

REQUEST FOR COUNCIL ACTION

SUBJECT: Appointment of Employee Benefit Broker; approve contract with GBS Benefits, Inc.; authorize the Mayor to execute contract.

SUMMARY: Pursuant to a Request for Proposal (RFP) for employee benefit broker services, a selection committee has unanimously recommended the appointment of GBS Benefits, Inc. as the City's employee benefit broker. We have negotiated a three year contract with two one year extensions at the City's sole discretion.

FISCAL IMPACT: \$36,000.00 currently budgeted this fiscal year.

STAFF RECOMMENDATION:

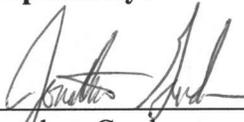
Staff recommends the appointment and approval of contract with GBS Benefits, Inc.

MOTION RECOMMENDED:

"I move to appoint GBS Benefits, Inc. as the employee benefit broker for the City of West Jordan; to approve the contract between the City of West Jordan and GBS Benefits, Inc.; and approve Resolution 14-182 authorizing the Mayor to execute the contract.

Roll Call vote required

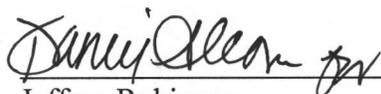
Proposed by:


Jonathan Gardner
Human Resource Manager

Recommended by:


Bryce Haderlie
Interim City Manager

Reviewed by:


Jeffrey Robinson
City Attorney

BACKGROUND DISCUSSION:

The City has utilized GBS Benefits, Inc. as our benefit broker for the last four years. Based on our belief that we occasionally need to check competitive services available in the market, we solicited Request for Proposals from qualifying firms. We received six responses which were reviewed by a selection committee that included the Mayor, Interim City Manager and Human Resource Manager.

That committee found that two of the companies did not have the experience necessary to accommodate a city of our size and that two others were not competitively priced. The two remaining companies were comparably priced and also had similar services. GBS Benefits, Inc. has served the City for the past four years and we have found they provide excellent customer service as well as innovative thinking and cutting edge technology. GBS Benefits, Inc. has already established a working relationship with staff and it was determined that they would be the best option for the City and create the least amount of disruption to our benefits and wellness programs.

THE CITY OF WEST JORDAN, UTAH

A Municipal Corporation

RESOLUTION NO. 14-182

A RESOLUTION AUTHORIZING THE EXECUTION
BY THE MAYOR OF AN AGREEMENT
BETWEEN THE CITY OF WEST JORDAN AND
GBS BENEFITS, INC.

WHEREAS, the City Council of the City of West Jordan desires to enter into an agreement between GBS Benefits, Inc. and the City of West Jordan for employee benefit broker services; and

WHEREAS, the Mayor is authorized to execute this agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THAT:

Section 1. The Mayor is authorized and directed to execute the attached agreement entitled as follows:

Contract for Certain Insurance Consulting Services

Section 2. This Resolution shall take effect immediately.

Adopted by the City Council of West Jordan, Utah, this ___ day of _____ 2014.

KIM V. ROLFE
Mayor

ATTEST:

MELANIE S. BRIGGS, MMC
City Clerk

Voting by the City Council	"AYE"	"NAY"
Jeff Haaga	_____	_____
Judy Hansen	_____	_____
Chris McConnehey	_____	_____
Chad Nichols	_____	_____
Ben Southworth	_____	_____
Justin D. Stoker	_____	_____
Mayor Kim V. Rolfe	_____	_____

**CONTRACT BETWEEN
WEST JORDAN CITY
AND
GBS BENEFIT INC.
FOR CERTAIN
INSURANCE CONSULTING SERVICES**

THIS CONTRACT, made and entered into this 1st day of October 2014, by and between West Jordan City, a Utah City ("City") with its principal place of business at 8000 South Redwood Road, West Jordan, UT 84088; and GBS Benefit, Inc. a Utah Consultant ("Consultant"), with its principal place of business at 465 South 400 East, Suite 300, Salt Lake City, UT 84111.

**I
APPOINTMENT**

Consultant is hereby designated to provide insurance consulting services to City; as such services are hereinafter described in this Contract.

**II
DEFINITIONS**

When used herein, whether in the singular or plural, the following terms shall have the following meanings:

- a. Consultant: GBS Benefit, Inc.
- b. City: West Jordan City.
- c. Commencement Date: Shall have the meaning set forth in Article III of this Contract.
- d. Contract: This contract, including any written amendments or modifications hereto, which are hereafter agreed to in writing signed by both of the Parties.
- e. Fees: Remuneration paid directly to Consultant, for Services performed by the Consultant.
- f. Parties: Consultant and City.

- g. Services: Any and all obligations of Consultant to be performed hereunder as more particularly described in Article III of this Contract and in the materials provided by the Consultant on or about October 1, 2014, in response to the City's SOQ dated July 27, 2014, which are attached hereto and incorporated herein by this reference.
- h. HIPAA: The Health Insurance Portability Accountability Act of 1996, as amended.
- i. ERISA: Employee Retirement Income Security Act of 1974, as amended.
- j. COBRA: Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.
- k. Program: The employee benefit program or plan in connection with which the parties have agreed Consultant shall provide Services to City. For purposes of this Contract, Program means group Medical, Dental, Vision, Long-Term Disability, Short-Term Disability, Group Life, Employee Assistance Program and Voluntary Products.

III AGREEMENT

- a. Commencement of Services: Services, as described in this Contract, will commence as of the date first set forth above (1st day of October, 2014) and continue until the date that is for a period of three years, with the City having the option to renew with two single year extensions; unless this Contract is canceled in accordance with the provisions of Section X of this Contract.
- b. Duties of Consultant: Consultant's duties shall be as follows:
 - 1. Provide City with insurance consulting services concerning cost, benefits provided, and contracts with insurance carriers in connection with the Program.
 - 2. Recommend benefit changes to meet the objectives of City in connections with the Program as these objectives are communicated by City to Consultant.
 - 3. Prepare such reports in regard to the Program as Parties may reasonably agree upon concerning trends, utilization, and costs to City.

4. Prepare specifications and assist City in bidding group insurance products in connection with the Program. This includes assistance with preparation of RFP's and evaluation of bids.
 5. In connection with the group insurance products utilized by the Program, negotiate rates and benefits with insurance carriers for review, evaluation and selection by City.
 6. Be an intermediary for City in working with insurance carriers, including but not limited to assisting City in matters of insurer compliance with insurance contracts and dispute resolution with insurers.
 7. Assist City by suggesting methods for City's containment of benefits costs with respect to the Program.
 8. Work with the insurance carriers to secure rate estimates and firm renewal rates for City's review, evaluation and selection.
 9. Review and analyze contracts, agreements and the summaries of plan descriptions.
 10. Other duties as may be required to effectively provide the Services in accordance with standard industry practice.
 11. Other duties agreed between the Parties, reduced to a writing signed by both Parties and referencing that the writing is intended to modify or amend this Contract.
- c. Procurement: For all insurance programs and benefits, Consultant shall make its best efforts to provide the City with proposals/bids from at least three providers of insurance sought by the City. All insurance opportunities identified shall be given written notice of a Request for Proposal in conformance with the City's procurement policies. A contract of insurance shall be entered only after the City has complied with procurement policies of governing authorities, including the City's procurement policy.

IV COMPENSATION

For Services performed pursuant to this Contract, Consultant will be compensated by City as specified below:

- a. Effective October 1, 2014, Consultant shall be compensated for Services at the rate of \$36,000 per year ("Annual Fee"). Consultant will invoice City monthly for 1/12 of the Annual Fee. This monthly portion of the Annual Fee shall be due and payable in full within thirty (30) days of the date the invoice is actually received by the City.
- b. The Consultant shall receive commissions for the non-medical portion(s) of the Program.
- c. Consultant shall act solely and represent itself clearly as the agent of City in all transactions with insurance carriers. Consultant shall serve City as an independent contractor and shall not be deemed an employee of the City.
- d. Consultant could receive commissions, fees, override and incentives. At the City's request, Consultant will fully disclose all commissions, fees, inducements, "overrides", and incentives received in connections to the City's Program.

V ASSIGNMENT

The rights and/or obligations of this Contract may not be assigned, delegated, transferred, conveyed or sold without the prior written consent of the other Party, except that a Party may assign, delegate, transfer, convey or sell its respective rights and/or obligations to: (a) a parent, subsidiary or affiliate; (b) an entity into which the Party is merged; (c) an entity with which the Party is consolidated; or (d) a purchaser of all or substantially all of its assets or as part of a corporate reorganization. Any Party excepted from receiving prior written consent, shall provide written notice of any assignment, delegation, transfer, conveyance or sale to the other Party within 30 days.

VI NOTICE

All notices shall be in writing and shall be deemed to have been sufficiently given or served when personally delivered, deposited prepaid in the United States mail, by registered or certified mail, or deposited with a reputable overnight mail carrier

which provides delivery of such mail to be traced, at the following address or to any other addresses of which written notice of change is given to the other Party.

To City:

City Clerk
City of West Jordan
8000 Redwood Road
West Jordan, Utah 84088

With a Copy to:

City Attorney
City of West Jordan
8000 Redwood Road, Suite 100
West Jordan, Utah 84088

To Consultant:

GBS Benefit, Inc.
465 South 400 East, Suite 300
Salt Lake City, Utah 84111

VII WAIVER

The waiver by Consultant or City of the breach of any provision of this Contract by the other Party will not operate or be construed as a waiver of any subsequent breach by either Party or prevent either Party from enforcing any such provisions.

VIII PAROLE EVIDENCE

This contract sets forth all of the terms, conditions, and agreements of the Parties relative to the subject matter hereof. There are no terms, conditions or agreements with respect hereto, except as herein provided, and no supplement amendment or modification of this Contract shall be effective unless reduced to writing and executed by the Parties.

IX AUTHORIZATION

This Contract serves as authorization to all carriers, contractors or administrators providing services or products in connection with the City to release to Consultant all City materials and data as may be reasonably requested by Consultant in connection with the Services it performs under the Contract.

X CANCELLATION

The Contract may be canceled at any time by written agreement signed by both Parties. Alternatively, if a Party fails to promptly or fully perform under the material terms and conditions of this Contract, the non-breaching Party may take the following steps toward canceling the Contract: If a Party shall be in material breach under any of the material terms, covenants, conditions, or obligations in this Contract, then ninety (90) days after written notice specifically identifying such breach and calling for its correction is sent pursuant to the notice provision of this Contract and if such breach is not cured within such ninety (90) day period, then the non-breaching Party may cancel the Contract effective on the day after the end of the ninety (90) day cure period. The cancellation shall be accomplished by sending notice, pursuant to the notice provision of this Contract, that the Contract has been canceled.

XI MISCELLANEOUS

- a. No Warranty Regarding Insurer Provided Materials. The Parties acknowledge and agree that Consultant will not approve materials that are prepared by the City's selected insurance carrier or benefits provider to be provided to City and/or employees, dependents or beneficiaries under the Program. Such materials may include but not be limited to: descriptive product brochures; plan booklets; summary plan descriptions; provider directories; and employee selection documents, including descriptions of all covered benefits, exclusions, and limitations designed by the insurance carrier or benefits provider for inclusion in employee and employer materials distributed by City. The Consultant makes no representations or warranties of any kind as to any materials that are prepared by the insurance carrier or benefit provider selected by City. In particular, and not by way of limitation, the Consultant makes no representation or warranty that any benefit or other materials provided by the insurance carrier or benefit provider to City and/or employees, dependents or beneficiaries under the Program have been prepared consistent with or satisfy all of the requirements of HIPAA, ERISA, COBRA or any other state or federal law or statutory scheme. The Consultant shall be responsible only for materials prepared by Consultant. The insurance carrier or benefit provider selected by City, and not the Consultant, shall be responsible to provide all benefits and services required under the City's contract with the insurance carrier or benefit provider, including the preparation and distribution of all necessary member materials (including, but not limited to member handbooks, summaries, I.D. cards etc.). The Consultant specifically disclaims responsibility for City's or the insurance carrier's or benefit provider's compliance with laws and regulations applicable to the

benefits and services required under the City's contract with the insurance carrier or benefits provider.

- b. No Consultant Liability For Performance of Contract With Insurer or Provider. In the event of a dispute concerning Program benefits between an insurance carrier or benefit provider and City, City acknowledges and agrees that the insurance carrier or benefit provider and not Consultant is responsible for payment of benefits claims, provision of contracted for benefits and performance of the services contracted for, and City, and not Consultant, is exclusively responsible for payment of all premiums, fees, or charges under any benefits or insurance policy, contract or agreement is entered into with any insurer or benefits provider. Consultant specifically disclaims any liability arising in connection with any failure by either City, provider or insurer to properly or fully perform under any contract, policy or agreement for benefits or services entered into between City and any insurance carrier or benefit provider. Consultant has not agreed to provide or pay any fees, costs or premiums owed by City under any contract or agreement entered into by City in connection with the Program.
- c. Consultant Not To Provide Plan Administration Services. Nothing in this Contract shall be interpreted to provide or infer that Consultant is a fiduciary (under ERISA or otherwise) or plan administrator (under ERISA or otherwise) for the Program or for any other benefit plan or program sponsored by or administered by City or operated for the benefit of City employees or their dependents or beneficiaries. City specifically understands and agrees that Consultant is not responsible to and will not prepare, provide or file any reports, summaries, forms, notices, returns or the like which employee benefit plans or their sponsors, fiduciaries or administrators may be required to prepare, file or provide to employees, beneficiaries, spouses, defendants and/or state or federal agencies under any applicable law. To illustrate, and not by way of exclusion, the Consultant shall not be responsible to prepare or provide HIPAA creditable coverage certificates to employees or other notices under HIPAA or to prepare, provide or file Form 5500s for any employee benefit plan with the Internal Revenue Service of the Department of Labor. Further, in no event shall the Consultant have as its duty or be responsible for any claims adjudication or benefit determinations, issuance of any notices to employees or dependents of any kind (including without limitation any notices regarding benefits determinations, loss of coverage) or any other notices required by any state or federal law including without limitation such notices as may be required by the Internal Revenue Code, COBRA, HIPAA, ERISA, state law or any claim for benefit dispute resolution procedures.
- d. Consultant Has No Discretion Or Control Over Benefits. City acknowledges and agrees that Consultant has no discretionary authority to select or control City's choice of insurance carrier or benefit provider to furnish benefits under the

Program, and further that Consultant has no discretionary control to manage or administer the Program or the benefits provided thereunder. Nothing in this Contract shall be deemed to confer upon Consultant any discretionary authority with respect to the selection, control, management or administration of the Program or of the insurance of benefit provider contracts selected by City in connection with the Program. Consultant shall have no authority to make decisions setting policy, interpretations, practices or procedures under such contracts or the Program or to select the benefits or select the insurers or providers of benefits under the Program.

- e. No Third Party Beneficiaries. The Parties specifically state, acknowledge and agree that it is their intent that no other party (including, but not limited to, all persons eligible for benefits under the Program, all covered employees, dependents, beneficiaries and their assignees) shall be a third-party beneficiary to this Contract. The Parties further agree that nothing herein shall be deemed to impose upon Consultant any obligation to any party other than City (including, but not limited to, all persons eligible for benefits under the Program, all covered employees, beneficiaries and their assignees).
- f. Hold Harmless and Insurance. Consultant shall defend, indemnify and hold the City its elected officials, officers and employees, harmless from all claims, lawsuits, demands, judgments or liability including, but not limited to general liability, automobile and professional errors and omissions of the Consultant in performing the services described. Consultant shall, at Consultant's sole cost and expense and throughout the term of this Agreement and any extensions thereof, carry: (1) workers compensation insurance adequate to protect Consultant from claims under workers compensation acts; (2) professional errors and omissions insurance in the amount not less than \$1,000,000; and (3) general personal injury and property damage liability insurance with liability limits of not less than \$1,000,000 for each claimant and \$1,000,000 for each occurrence related to the injury or death of a person or persons and for property damage. The City, its officers and employees, shall be named as an additional insured. All insurance policies shall be issued by a financially responsible company or companies authorized to do business in the State of Utah which carry a Moody's rating of not less than A-. Consultant shall provide City with copies of certificates (on the City certificate form) for all policies reflecting the coverage.
- g. Governing Law. This Contract shall be governed by and interpreted in accordance with the laws of the State of Utah.
- h. Severability. If and to the extent that any court or regulatory agency of competent jurisdiction holds any provision or any part of this Contract to be invalid or unenforceable, such holding shall in no way affect the validity of the

remainder of this Contract to the extent that the Parties can legally, commercially, and practicably continue to perform.

- i. Article and Section Headings. The article and section headings in this Contract are inserted for convenience only and shall not be considered part of the Contract nor be used in its interpretation.
- j. Arbitration. The Parties agree to resolve any dispute between them arising under this Contract and not otherwise resolved by direct negotiations between or among the Parties through non-binding arbitration in accordance with the arbitration rules for commercial arbitration. Proceedings shall be conducted in Salt Lake City, Utah. Arbitrators shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the Association. The selected arbitrator shall be knowledgeable in employee benefits and insurance issues. Costs including reasonable attorney's fees may be awarded by the Arbitrator to the successful Party.
- k. REPRESENTATION REGARDING ETHICAL STANDARDS FOR CITY OFFICERS AND EMPLOYEES AND FORMER CITY OFFICES AND EMPLOYEES. The Lessee represents that it has not: (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than as exempted in the City's Conflict of Interest ordinance; or (3) knowingly influenced (and hereby promises that it will not knowingly influence) a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City's Conflict of Interest ordinance, title 1, chapter 11 of the West Jordan City Code.

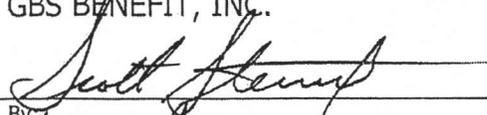
In Witness Whereof, the Parties have executed this Contract on the first above written.

"Consultant"

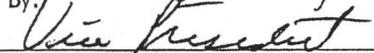
"City"

GBS BENEFIT, INC.

WEST JORDAN CITY

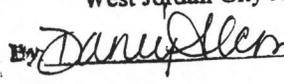


By: _____

By: 

Title: _____

Title:

APPROVED AS TO LEGAL FORM
West Jordan City Attorney
By:  Date: 9-16-14