in the aggregate.
- h. All commercial insurance policies shall be written with insurers that have a minimum AM Best rating of no less than A-VI, and licensed to do business in the state of operation. Any cancelled or non-renewed policy will be replaced with no coverage gap, and a Certificate of Insurance evidencing the coverages set forth in this section shall be provided to **CITY** upon request.

7. AGREEMENTS OF CONSULTANT: As an inducement to the execution of this **AGREEMENT** by the **CITY** and in consideration of the agreements to be performed by the **CITY**, the **CONSULTANT** agrees that:

A. Qualifications

The **CONSULTANT** is qualified to perform the services to be furnished under this **AGREEMENT** and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform.

B. Solicitation of Agreement

The **CONSULTANT** has not employed any person to solicit this **AGREEMENT** and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, or other compensation in connection with the procurement of this **AGREEMENT**.

C. Facilities and Personnel

The **CONSULTANT** has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed.

D. Subcontracting

None of the work or services covered by this **AGREEMENT** shall be subcontracted without the prior approval of the **CITY**.

E. Affidavits of Compliance

The **CONSULTANT** will, if requested by the **CITY**, furnish the **CITY** affidavits certifying compliance with the provisions of this Section.

8. **AGREEMENTS OF CITY:**

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the **CITY'S** portion of the project as designated in the scope of work.
- B. Name a Project Manager who shall be the liaison between the **CONSULTANT** and the **CITY**. For this project, the Project Manager for **CONSULTANT** designated is Michael Rohr, Client Consultant, and the Project Manager for the **CITY** designated is Karla Stanton, Human Resources Director.

9. **NONDISCRIMINATION:**

- A. **CONSULTANT** shall, in performance of work under this **AGREEMENT**, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. **CONSULTANT** is the employer for the purpose of providing healthcare benefits and paying any

applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by **CONSULTANT** subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016. **CONSULTANT** agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this **AGREEMENT**.

- B. The **CONSULTANT** shall state, in all solicitations or advertisements for employees to work on jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.

The **CONSULTANT** and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

The **CONSULTANT** and any **SUBCONSULTANT** shall abide by the requirements of 41 CFR 60-1.4, which states employees or applicants may not be discharged or in any other manner discriminated against because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the **CONSULTANT'S** legal duty to furnish information.

- C. The **CONSULTANT** shall comply with any and all reporting requirements that may apply to it that the **CITY** may establish by regulation.
- D. The **CONSULTANT** shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.

- E. The **CONSULTANT** shall include the provisions of Subsections A through D of this Section in every subcontract or purchase order under this **AGREEMENT**, so as to be binding upon every such subcontractor or vendor of the **CONSULTANT** under this **AGREEMENT**.
- F. The **CONSULTANT** agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- 10. PERMITS, LAWS, AND TAXES:** The **CONSULTANT** shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this **AGREEMENT**. All actions taken by the **CONSULTANT** under this **AGREEMENT** shall comply with all applicable statutes, ordinances, rules and regulations. The **CONSULTANT** shall pay all taxes pertaining to its performance under this **AGREEMENT**.
- 11. NONWAIVER:** The failure of either party at any time to enforce a provision of this **AGREEMENT** shall in no way constitute a waiver of the provision, nor in any way affect the validity of this **AGREEMENT** or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.
- 12. CONFLICT OF INTEREST:** **CONSULTANT** shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with **CITY'S** interest. During the term of this **AGREEMENT**, **CONSULTANT** shall not accept any employment or engage in any consulting work which creates a conflict of interest with **CITY** or in any way compromises the services to be performed under this **AGREEMENT**. **CONSULTANT** shall immediately notify **CITY** of any and all violations of this Section upon becoming aware of such violation.
- 13. SUCCESSORS AND ASSIGNS:** This **AGREEMENT** and all of the covenants hereof shall inure to the benefit of and be binding upon the **CITY** and the **CONSULTANT** respectively and his partners, successors, assigns, and legal representatives. Neither the **CITY** nor the **CONSULTANT** shall have the right to assign, transfer, or sublet his interest or obligations hereunder without written consent of the other party.
- 14. CHANGES IN WORK:** Any change in the scope of **CONSULTANT'S** services as stated in this **AGREEMENT** for whatever reason, will be negotiated between the **CITY** and the **CONSULTANT** and an amendment to this **AGREEMENT** will be issued with the appropriate change of services and **AGREEMENT** fee noted.
- 15. LEGAL RELATIONS:** The **CONSULTANT** shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done.

16. TERMINATION OF AGREEMENT: The right is reserved by the **CITY** to terminate this **AGREEMENT** at any time upon not less than thirty (30) days written notice to the **CONSULTANT**.

In the event the **CITY** terminates this **AGREEMENT**, the **CONSULTANT** shall be paid for the amount of work performed or services rendered to date of termination per the **AGREEMENT** fee.

17. ENDORSEMENTS: The **CONSULTANT** shall furnish signatures, statements, or other suitable means to signify responsible endorsement of work on all reports furnished by him.

18. OWNERSHIP OF DOCUMENTS: **CONSULTANT** will retain sole and exclusive ownership of all right, title and interest in and to its intellectual property and derivatives thereof which no data or confidential information of the **CITY** was used to create and which was developed entirely using **CONSULTANT'S** own resources. To the extent **CONSULTANT'S** intellectual property is necessary for the **CITY** to use the services provided, **CONSULTANT** will grant to the **CITY** a non-exclusive, royalty-free license to **CONSULTANT'S** intellectual property solely for the **CITY'S** use of such services.

19. PUBLIC INFORMATION: The **CONSULTANT** shall not issue any statements, releases, or information for public dissemination without prior written approval of the **CITY**. All materials related to this **AGREEMENT** and services provided are considered public records under Article II, Section 9 of the Montana Constitution and §§ 2-6-102 and 7-1-4144, MCA and may be distributed by written request pursuant to Montana's Constitutional Right to Know or Public Records Acts.

20. PROPRIETARY RIGHTS: If patentable discoveries or inventions should result from work required herein, all rights accruing from such discoveries or inventions shall be the property of the **CITY**.

21. RECORDS: The **CONSULTANT** shall maintain accounting records and other evidence pertaining to the cost incurred and to make the records available at all times during the **AGREEMENT** term and for three (3) years from the date of final payment. Such accounting records and other evidence pertaining to the cost incurred will be made available for inspections authorized by the **CITY** and copies thereof shall be furnished if requested.

22. ATTORNEY'S FEES AND COSTS: That in the event it becomes necessary for either Party to this **AGREEMENT** to retain an attorney to enforce any of the terms or conditions of the **AGREEMENT** or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs.



23. LITIGATION LOCATION: The parties agree that this **AGREEMENT** shall be governed in all respects by the laws of the state of Montana, and the parties expressly agree that venue shall be in the Montana Thirteenth Judicial District County for Yellowstone County and there shall be no other venue for resolution of disputes arising from the **AGREEMENT** or the performance of its terms.

24. MODIFICATION AND AMENDMENTS: That any amendment or modification of this **AGREEMENT** or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this **AGREEMENT**.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BILLINGS, MONTANA

GALLAGHER BENEFIT SERVICES, INC.

WILLIAM A. COLE, MAYOR

BEN ANDERSON, AREA PRESIDENT

APPROVED AS TO FORM:

CITY ATTORNEY'S OFFICE

ATTEST:

DENISE BOHLMAN, CITY CLERK

EXHIBIT A

Scope of Work

This **AGREEMENT** only includes consulting services for medical, dental, vision, prescription drug, flexible spending accounts, health savings accounts, stop loss, utilization review/case management, life and AD&D, Voluntary Life and AD&D, Long Term Disability, and other miscellaneous voluntary options.

The **CONSULTANT** will also guide the **CITY** regarding the Affordable Health Care Act and any other regulations. The consulting firm will also provide a bi-annual actuarial report for GASB implied benefits to the **CITY** Finance Department.

Eligible Employees

The **CITY** of Billings has approximately 913 employees with health benefits. Benefits are provided for all full and 20 + hour part-time employees in permanent positions. The **CITY** also has 85 retirees on one of the current plans for coverage. 84 are Pre-Medicare and 1 grandfathered Medicare retiree.

INFORMATION:

Active Employee:

- Medical
 - All permanent, 20+ hour positions are required to participate in a medical/rx plan
- Dental
- Vision
- Flexible Spending Accounts
- Health Savings Account
- Life Insurance
- Voluntary benefits

Seasonals: Typical average is between 250 to 275 seasonal employees in the summer months.

The **CITY** is currently using a Third Party Administrator, EBMS, to determine and track eligibility for insurance.

Retirees:

- Retiree Medical



- Retiree Dental
- Retiree Vision
- Retiree Life

Plan Year and Annual Open Enrollment

Annual open enrollment is traditionally held in early November with an effective date of January 1 to coincide with the calendar year and not the **CITY's** fiscal year.

Present Benefit Plans

The benefit plans for which services are requested are listed below. Plans indicated by asterisk (*) are incorporated into a Section 125 flexible benefits plan. In addition, the medical plans are protected by Stop Loss insurance through Optum.

- **Health Plans***: (Administered by EBMS; Self-Funded, Employee/Employer Shared Cost)
 - 2 plans: Standard & HDHP
- **Dental Plans***: (Administered by EBMS; Self-Funded, Employee/Employer Shared Cost for non-bargaining only)
 - 1 plan
- **Vision Plan**: Administered by VSP – Voluntary Vision Plan (Employee pays premium)
 - 1 plan
- **Flexible Spending Accounts**: (Administered by EBMS; employee contributions)
- **Health Care and Dependent Care**
- **Health Savings Account**: (Administered by EBMS with their vendor Avidia Bank; employee contributions)
- **Stop Loss Coverage**:
Coverage takes effect after individual has \$250,000 of total claims over \$250,000 Stop Loss insurance deductible and \$50,000 aggregating corridor in one calendar year.
- **Employee Wellness Program** (Employer pays/Employee User Fees)
The city has a wellness program which includes educational seminars, exercise programs, and healthy lifestyle incentive programs.
 - There are 2 additional wellness programs with annual incentives:
 - Healthy is Wellness Program

- Annual Wellness Exam Program
- **Term Life Insurance:** (Standard Insurance Co., Employer pays premium)
- **Supplemental Life Insurance:** (Standard Insurance Co., Employee pays premium)
- **Long Term Disability:** (Standard Insurance Co., Employee pays premium)
- Miscellaneous other voluntary benefits (Employee pays premium), for example:
 - NCPERS Life
 - Legal Shield
 - IDGuard

* See Attachment C

SCOPE:

A. Ongoing

1. Self-Funded Health Plan:

a) Statistical analysis:

Provide a quarterly report which includes an analysis of income and expense for the prior quarter and year to date (YTD).

Provide annual report which includes an analysis of income and expense for the prior year.

Establish annual premium rates, including COBRA, active, and retirees.

In approximately July of each year a projection for the forthcoming year will need to be provided to the health insurance committee including a recommended cash reserve balance.

b) Policy analysis:

Provide general guidance on trends in benefits offered and eligibility requirements. Recommend plan changes based on these trends. Advise and consult on methods for improving cost containment and claims administration.

For above, where applicable, provide cost analysis of possible impact on plan.

c) Administrative Support:

Review Plan Document, including preparation of amendments and the restatement of the Plan Document, as needed. Review for accuracy and appropriateness revisions to the Summary Plan Description.

- d) Advise and provide guidance on the Employee Health Care Act and other regulations as needed.
- e) **CONSULTANT** will provide a bi-annual actuarial report for GASB 75 implied subsidy by July 1st of the bi-annual year the report is due to the Finance Department.

2. Other Benefits:

Review plan documents, including amendments and the restatement of the Plan Documents, as needed. Review for accuracy and appropriateness revisions to Summary Plan Descriptions.

Review contracts with vendors to insure accuracy and comprehensiveness of coverage. Provide guidance in contract interpretation, as needed.

Advise on required reserves for medical and dental plans. Assist in the modification and pricing of any current or newly considered flexible benefit plan provisions.

Advise and consult on trends in benefit plans being offered locally and nationally (such as medical, dental, etc.).

Other than services relating to stop loss coverage, RFP services are excluded.

3. Contract Negotiation:

Work with **CITY** Purchasing and Human Resources to advise on negotiations with third party administrators, utilization review firms, PPO's, stop loss and prescription drug discount programs.

4. Legal Support:

Assist in the preparation of governmental filings. Provide notification and updates on changing laws, regulations, and administrative or judicial ruling which relate to benefits programs. Review plan documents to ensure compliance with appropriate laws and regulations and notify of any necessary plan document amendments.

5. General Guidance:

Provide answers or guidance to any general or technical benefits questions. If requested, review communication materials (Open enrollment, summary plan descriptions, memos, etc.) for content, appearance, and compliance with laws and regulations.



The **CONSULTANT** will be working on a frequent basis with Human Resources. The **CONSULTANT** will be expected to assist the **CITY** on a regular basis and in a timely manner to provide guidance to technical problems that may arise.

6. Committee Meetings

The **CITY** has a health insurance committee made up of three (3) members each from the Police, Fire and Teamsters unions, one (1) retiree and five (5) non-bargaining members.

The committee holds quarterly meetings to review YTD fiscal condition of the health insurance fund. The successful firm will be required to provide a report for committee members. The reserve amount and balance sheet for these reports is provided by the **CITY**. The **CONSULTANT** is required to attend these meetings.

The **CONSULTANT** is not expected to attend Open enrollment meetings with employees. However, if the **CONSULTANT** is asked to attend Open enrollment meetings, **CONSULTANT** shall provide these services at an additional cost as outlined in the price schedule to be included in the proposal. The **CONSULTANT** may occasionally be expected to attend special meetings to provide expert guidance and discussion of the plans, at no additional cost to the **CITY**

7. Additional Requests for other services:

The **CITY** reserves the right under the terms of this **AGREEMENT** to request duties unrelated to this defined set of consulting services. The Scope of these services and related cost will be agreed to prior to the **CONSULTANT** performing any work. Compensation for these services will be based on a "not to exceed" amount. Reviewing plan documents should be part of the normal contract with amendments and updating documents.

ATTACHMENT A

HIPAA HEALTH INFORMATION PRIVACY & SECURITY INFORMATION

A. Obligations and Activities of the Business Associate:

1. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required in the Administrative Services Agreement of which this Appendix is a part or as required by law.
2. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Appendix.
3. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Appendix.
4. Business Associate agrees to report to the Plan Sponsor (City of Billings, Montana) any use or disclosure of the Protected Health Information not provided for by this Appendix of which it becomes aware.
5. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of the Plan Sponsor agrees to the same restrictions and conditions that apply through this Appendix to Business Associate with respect to such information.
6. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, the Plan Sponsor available to the Plan Sponsor, or to the Secretary, in a time and manner or designated by the Secretary, for purposes of the Secretary determining the Plan Sponsor's compliance with the Privacy Rule.
7. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Plan Sponsor to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
8. Business Associate agrees to provide to the Plan Sponsor or an Individual, in a reasonable time and manner, information collected in accordance with Section A.7. of this Provision, to permit Plan Sponsor to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528

B. Permitted Uses and Disclosures by Business Associate:

1. Except as otherwise limited in this Appendix, Business Associate may use or disclose

Protected Health Information on behalf of, or to provide services to, the Plan Sponsor for the following purposes, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by the Plan Sponsor or the minimum necessary policies and procedures of the Plan Sponsor: performing plan administration functions, obtaining premium bids from insurance companies or other health plans for providing insurance coverage under or on behalf of the group health plan, or modifying, amending, or terminating the group health plan.

2. Except as otherwise limited in this Appendix, Business Associate may use Protected Health Information to provide data aggregation services to the Plan Sponsor as permitted by 42 CFR § 164.504(e)(2)(i)(B).
3. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).
4. Business Associate may use and disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate

C. Obligations of Plan Sponsor:

1. Plan Sponsor shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that the Plan Sponsor has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.
2. Plan Sponsor shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Plan Sponsor.

D. Termination

1. In addition to the termination provisions set forth in the Administrative Services Agreement of which this Appendix is a part, the following termination provisions are applicable:
 - a. Upon the Plan Sponsor's knowledge of a material breach by Business Associate of this Appendix, the Plan Sponsor shall either:
 - i. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Administrative Services Agreement of which this Appendix is a part if Business Associate does not cure the breach or end the violation within the time specified by Plan Sponsor; or,
 - ii. Immediately terminate the Administrative Services Agreement of which this Appendix is a part if Business Associate has breached a material term of this Appendix and cure is not possible; or,
 - iii. If neither termination nor cure are feasible, the Plan Sponsor shall report the violation to the Secretary.

E. Effect of Termination

1. Except as provided in paragraph (2) of this section E, upon termination of the Administrative Services Agreement of which this Appendix is a part, for any reason, Business Associate shall return or destroy all Protected Health Information received from the Plan Sponsor, or created or received by Business Associate on behalf of the Plan Sponsor. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to the Plan Sponsor notification of the conditions that make return or destruction infeasible. Business Associate shall extend the protections of this Appendix to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information. For purposes of illustration only and not to limit the set of circumstances that could potentially make return or destruction infeasible, it would be infeasible for Business Associate to return or destroy certain PHI that is part of work product that must be retained for document retention/archival purposes, as well as PHI that is stored as a result of backup e-mail systems that store e-mails for emergency backup purposes.

F. Miscellaneous

1. The Parties agree to take such action as is necessary to amend this Appendix from time to time as is necessary for Plan Sponsor to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
2. The respective rights and obligations of Business Associate under Section E of this



Provision shall survive the termination of the Administrative Services Agreement of which this Appendix is a part.

3. Any ambiguity in this Appendix shall be resolved to permit the Plan Sponsor to comply with HIPAA.

G. Security Standards

1. Business Associate agrees that it will implement policies and procedures to ensure that its creation, receipt, maintenance, or transmission of electronic protected health information ("ePHI") on behalf of Plan Sponsor complies with the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 CFR Part 164.
2. Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 CFR Part 164.
3. Business Associate agrees that it will report security violations to the Plan Sponsor.

H. Definitions

1. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of the Plan Sponsor.
2. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

Company Name

Date

Contact Name

Title

Contact Signature

ATTACHMENT C

HEALTH PLANS

Located at:

<https://www.ci.billings.mt.us/417/Forms-and-Resources>

**ARTHUR J. GALLAGHER & CO.
MEMORANDUM OF INSURANCE**

This Memorandum of Insurance ("Memorandum") is produced as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of the Memorandum. This Memorandum does not amend, extend or alter the coverage described below. Copyright 2005, Arthur J. Gallagher Risk Management Services, Inc. ("Gallagher"). Gallagher grants permission to you to view, copy, print and distribute the information found on the Memorandum website ("Site") provided that the above copyright notice appears on all copies, that use is internal to you or for personal noncommercial informational purposes only, and that no modification is made to any materials. Any modification, use, reproduction or distribution of this Memorandum, the Site or its contents must be first approved by Gallagher in writing. You will not suffer or permit any unauthorized use of any Gallagher trademark, service mark or logo. This Memorandum, the Site and its contents, including but not limited to text, graphics, images, software, copyrights, trademarks, service marks, logos, and brand names ("Content"), are protected under both United States and foreign laws, and Gallagher or its affiliated entities retain all right, title and interest in and to the Content, all copies thereof, and all copyrights and other proprietary rights therein. The information contained herein is as the date referred to above. Gallagher shall be under no obligation to update such information.

DATE: 10/8/2021

INSURED:

Arthur J. Gallagher & Co. and its subsidiaries
2850 West Golf Road
Rolling Meadows, IL 60008

Insurance Companies

A: ARCH INSURANCE COMPANY
B: ACE PROPERTY AND CASUALTY INSURANCE COMPANY
C: LIBERTY MUTUAL FIRE INS. COMPANY
D: FEDERAL INSURANCE COMPANY
E: LEXINGTON INS. COMPANY
F: XL SPECIALTY INS. COMPANY
G: UNDERWRITERS AT LLOYDS
H: INDIAN HARBOR INSURANCE COMPANY

The policies of insurance listed below have been issued to the "INSURED" named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this Memorandum may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Limits shown may have been reduced by paid claims.

CO. LTR.	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE	POLICY EXPIRATION	LIMITS (In USD unless otherwise indicated)	
A	Commercial General Liability Occurrence Per location Aggregate	41GPP4938414	10/01/21	10/01/22	General Aggregate	4,000,000
					Products - Comp/Op Agg	4,000,000
					Personal and ADV Injury	2,000,000
					Each Occurrence	2,000,000
					Damage to Rented Premises (Each occurrence)	1,000,000
A	Automobile Liability Any Auto	41CAB4939014 41CAB4938314	10/01/21	10/01/22	Combined Single Limit	5,000,000
					Bodily Injury (per person)	
					Bodily Injury (per accident)	
B	Excess/Umbrella Liability Retention: \$10,000	XOO G46820149 004	10/01/2021	10/01/22	Each Occurrence	25,000,000
					Aggregate	25,000,000
A	Workers Compensation and Employers Liability	41WCI4938114 44WCI0501914	10/01/21	10/01/22	Workers Comp Limits	Statutory
					EL Each Accident	1,000,000
					EL Disease - Each Employee	1,000,000
					EL Disease - Policy Limit	1,000,000
C	Property	US00112916PR21A	10/01/21	10/01/22	Blanket Bldg. & PP	10,000,000
D	Crime/Fidelity Bond (Employee Dishonesty)	81326283	09/01/21	09/29/22	Single Loss Limit	15,000,000
E	Errors & Omissions (Primary Policy)	06030323	09/29/21	10/01/22	Per Claim and Aggregate	12,000,000
F	Errors & Omissions (Excess Policy)	ELU163265-21	09/29/21	10/1/22	Per Claim and Aggregate	10,000,000
G	Errors & Omissions (Excess Policy)	B1262F10121921	09/29/21	10/1/22	Per Claim and Aggregate	13,000,000
H	Cyber Liability	MTP903416503	05/01/21	05/01/22	Limit of Liability	10,000,000

Description of Operations/ Other Information: See ADDITIONAL INFORMATION on the following page.

This Memorandum of Insurance serves solely to list insurance policies, limits and dates of coverage. Any modifications hereto are not authorized by Gallagher or the Insurance Companies.

**ARTHUR J. GALLAGHER & CO.
MEMORANDUM OF INSURANCE**

ADDITIONAL INFORMATION

As respects GENERAL LIABILITY POLICY

ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES *

Endorsement Form# CG 20 11 04 13 modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

1. Designation of Premises (Part Leased to You): ANY PREMISES OR PART THEREOF LEASED TO YOU.
2. Name of Person or Organization (Additional Insured): ANY AND ALL PERSONS OR ORGANIZATIONS CONTRACTUALLY REQUIRING ADDITIONAL INSURED STATUS AS THE MANAGER OR LESSOR OF PREMISES TO YOU.
3. Additional Premium: INCLUDED

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the Schedule.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

We waive any right of recovery we may have against the person or organization where required by written contract because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only where required by written contract.

As respects PROPERTY

This policy insures against "All Risks" of physical loss or damage, except as excluded, to covered property while on Described Premises, provided such physical loss or damage occurs during the term of this policy. Coverage is subject to policy deductibles, terms, conditions and exclusions. Loss Payable clause included for whom Insured has agreed to per written contract.

IMPORTANT NOTICE

***All other Additional Insureds requests requires Legal approval and issuance of a Certificate of Insurance.**

***For special requests, such as a *WET SIGNATURE*, please contact the appropriate team: P&C – Doreen Morris or Therese Scamardo; E&O – Helen Ponce de Leon or Ryan Sheekley; Cyber – Jeremy Gillespie or Ariel Magrini.**