



City of Grand Island

Tuesday, July 13, 2010

Council Session

Item G15

#2010-186 - Approving Contract for City Wellness Plan

Staff Contact: Brenda Sutherland

Council Agenda Memo

From: Brenda Sutherland, Human Resources Director

Meeting: July 13, 2010

Subject: Approving Wellness Contract

Item #'s: G-15

Presenter(s): Brenda Sutherland, Human Resources Director

Background

The City of Grand Island began its wellness program almost four years ago. At that time the Healthways contract was administered through the health insurance contract with Mutual of Omaha. Later Coventry purchased Mutual of Omaha's book of business and the wellness contract was picked up by Coventry. The City's contract with Coventry expired on September 30, 2009. As the wellness year had already begun and the onsite physicals were held, employees were able to receive services through Healthways into fiscal year 2010. When the City brought forward a new third party administrator for its health and dental insurance a wellness contract was not part of the package.

The City chose to implement a wellness plan as a way to improve employee's health and in turn help to reduce overall health insurance costs. This has proven to be the case. Within 1 year after implementation, the City's health claims dropped by more than \$250,000. The claims remained at that level for the last three years with only a slight increase of around 1%. Nationally, health claims have risen around 10% annually. Our wellness program has proven to be an important part of our claims management process. Health insurance claims are cyclical and we can expect a bad year from time to time. But our last three years have been very good.

Discussion

The City advertised a Request for Proposal in April and received 6 proposals by the closing date in May. Three finalists were selected for interviews based on the how well they met the criteria in the RFP. Interviews were held by a group with representation from human resources, finance and legal/purchasing. The company being recommended to continue the wellness program is our current carrier, Healthways. Healthways presented the best overall proposal. The cost will remain the same as it was before which is \$110 per participant. The set up fee per site is \$150. Employees will have the same

benefits and level of service that they have currently. The contract will run for three years with a renewal guarantee that the cost will increase by no more than 3% per year. The contract is attached for review

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the wellness contract with American Healthways Services, Inc.

Sample Motion

Move to approve the contract with American Healthways Services, Inc.



Dale Shotkoski, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

**REQUEST FOR PROPOSAL
FOR
CITY WELLNESS PLAN**

RFP DUE DATE: May 18, 2010 at 4:00 p.m.

DEPARTMENT: Human Resources

PUBLICATION DATE: April 26, 2010

NO. POTENTIAL BIDDERS: 5

SUMMARY OF PROPOSALS RECEIVED

Principal Wellness Company
Indianapolis, IN

Maximum Health Solutions
Omaha, NE

Healthways, Inc.
Franklin, TN

SimplyWell, LCC
Omaha, NE

Wellness Partners LLC
McCook, NE

CareHere, LLC
Brentwood, TN

cc: Brenda Sutherland, Human Resources Director
Jeff Pederson, City Administrator
Dale Shotkoski, City Attorney

Tami Herald, HR Specialist
Mary Lou Brown, Finance Director

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

THIS HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT (the “Agreement”) is made and entered into as of the date executed by both parties (the “Effective Date”), by and between City of Grand Island, a Nebraska municipality (“City of Grand Island”) and on behalf of its group health plan(s) sponsored by City of Grand Island under the Employee Retirement Income Security Act of 1974 (“ERISA”) for the purpose of providing health related services to certain employees of City of Grand Island and their dependents who are enrolled in such group health plan(s) (“Plan”), and American Healthways Services, Inc., a Delaware corporation.

I. DEFINITIONS

Unless otherwise specifically provided, the capitalized terms used in this Agreement shall have the meanings set forth in Exhibit A, attached hereto and incorporated herein.

II. COVENANTS OF AHSI, COMPANY AND PLAN

- (a) AHSI agrees that it will provide, or arrange for the provision of, the Biometrics Program as described in Exhibit B for Participants, as of the Effective Date,
- (b) Plan agrees that it will, directly or through employees of City of Grand Island providing plan administrative services to Plan:
 - (i) Provide AHSI, per its specifications, with the data listed on Appendix 1 of Exhibit B no later than sixty (60) days prior to the first Health Screening Event;
 - (ii) Implement a financial incentive arrangement, mutually acceptable to City of Grand Island and AHSI, that encourages Eligible Member participation in the Biometrics Program;
 - (iii) Provide Eligible Persons with enrollment materials describing the Biometrics Program and any financial incentive arrangement sponsored by City of Grand Island or Plan related to participation in the Biometrics Program;
 - (iv) Distribute WBA forms to Eligible Persons participating in the Biometrics Program off-line at or prior to their Health Screen;
 - (v) Provide a projected Health Screening Schedule to AHSI at least twenty (20) business days in advance of such Health Screening Event;
 - (vi) Provide a Health Screening Schedule at least ten (10) business days in advance of such Health Screening Event;

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- (vii) Provide AHSI and its agents and subcontractors with an appropriate, accessible and safe setting at each Work Site adequate for the purpose of conducting Health Screens of Eligible Persons who desire to participate in the Biometrics Program;
 - (viii) Encourage each Participant to complete all actions necessary for AHSI to generate a Biometrics Personal Health Report; and
 - (ix) Designate one or more appropriate Plan representatives to serve as a liaison to AHSI and to be available during normal business hours to respond to inquiries from AHSI.
 - (x) Allow AHSI to review and approve the accuracy of the content of any employee communication which references the Biometrics Program.
- (c) AHSI, City of Grand Island and Plan, as applicable, each further agree that:
- (i) Except as provided herein, AHSI and City of Grand Island each reserve the right to, and control of, the use of its name, symbols, trademarks and service marks presently existing or later established. In addition, except as provided herein, neither AHSI, Plan, nor City of Grand Island shall use the other's name, symbols, trademarks or service marks, without the prior written consent of that party, and shall cease any such usage immediately upon written notice of the party or upon termination or expiration of this Agreement; provided, however, (A) City of Grand Island, in administering Plan, shall have the right to use the name of AHSI for the purpose of communicating with Eligible Persons the identity and services of AHSI, and otherwise to carry out the terms of this Agreement, and (B) AHSI shall have the right to use City of Grand Island's and Plan's name, symbols, trademarks and service marks in communicating with Eligible Persons under this Agreement and to identify City of Grand Island as a customer for its general marketing purposes in a manner that does not specifically identify the City of Grand Island or eligible persons of the plan;
 - (ii) AHSI and its affiliates shall have the right to use the outcomes and results from the Biometrics Program under this Agreement for their general marketing purposes in a manner that does not identify City of Grand Island, Plan or any Eligible Person or Participant;
 - (iii) During the term of this Agreement, neither City of Grand Island nor Plan shall, directly or indirectly, enter into any agreement or contract with any other vendor or company for the provision of the same or similar services provided by AHSI under this Agreement; and

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- (iv) The Biometrics Program is designed to comply with the Wellness Program requirements of Section 54.9802-1(f) of the Treasury Regulations, Section 2590.701(f) of the EBSA Regulations and other relevant regulations (the “Wellness Program Exception”). City of Grand Island and Plan acknowledge that changes to the structure or implementation of the Biometrics Program may adversely affect Plan’s ability to rely upon this exception. Therefore, neither City of Grand Island nor Plan will make material changes to the structure or implementation of the Biometrics Program without the prior written consent of AHSI.

III. PAYMENTS TO AHSI

In consideration of the services rendered by AHSI under this Agreement, effective as of the Effective Date, City of Grand Island or Plan, as applicable, shall pay AHSI fees based upon the number of Participants (“Participation Fee”) and any additional program fees as set forth on Exhibit C. The fees shall be invoiced by AHSI monthly and paid by City of Grand Island or Plan, as applicable, within thirty (30) days of date of invoice.

IV. INDEPENDENT RELATIONSHIP

Notwithstanding any other provisions hereof, in the performance of their obligations of this Agreement, each party is at all times acting and performing as an independent contractor with respect to the other party, and no party shall have or exercise any control or direction over the method by which any other party shall perform such work or render or perform such services and functions.

V. COMMUNICATION WITH COMPANY AND PLAN

Certain information communicated by an Eligible Person or a Participant pursuant to the Biometrics Program may constitute Protected Health Information. It is the parties’ intent that all information exchanged pursuant to the Biometrics Program be compliant with the privacy and security regulations implementing the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and other applicable law and be consistent with any representations to Eligible Persons or Participants concerning confidentiality of information.

Except as specified in Exhibit B of this Agreement with respect to reports related to Biometrics Program participation, AHSI will not disclose to City of Grand Island or Plan Personal Biometrics Data except upon City of Grand Island’s or Plan’s specific request, provided that compliance with such request is permitted by law and consistent with representations made by AHSI, City of Grand Island and Plan.

AHSI will cooperate with Plan with regard to making selected Personal Data from Participants’ Personal Health Reports available in AHSI’s standard format to other providers of healthcare related services and employee assistance programs designated by

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Plan, with which Plan contracts and with which Plan has in effect a Business Associate Agreement consistent with the requirements of the privacy and security regulations implementing HIPAA; provided that any disclosures are permitted by applicable law and consistent with representations made by AHSI, City of Grand Island and Plan. AHSI may accept data in a non-standard format for an additional fee payable to AHSI, as set forth in Exhibit C.

AHSI may condition any disclosures of Personal Biometrics Data to City of Grand Island or Plan or other parties upon the receipt of written instructions from City of Grand Island or Plan, as applicable, and representations deemed sufficient by AHSI, in its sole discretion, that such disclosure complies with all applicable law, including but not limited to the privacy and security regulations implementing HIPAA, and consistent with representations made by AHSI, City of Grand Island and Plan.

In the event AHSI, City of Grand Island or Plan determines that a requested disclosure requires written consent of the Participant, City of Grand Island or Plan, as applicable, shall be responsible for all costs associated with obtaining such consent(s) as a program fee payable pursuant to Section III above or as otherwise permitted under applicable law, including HIPAA.

VI. CONFIDENTIALITY

- (a) Business Confidentiality. AHSI, City of Grand Island and Plan acknowledge and agree that during the course of the performance of the parties' respective obligations under this Agreement, AHSI may make available to City of Grand Island or Plan, and City of Grand Island or Plan may make available to AHSI, Confidential Information that is of value to the party disclosing the information. Each party agrees to maintain the confidentiality of the Confidential Information of the other party and not to disclose or disseminate such Confidential Information to third parties. The party receiving Confidential Information agrees to use the same standard of care in maintaining the confidentiality of the Confidential Information as it uses to avoid disclosure of its most sensitive Confidential Information. Nothing in this Section shall preclude a party from disclosing Confidential Information to the extent that the disclosure thereof is required by law. Upon termination or expiration of this Agreement, the parties shall destroy or return all Confidential Information of the other and shall not use any Confidential Information of the other in its business. In the event that a party is required to disclose Confidential Information in response to legal process, the party against whom disclosure is sought shall immediately notify the other party and cooperate with the other party in connection with obtaining a protective order. In the event of a breach or threatened breach by either party of the provisions of this Section VI(a), the other party shall be entitled to seek an injunction restraining the breaching party from the conduct causing such a breach or threatened breach. Nothing herein shall be construed as prohibiting either party from pursuing any other remedies available to that party for such breach or

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threatened breach, including the recovery of damages from the breaching party. This Section shall survive termination or expiration of this Agreement.

- (b) Protected Health Information. City of Grand Island and Plan represent and warrant that Plan's plan documents have been amended to include all items required by the privacy and security regulations implementing HIPAA and that Plan and City of Grand Island maintain an "adequate separation" between City of Grand Island and Plan as required by such regulations or that Plan complies with 45 C.F.R. § 164.530(k). Plan shall ensure that all necessary or required consents or authorizations not otherwise obtained by AHSI are obtained from, and all necessary or required notices are sent to, Eligible Persons or Participants regarding the use and disclosure of Protected Health Information as may be necessary, in light of applicable state and federal laws, for both parties to fulfill their obligations under this Agreement. The parties acknowledge that AHSI is a business associate of Plan for purposes of HIPAA, and not a health care provider as defined by HIPAA, and hereby agree to the terms of the Business Associate Addendum attached hereto as Exhibit D. Plan is responsible for assuring its own compliance with the privacy and security regulations implementing HIPAA and is not relying on AHSI for legal or other advice regarding its compliance with HIPAA, its implementing privacy and security regulations, other privacy laws or other applicable laws.

VII. EFFECTIVE DATE, TERM, RENEWAL AND TERMINATION

- (a) Effective Date; Term. This Agreement shall be effective as of the Effective Date and shall continue for three (3) years (the "Initial Term"), unless otherwise terminated pursuant to the terms hereof.
- (b) Renewal Terms. This Agreement shall automatically renew for additional one (1) year terms after the Initial Term (a "Renewal Term") on the same terms, conditions and provisions as contained herein, together with any authorized and approved amendments hereto, unless either party gives written notice to the other party of its intent not to renew the Agreement at least ninety (90) days prior to the expiration of the then current term.
- (c) General Termination Provisions. This Agreement may be terminated as follows:
 - (i) By mutual written consent of the parties; or
 - (ii) Upon thirty (30) days' written notice in the event that either party declares bankruptcy, becomes insolvent or makes an assignment for the benefit of its creditors.
- (d) Termination for Material Breach. Either AHSI or City of Grand Island may terminate this Agreement by providing the other party with a minimum of ninety (90) days prior written notice in the event the other party commits a Material

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Breach (as defined below). Said notice must specify the nature of such Material Breach. The breaching party shall have sixty (60) days from the date of receipt of the foregoing notice to cure said Material Breach. In the event the breaching party fails to cure the Material Breach within said sixty (60) day period, this Agreement shall automatically terminate upon expiration of the ninety (90) day notice period. For purposes of this Agreement, the term "Material Breach" shall mean a breach of an essential term of this Agreement, not caused by or contributed to by the aggrieved party.

VIII. INDEMNIFICATION

- (a) AHSI hereby agrees to indemnify and hold harmless City of Grand Island and Plan, their officers, directors, employees, agents and affiliates, from and against any loss, cost, damage, expense or other liability, including without limitation all reasonable costs and attorneys' fees, actually incurred and finally determined and adjudicated by a court of competent jurisdiction, to have arisen out of, or in connection with, the tortious acts or omissions of AHSI, its officers, directors, employees and agents, in the performance of their obligations under this Agreement.
- (b) City of Grand Island and Plan agree to indemnify and hold harmless AHSI, its officers, directors, employees, agents, subcontractors and affiliates, from and against any loss, cost, damage, expense or other liability, including without limitation all reasonable costs and attorneys' fees, actually incurred and finally determined and adjudicated by a court of competent jurisdiction, to have arisen out of or in connection with the tortious acts or omissions of City of Grand Island or Plan, their officers, directors employees and agents, in the performance of their obligations under this Agreement.
- (c) An indemnitee entitled to indemnification under this Section VIII shall give notice to the indemnitor of a claim or other circumstances likely to give rise to a request for indemnification, promptly after the indemnitee becomes aware of the same. No compromise or settlement of any such claim shall be made without the prior written consent of the indemnitee.
- (d) AHSI and City of Grand Island agree to make all reasonable efforts, consistent with the advice of counsel and the requirements of applicable insurance policies and carriers, to coordinate the defense of all claims in which both parties are either a named defendant or have a substantial possibility of being a named defendant and have interests that are not in conflict. Each party shall promptly notify the other party of the receipt of any actual or threatened claim relating to this Agreement.

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IX. GENERAL PROVISIONS

- (a) Amendment. This Agreement may be amended at any time during the term of the Agreement by mutual consent in writing of duly authorized representatives of the parties; provided, however, that any change (including any addition and/or deletion) to any provision or provisions of this Agreement that is required by duly enacted federal or state legislation, or by a regulation or rule finally issued by a regulatory agency pursuant to such legislation, rule or regulation (including, without limitation, any final regulations issued with regard to the ERISA Bona Fide Wellness Program Exception) will be deemed to be part of this Agreement without further action required to be taken by either party to amend this Agreement to effect such change or changes, for as long as such legislation, regulation or rule is in effect, provided that, without limiting the effect of the foregoing, if such amendment adversely affects either party, the parties agree to renegotiate the affected portion of the Agreement in a good faith effort to remedy the adverse effect.
- (b) Assignment. Neither party may assign this Agreement to a third party without the express written approval of a duly authorized representative of the other party, and any such attempted assignment shall be void; provided, however, that either party expressly reserves the right to assign any and all of its rights hereunder to an affiliate or wholly-owned subsidiary or parent, provided that such party shall notify the other party of any such assignment in writing at least thirty (30) days prior thereto.
- (c) Applicable Law. This Agreement shall be governed by the laws of the State of Nebraska, without regard to its conflicts of law rules.
- (d) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and their permitted assigns.
- (e) Enforceability. In the event any provision of this Agreement is rendered invalid or unenforceable by a federal or state legislative action or judicial decision, the remainder of the provisions of this Agreement shall remain in full force and effect, unless the invalidated or unenforceable provision is material to the overall intent of the Agreement.
- (f) Entire Agreement. This Agreement, which shall be deemed to include all attachments, amendments, exhibits, addenda and schedules, contains the entire agreement between the parties. Any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement and not expressly set forth in this Agreement are of no force or effect.
- (g) Limitations on Liability. Although this Agreement contemplates services for Eligible Persons, the parties reserve the right to amend or terminate this

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Agreement without notice to, or the consent of, any Eligible Person. No persons or entities other than City of Grand Island, Plan and AHSI are intended to be, or are in fact, beneficiaries of this Agreement, and the existence of the Agreement shall not in any respect whatsoever increase the rights of any Eligible Person or other third party, or create any rights on behalf of any Eligible Person or other third party *vis-a-vis* any of the parties.

- (h) Corporate Authority. City of Grand Island represents and warrants to AHSI that it has the corporate power and corporate authority to execute this Agreement, and that this Agreement, when executed, will be a valid and binding obligation of City of Grand Island and Plan, enforceable in accordance with its terms. AHSI represents and warrants to City of Grand Island and Plan that it has the corporate power and corporate authority to execute this Agreement and that this Agreement, when executed, will be a valid and binding obligation of AHSI, enforceable in accordance with its terms.
- (i) Liability Insurance Coverage. Each party agrees to maintain, at its own expense, adequate liability insurance coverage, comprehensive general liability and worker's compensation insurance.
- (j) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together comprise one and the same instrument.
- (k) Attorneys' Fees; Enforcement Costs. If any legal proceeding is brought for the enforcement of this Agreement, or because of an alleged breach of any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, court costs and other reasonable expenses incurred in connection with maintaining or defending such proceeding, in addition to any other relief to which such party or parties may be entitled.
- (l) Waiver of Breach. The waiver by a party of any breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision hereof by that party.
- (m) Force Majeure. Either party shall be excused from the performance of any of its obligations hereunder and such party's nonperformance shall not be a default or grounds for termination of this Agreement to the extent that such party is prevented, hindered or delayed from performing any of its obligations, in whole or in part, as a result of an act of God, war, terrorism, bio-terrorism, epidemic, civil disturbance, court order, regulatory order, labor dispute or other cause beyond that party's control.

X. NOTICES

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Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing, postage prepaid, and shall be sent (by certified or registered mail, return receipt requested, or by federal express or other overnight mail delivery for which evidence of delivery is obtained by the sender) to the address or addresses set forth below unless the sender has been otherwise instructed in writing or unless otherwise provided by law. The notice shall be deemed to be effective on the date indicated on the return receipt or, if no date is so indicated, then on the date of the notice.

To AHSI: American Healthways Services, Inc.
c/o Healthways, Inc.
701 Cool Springs Boulevard
Franklin, TN 37067
Attn: President and COO

To City of Grand Island and Plan: City of Grand Island

Attn:

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IN WITNESS WHEREOF, by placing their duly authorized signatures below, the parties hereby execute this Agreement as of the Effective Date and agree to be bound by its terms.

CITY OF GRAND ISLAND

signing on behalf of City of Grand Island and Plan

By: _____

Name: _____

Title: _____

Date: _____

AMERICAN HEALTHWAYS SERVICES, INC.

By: _____

Name: _____

Title: _____

Date: _____

2603420

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EXHIBIT A

DEFINITIONS

1. Census File means the file containing the data to be provided to AHSI for each Eligible Person pursuant to Appendix 1 of Exhibit B.
2. Confidential Information shall mean any and all information, know-how and data, technical or non-technical, whether written, graphic or oral, furnished by either party or on its behalf, to the other, that is confidential and proprietary or is treated as such by the disclosing party, and shall include, without limitation: financial information; pricing information; trade secrets; proprietary software and intellectual property; customer information; benefit design concepts; research and technical information; business and operational policies, processes, procedures, and strategies; business plans; and systems design and operating specifications. Confidential Information shall not include the following:
 - (a) Information that is lawfully now in the public domain or subsequently enters the public domain through no fault of the receiving party;
 - (b) Information that is presently known or becomes known to the other party from its own independent sources as evidenced by its written records;
 - (c) Information that is lawfully received from any third party not under any obligation to keep such information confidential;
 - (d) Information independently developed by or for a party hereto by persons who did not access Confidential Information disclosed by the other party under this Agreement;
 - (e) Information that is required by securities laws or exchange listing requirements to be disclosed by the receiving party; or
 - (f) Information which is required by law, regulation, rule, act or order of any governmental authority or agency to be disclosed by the receiving party; provided however, that such receiving party gives the other party hereto sufficient advance written notice to permit it to seek a protective order or other similar order with respect to such Confidential Information and thereafter discloses only the information required to be disclosed in order to comply.
3. Eligible Person means an employee of City of Grand Island or, as applicable, the spouse, or dependent over the age of 18 of such employee, who is enrolled in Plan and permitted by Plan to participate in the Biometrics Program and is included on the Census File. Individuals who are enrollees of Plan but who are not permitted by Plan to participate in

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the Biometrics Program are not considered “Eligible Persons” as defined herein and should not be included in the Census File. Neither City of Grand Island nor Plan shall restrict the eligibility of Plan enrollees to participate in the Biometrics Program unless such eligibility restriction is based on an employment-based classification permitted under the Wellness Program Exception.

4. Well Being Assessment (WBA) means AHSI proprietary questionnaire which is available to Eligible Persons through AHSI web portal, and available as a printed form provided by AHSI to Plan and distributed to Eligible Persons by Plan, directly or through City of Grand Island employees providing plan administrative services to Plan.
5. Health Screen means a health screen of an Eligible Person pursuant to the Biometrics Program that is provided by AHSI and which involves the collection of a blood sample via venipuncture and a biometric examination that includes measurement of the Eligible Person’s blood pressure, weight, height, and other vital statistics.
6. Health Screening Event means the designated place, date, and times arranged by AHSI and City of Grand Island or Plan, at which Health Screens are provided to an Eligible Persons by the examiner(s) pursuant to the Biometrics program.
7. Health Screening Schedule means the schedule providing the dates and times, Health Screening Sites, and number of Eligible Persons scheduled for each Health Screening Event.
8. Health Screening Site means a City of Grand Island work site or other location mutually acceptable to AHSI and City of Grand Island or Plan, as applicable, where a Health Screen is administered.
9. Incentive-Eligible Participant means a Participant who qualifies under Plan’s Incentive Program as described in Exhibit B to receive a financial incentive from City of Grand Island or Plan, as applicable.
10. Incentive-Ineligible Participant means a Participant who does not qualify to receive an incentive under the Incentive Program.
11. Incentive Program means a health and wellness incentive program, as described in Exhibit B offered by Plan, or offered by City of Grand Island through Plan, whereby certain Participants may be eligible to receive a discount in their health care premium payments, or receive other similar incentive compensation permitted by law.
12. Personal Health Report means the customized personal health report described in Exhibit B prepared by AHSI for each Participant who has completed all of the following: (a) a Health Screen, from which the blood test results and biometric measurements shall have been submitted to AHSI with sufficient identifying data to permit AHSI to match such data accurately to the Participant, (b) a WBA, which shall have been submitted to AHSI with sufficient identifying data to permit AHSI to match accurately the WBA to the

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Participant, and (c) all consent forms required by AHSI and Plan in connection with participation in the Biometrics Program, which consent forms shall have been submitted to AHSI. City of Grand Island and Plan, if applicable, acknowledge that AHSI cannot prepare a Personal Health Report (including a Biometrics Score) for any Participant who has completed some, but not all, of the foregoing requirements.

13. Biometrics Program means AHSI proprietary program for providing health risk management and population health screening and support services for employer-sponsored group health plans as described in Exhibit B.
14. Biometrics Score means the score between 0 and 100 that is assigned to each Participant in the Participant's Biometrics Personal Health Report using AHSI proprietary health risk assessment system, and which is based on the results of the Participant's Health Screen.
15. Off-Line Participant means a Participant who receives a paper version by standard mail of the Personal Health Report.
16. Participant means an Eligible Person who is scheduled for a Health Screen at least ten (10) days prior to the Health Screening Event, or an Eligible Person not scheduled at least ten days prior to a Health Screening Event and under goes a Health Screen.
17. Patient Compliance Certification (PCC) means a specific form provided by AHSI to Plan for distribution to Eligible Persons. For purposes of the Incentive Program, a PCC signed by an Eligible Person's physician and returned to AHSI shall serve as a substitute for such Participant's attainment of any Biometrics Score that is required for the Participant to be Incentive-Eligible. In the event PCC is a substitute for participation, the form shall be returned to AHSI within thirty (30) days of receipt of the Biometrics Personal Health Report.
18. Personal Data means (i) the contents of any Participant's WBA; (ii) the results of any Participant's Health Screen; (iii) the Participant's Biometrics Score; (iv) the reason that any Participant is Incentive-Eligible (whether because of the Biometrics Score, score improvement, or PCC); (v) the reason that any Participant is Incentive-Ineligible (whether because of a failure to improve the Biometrics Score or non-participation); and (vi) any other information considered to be Protected Health Information.
19. Program Fee means those fees owed and payable by City of Grand Island or Plan, as applicable, to AHSI, as described in Exhibit C of this Agreement.

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EXHIBIT B

BIOMETRICS PROGRAM

1. AHSI Protocol for the Biometrics Program

(a) Incentive Design

If requested, AHSI will assist Plan in the development of an Incentive Program to encourage participation by Eligible Persons and reduce health risks. Incentives may include a health insurance premium employee contribution discount or other financial incentive as determined by Plan and communicated to AHSI. AHSI recommends that each Participant who receives a Biometrics Personal Health Report, regardless of his or her Biometrics Score or satisfies a qualified alternative standard under the Wellness Program Exception, shall be Incentive-Eligible in the first year that he or she participates in the Biometrics Program. After the first year of participation, AHSI Recommends that each Participant who receives a Biometrics Personal Health Report shall be Incentive-Eligible for such year if he/she also:

1. Attains a Biometrics Score for such year greater than 70; or
2. Improves his or her Biometrics Score by five (5) or more points compared to the previous year; or
3. Participates in a Plan-sanctioned intervention program; or
4. Satisfies a qualified alternative standard under the Wellness Program exception, such as submission of a PCC signed by such Participant's physician.

(b) General Communication Information

Communication with Eligible Persons in the implementation of the Biometrics Program shall be provided by AHSI or by Plan, as applicable, using standard mail, e-mail, and/or through website communications. Written (both electronic and paper) communication is dependent upon AHSI having a valid residential address or email address for the Eligible Person. AHSI may contact Participants to inform them about other wellness programs and related resources that may be appropriate for and relevant to Participants.

(c) Introduction to Eligible Persons

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Introduction of the Biometrics Program to Eligible Persons shall be provided by Plan in a form mutually agreeable to City of Grand Island or Plan, as applicable, and AHSI.

(d) Health Screen

AHSI shall provide, or arrange to provide, the examiners and blood collection kits necessary to conduct Health Screens for Eligible Persons at a Health Screening Site on such dates and times as shall be mutually acceptable to AHSI and City of Grand Island or Plan, as applicable. Once the location, date and time of each Health Screen has been determined, and notice of the location of the Health Screening Site timely provided to AHSI by City of Grand Island or Plan, as applicable, the scheduling of Eligible Persons for Health Screens at such event shall be the primary responsibility of Plan. For efficiency, Plan shall schedule at least ten (10) Eligible Persons with an average of five (5) Eligible Persons scheduled per examiner per hour. City of Grand Island or Plan, as applicable, shall provide the Health Screening Schedule to AHSI at least twenty (20) business days before the date of the Health Screening Event. Such Schedule shall include the number of each Eligible Persons and the date(s) and the beginning and end time for each Health Screening Event. Each Eligible Person must sign and submit to AHSI a written consent, in form and content acceptable to AHSI, before the Health Screen can be performed. For sites with less than ten (10) Eligible Persons, Individual Screenings will be conducted.

(e) Health Risk Assessment

Each Eligible Person will be provided with access to the WBA on an annual basis either in printed form (copies of which shall be provided by AHSI to Plan for distribution to Eligible Persons who do not wish to complete the WBA on-line) or in an electronic format through AHSI's secure web portal.

(f) Biometrics Report and Biometrics Score for Participants

Following the completion by a Participant of all of the requirements necessary for AHSI to prepare a Biometrics Personal Health Report for such Participant (as specified in the definition of "Biometrics Personal Health Report" in Exhibit A), AHSI will deliver a Personal Health Report to such Participant, including his/her Biometrics Score, lab test results and risk-specific educational materials based. AHSI may deliver Reports to Off-Line Participants by standard mail (if defined as an Off-Line Participant) or through secure website access.

(g) Participant Website Access

Participants will have access to a secure personalized web portal to complete WBAs on-line, view their Personal Health Report, receive educational materials,

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

and access links to websites for further clinical content. Participants using the website for Program communication will receive e-mail notification of updates to their web page that includes a password protected log-in screen.

(h) Hotline

A toll-free telephone number and e-mail communication through the website is available to Eligible Persons and Participants to provide technical assistance in accessing the Program website and to provide general information regarding the Biometrics Program. The toll-free telephone service and e-mail account is monitored by AHSI Monday through Friday from 8 a.m. to 5 p.m. Central time.

(i) Quarterly Educational Materials and Reminders

Educational materials will be provided on-line by AHSI on a quarterly basis to Participants who have received their Personal Health Report on-line.

(j) Cooperation with Third Parties

AHSI will cooperate with Plan with regard to making selected Personal Data available to other providers of healthcare related services and employee assistance programs designated by Plan as set forth in Section V of this Agreement. Nothing in this Exhibit B shall require AHSI to change its existing data fields.

(k) Liaison

AHSI will designate one or more representatives of AHSI who will serve as a liaison to Plan and who will be available during normal business hours to respond to inquiries from Plan.

2. Reporting

(a) Aggregate Data Report

Provided there are at least one hundred (100) Participants in a contract year, AHSI will provide Plan (directly or to City of Grand Island employees providing plan administrative services to Plan) with one (1) annual Aggregate Data Report of Plan's Program Data in a manner consistent with the requirements of Section VI(b) and Exhibit D of this Agreement. The Aggregate Data Report may include such items as the following:

- Participation rates
- Population summary of WBA data
- Demographics
- Current conditions

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

- Self-health responses and biometrics (if worksite medical screening completed)
- Preventive health practices
- Emotional health status for stress and depression
- Prevalence of chronic conditions and risk factors
- Annual summaries of coaching adherence and movement by stage of change

(b) Incentive Eligibility Report

For Plans utilizing an incentive program, an incentive eligibility file will be provided which will include (i) the number of Participants; (ii) the names of Incentive-Eligible Participants; and (iii) the names of Incentive-Ineligible Participants.

(c) Additional Aggregate Reports

Additional Aggregate Reports will be provided for an additional fee payable to AHSI (refer to Exhibit C for Fees). Provided the locations are included and defined upon submission of the Census File, a three tiered reporting structure can be provided.

3. Services Modification

AHSI reserves the right to make modifications to the services outlined above for the express purpose of continuously improving the effectiveness and/or efficiency of the programs. AHSI will notify Plan in advance of any material modifications. AHSI will not make any material modifications to the services outlined above as a purely cost saving measure.

4. Internet Security

City of Grand Island and Plan acknowledge that the first time an Eligible Person accesses the personal web portal, the Eligible Person will be presented with a user agreement requesting that the Eligible Person agree to the terms and conditions governing use of the personal web portal. City of Grand Island and Plan agree that neither will describe, discuss or promote the web portal to Eligible Persons in any way that is inconsistent with, or would add to, the terms and conditions of use set forth on the web portal.

5. Terms of Use

The use of the web portal by City of Grand Island or Plan or Eligible Persons is subject to the terms and conditions of use located on the web portal, which are incorporated herein by this reference. The terms and conditions of use on the web portal shall control over any conflicting terms herein or made by any party, whether oral or written or referenced herein.

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

APPENDIX 1

DATA TO BE SUPPLIED TO AHSI BY PLAN

No later than sixty (60) days before the first Health Screening Event, Plan shall provide AHSI with the Census File containing the following data for each Eligible Person via a mutually agreeable secure file transfer method. Resubmissions of the Census File by the Plan due to City of Grand Island errors or omissions shall be accepted by AHSI and are subject to additional fees per file transfer (Exhibit C). Any errors or omissions not caused by the City of Grand Island shall be the sole responsibility of AHSI.

City of Grand Island Name
Employee or Dependent Status
Employee Work Site
Employee code
First name
Middle name
Last name
Gender
Date of birth
Email address
Address 1
Address 2
City State
Zip code
Telephone

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

EXHIBIT C

FEES

1. **Program Fee**

The Program Fee for each Participant shall be One Hundred and Ten Dollars (\$110.00) per Participant per year for Participants at Health Screening Events with twenty-one (21) or more Participants. The number of Participants for which the Program Fee is due shall be the greater of (a) the number of Participants actually screened or (b) the number of Participants on the Health Screening Schedule provided to AHSI ten (10) days prior to such Health Screening Event. All Health Screening Events must have twenty-one (21) or more Participants.

2. **Off-Line Participant Fulfillment Fee**

The Off-Line Fulfillment Fee shall be Eighteen and 25/100 Dollars (\$18.25) per Off-Line Participant.

3. **Site Coordination Fee**

The Site Coordination Fee shall be One Hundred and Fifty Dollars (\$150.00) per Health Screening Site. Further, the fee for each pipe and drape set shall be Forty Dollars (\$40).

4. **Annual Fee Increase**

All fees herein may increase by up to three percent (3%) on each anniversary of the Effective Date of this Agreement.

5. **Fee Increase**

In the event that it becomes economically infeasible for AHSI to provide the Biometrics Program for the amount of the fees herein, AHSI may propose new fees for the upcoming year to City of Grand Island for its approval at least ninety (90) days prior to the anniversary of the Effective Date of this Agreement. In the event City of Grand Island does not agree to such fee increase, this Agreement shall automatically terminate at AHSI's option as of the end of the current contract year and AHSI shall be relieved of its obligation to provide the Biometrics Program for the remainder of the term of this Agreement.

6. **Miscellaneous Data and Reporting Fees**

Census File Re-submissions \$500 per submission
The Census File Re-submission fee will be payable by City of Grand Island to AHSI for each re-submission of a Census File that causes AHSI to repeat all or a part of its account

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

set-up process, if such re-submission is necessary due to actions of the City of Grand Island.

Additional Aggregate Data Reports	\$250 per report
Standard Data Transfer	\$500
Custom Data Transfer	\$500 + \$150 per hour for Design Work

7. **Screening Cancellation Fee**

City of Grand Island or Plan shall pay Fifty Dollars (\$50.00) per scheduled Participant for any Health Screening Event that is cancelled by City of Grand Island or Plan less than or equal to ten (10) days prior to the confirmed Health Screening Event.

8. **Customization Fee**

Participants will be able to access biometric screening results as well as complete the WBA via the website. Note that the fees listed above provide for the standard website; customization of the site, including single sign on capabilities, beyond that agreed upon in the contract, will be charged at \$150 per hour based on a mutually agreed upon scope of work.

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

EXHIBIT D

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (the “Addendum”) supplements that certain Health Screening and Support Services Agreement (the “Agreement”) by and between City of Grand Island (“Company”) and American Healthways Services, Inc. (“Healthways”). To the extent that there are any inconsistencies between this Addendum and the Agreement, this Addendum shall govern. Company and Healthways agree that the parties incorporate this Addendum into the Agreement in order to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (“ARRA”) and their implementing regulations set forth at 45 CFR Parts 160 and 164 (the “Privacy and Security Rule”). To the extent Healthways is acting as a Business Associate of Company pursuant to the Agreement, the provisions of this Addendum shall apply and Associate shall be subject to the penalty provisions as specified by ARRA (42 USC §§ 17931(c), 17934(c)).

1. **Defined Terms.** Unless otherwise indicated in this Addendum, all capitalized terms shall have the meanings provided in Applicable Privacy Law from time to time. “Applicable Privacy Law” refers collectively to HIPAA, ARRA the Privacy and Security Rule and any other state or federal laws or regulations relating to the confidentiality of health information. “PHI” means Protected Health Information created or received by Healthways from Company or on Company’s behalf.

2. **Use and Disclosure of PHI.** Healthways shall not use or disclose PHI except as Required By Law or as permitted or required by this Addendum. Healthways will not sell PHI or use or disclose PHI for purposes of marketing or fundraising, as defined and proscribed in the Privacy and Security Rule and ARRA. Healthways may: (i) use and disclose PHI for purposes of providing services to Company and fulfilling its obligations under the Agreement and for purposes of providing Health Care Operations on behalf of Company, provided that such use or disclosure would not violate Applicable Privacy Law if done by; (ii) use PHI for the proper management and administration of Healthways and to carry out the legal responsibilities of Healthways; (iii) disclose PHI for the purposes described in (ii) above, if Required By Law or if Healthways obtains reasonable assurances from the recipient of such information that the PHI will be kept confidential and only used or further disclosed if Required By Law or for purposes described in (ii) above and that the recipient will notify Healthways of any instances of which it is aware in which the confidentiality of the information has been breached; (iv) use PHI to provide Data Aggregation services relating to the Health Care Operations of Company; (v) use or disclose PHI as otherwise requested by Company, provided that such use or disclosure would not violate Applicable Privacy Law if done by Company; and (vi) use PHI to create information that is de-identified in accordance with 45 CFR §164.514. In the event Company notifies Healthways of a restriction request that would restrict a use or disclosure otherwise permitted by this Agreement, Healthways shall comply with the terms of the restriction request.

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

3. **Minimum Necessary.** Healthways represents that the PHI requested, used or disclosed by Healthways shall be the minimum amount necessary to carry out the purposes of the Agreement. Healthways will limit its uses and disclosures of, and requests for, PHI (i) when practical, to the information making up a Limited Data Set; and (ii) in all other cases subject to the requirements of 45 CFR §164.502(b), to the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request.
4. **Safeguards; Security.** Healthways shall maintain appropriate safeguards to prevent the use or disclosure of PHI other than as provided herein. Healthways agrees to implement administrative, technical and physical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI in compliance with the Privacy and Security Rule.
5. **Reporting.** To the extent known to or discovered by Healthways, Healthways shall report to Company any use or disclosure of PHI in violation of this Addendum, any Security Incident involving electronic PHI and any Breach of Unsecured Protected Health Information involving PHI. The Parties acknowledge and agree that this section constitutes notice by Healthways to Company of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Company shall be required. “Unsuccessful Security Incidents” shall include, but not be limited to, pings and other broadcast attacks on Healthways’ firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of electronic PHI. All reports of Breaches shall be made in compliance with 45 CFR §164.410.
6. **Downstream Contracts.** Prior to disclosing PHI to any agent (including subcontractors) of Healthways (collectively “BA Subcontractors”), Healthways shall ensure that BA Subcontractors agree to the same or similar restrictions and conditions as those contained herein with respect to PHI.
7. **Access and Amendment.** Healthways shall permit Company or, at Company’s request, an Individual (or the Individual’s personal representative) to inspect and obtain copies of any PHI about the Individual that is maintained by Healthways in a Designated Record Set. Healthways will, upon receipt of notice from Company, promptly amend any portion of PHI so that Company may meet its amendment obligations under 45 CFR §164.524.
8. **Accounting.** Except for disclosures excluded from the accounting obligation by the Privacy and Security Rule and regulations issued pursuant to ARRA, Healthways will record for each disclosure that Healthways makes of PHI the information necessary for Company to make an accounting of disclosures pursuant to the Privacy and Security Rule. Healthways will make this information available to Company promptly upon Company’s request for the period requested, but for no longer than the six (6) years preceding Company’s request for the information (except Healthways need not have any information for disclosures occurring before the effective date of this Addendum or with respect to disclosures required to be recorded by ARRA, the effective date of the ARRA regulations with respect to Company).

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

9. **Access to Books and Records.** Healthways shall make available to the Secretary of the U.S. Department of Health and Human Services (“HHS”), upon request, Healthways’ internal practices, books and records relating to the use or disclosure of PHI created or received for or from Company for purposes of determining compliance with the Privacy and Security Rule.

10. **Return/Destruction of PHI.** Upon termination or expiration of this Addendum for any reason, Healthways will, if feasible, destroy, de-identify (in accordance with 45 CFR §164.514), or return to Company all PHI that Healthways has or maintains in any form (including copies of such PHI). To the extent it is not feasible for Healthways to return, de-identify or destroy all PHI, Healthways shall extend the protections of this Addendum to such PHI and limit its further use and disclosure to those purposes that make return, de-identification or destruction of such PHI infeasible, for so long as Healthways maintains such PHI.

11. **Term/Termination.** This Addendum shall be effective as of the effective date of the Agreement and shall remain in effect until termination of the Agreement. Either party may terminate this Addendum and the Agreement effective immediately if it determines that the other party has breached a material provision of this Addendum and failed to cure such breach within thirty (30) days of being notified by the other party of the breach. If termination is not feasible, the non-breaching party shall report the breach to HHS. Upon termination of this Addendum for any reason, all of Healthways’ obligations under this Addendum shall survive termination and remain in effect (a) until Healthways has completed the return or destruction of PHI as required by this Section and (b) to the extent Healthways retains any PHI pursuant to this Section.

12. **Obligations of Company.** Company shall (i) provide Healthways with a copy of the notice of privacy practices that Company produces pursuant to 45 CFR § 164.520 and with copies of any material changes to such notice; (ii) notify Healthways of any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Healthways’s permitted or required uses or disclosures; (iii) notify Healthways of any confidential communication request or restriction to the use or disclosure of PHI affecting Healthways that Company has agreed to in accordance with 45 CFR §164.522; and (iv) not request Healthways to use or disclose PHI in any manner that would not be permissible under Applicable Privacy Law if done by Company, except that Healthways may use or disclose PHI as described in Section 2 hereof.

13. **Changes In Law.** To the extent there are material changes to Applicable Privacy Law following the date this Addendum is executed (including state law not preempted by HIPAA), the Parties agree to meet and confer in good faith about amending this Addendum and/or the Agreement as reasonably necessary to be in compliance with such Applicable Privacy Law.

14. **Miscellaneous.** Any ambiguity in this Addendum shall be resolved to permit the Parties to comply with Applicable Privacy Law. Nothing in this Addendum shall be construed to create any rights or remedies in any third parties or any agency relationship between the parties. A reference in this Addendum to a section in the Privacy and Security Rule means the section as in effect or as amended.

HEALTH SCREENING AND SUPPORT SERVICES AGREEMENT

RESOLUTION 2010-186

WHEREAS, the City of Grand Island advertised a request for proposal for its wellness plan; and

WHEREAS, the City received and reviewed proposals from vendors; and

WHEREAS, American Healthways Services, Inc. is the vendor recommended to provide services for the wellness plan; and

WHEREAS, the proposed contract is for \$110 per participant with a guarantee of no more than a 3% increase per year for the contract duration of three years and a site set up fee of \$150 per location;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, to approve a contract with American Healthways Services, Inc. for the City's wellness plan.

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Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk