

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 9/12/2013

Action Requested By:
Human Services

Agenda Item Type
Resolution

Subject Matter:

Agreement between the City of Huntsville and Delta Dental.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute a modification to renew and extend an agreement with Delta Dental Insurance Company for group dental insurance.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

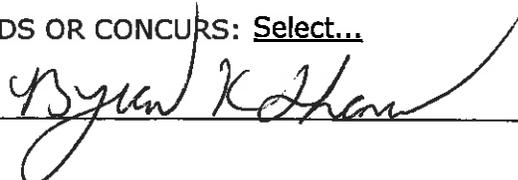
This contract is needed to provide for the yearly renewal of group dental insurance coverage for employees.

Associated Cost:

Budgeted Item: Select...

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: _____



Date: 9/6/2013

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Human Resources

Council Meeting Date: 9/12/2013

Department Contact: Deloise Manning

Phone # 256-427-5241

Contract or Agreement: Modification No. 4 to Delta Dental Contract

Document Name: Contract renewal and Business Associate Agreement with Delta Dental

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

<u>Select...</u>	<u>Select...</u>
------------------	------------------

Grant-Funded Agreements

<u>Select...</u>	Grant Name:
------------------	-------------

Department	Signature	Date
1) Originating		9/16/13
2) Legal		9/16/13
3) Finance 		9/9
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 13-_____

WHEREAS the City of Huntsville, does hereby declare in accordance with Code of Alabama (1975) that the Mayor be, and he is hereby authorized to enter into a Business Associate Agreement between the City of Huntsville and Delta Dental Insurance, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 4 to Renew and Extend Group Dental Plan Policy Between the City of Huntsville, Alabama, and Delta Dental Insurance company as approved by Resolution No. 07-957 and amended by Resolution No. 09-843 and Resolution No. 10-760 and Resolution no. 11-684 and related documents consisting of ten (10) pages and the effective date of January 1, 2014, and the date of September 12, 2013 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 12th day of September, 2013.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 12th day of September, 2013.

Mayor of the City of
Huntsville, Alabama

Modification No. 4 to Renew and Extend
Group Dental Plan Policy Between the
City of Huntsville, Alabama, and
Delta Dental Insurance Company
as approved by Resolutions No. 07-957
and amended by Resolution No. 09-843
and Resolution No. 10-760
and Resolution No. 11-684

STATE OF ALABAMA

COUNTY OF MADISON

MODIFICATION NO. 4 TO RENEW AND EXTEND AGREEMENT

THIS MODIFICATION No. 4 to the Group Dental Plan Policy Agreement, is entered into by and between the City of Huntsville, Alabama (City) and Delta Dental Insurance Company (Delta Dental).

WITNESSETH

WHEREAS, Delta Dental previously issued a group dental plan policy to the City: and

WHEREAS, the City previously agreed to be bound by the terms and conditions of the said policy as authorized by the Resolution No. 07-957; and

WHEREAS, the original term of the policy expired on December 31, 2009; and

WHEREAS, the parties have entered into Modifications to Renew and Extend Agreement to renew the said policy in subsequent years; and

WHEREAS, the current term of said policy will expire on December 31, 2013; and

WHEREAS, the parties wish to renew and extend the agreement for the period of January 1, 2014 through December 31, 2015,

NOW THEREFORE, in consideration of the mutual covenants set forth herein, Delta Dental and the City agree as follows:

1. The parties intend and agree to be bound by the terms and conditions contained in the group dental policy, as amended pursuant to this Agreement and the "City of Huntsville Proposed 2014 Dental Plan" attached hereto and incorporated herein by reference as Exhibit "A".

2. The "HIPAA Business Associate Addendum: Group Health Plan" attached to and incorporated into the group dental plan is hereby deleted and replaced in its entirety with the "Business Associate Agreement" attached hereto and incorporated herein by reference as Exhibit "B".

President of the City Council of the
City of Huntsville, Alabama
Date: _____

CITY OF HUNTSVILLE PROPOSED 2014 DENTAL PLAN

Delta is proposing several benefit enhancements for 2014 including the addition of coverage for implants and the addition of orthodontic coverage for dependent children to age 19 with a \$2,000 lifetime maximum per child. Orthodontic coverage has been one of the most requested enhancements for the past several years. Below is an outline of the proposed 2014 benefits for the City of Huntsville:

Deductibles	\$50 per person / \$150 per family each calendar year
Deductibles waived for D & P?	Yes
Maximums	\$1,000 per person each calendar year
D & P counts toward maximum?	No

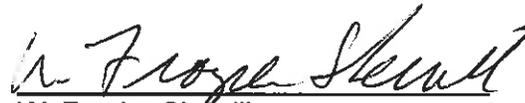
Benefits and Covered Services*	Delta Dental PPO dentists**	Non-Delta Dental PPO dentists**
Diagnostic & Preventive Services (D & P) Exams, cleanings, x-rays, sealants	100 %	100 %
Basic Services Fillings, simple tooth extractions	80 %	80 %
Endodontics (root canals) Covered Under Basic Services	80 %	80 %
Periodontics (gum treatment) Covered Under Basic Services	80 %	80 %
Oral Surgery Covered Under Basic Services	80 %	80 %
Major Services Crowns, inlays, onlays and cast restorations, implants, bridges and dentures	50 %	50 %
Orthodontic Benefits dependent children to age 19	50 %	50 %
Orthodontic Maximums Lifetime	\$ 2,000 Lifetime	\$ 2,000 Lifetime

The proposed two year rates for these enhancements and the inclusion of the ACA assessment that applies to all fully insured groups are as follows:

	Two Year Monthly Rates 1/1/14 through 12/31/15
Employee	\$33.26
Employee + 1 dependent	\$68.44
Family	\$81.26

The City of Huntsville has been a valued customer since 2008 and Delta and we hope to continue this relationship in the coming years.

Respectfully Submitted,



W. Frazier Sherrill
Director of Sales

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “BAA”) is made and entered into as of the _____ day of _____, 20__ by and between City of Huntsville (the “Covered Entity”) and Delta Dental Insurance Company (the “Business Associate”).

Definitions:

Business Associate – “Business Associate” shall have the same meaning as the term “business associate” at 45 CFR §160.103, and in reference to the party to this agreement, shall be the party designated as a Business Associate in the first paragraph of this agreement.

Covered Entity – “Covered Entity” shall have the same meaning as the term “covered entity” at 45 CFR §160.103, and in reference to the party to this agreement, shall be the party designated as a Covered Entity in the first paragraph of this agreement.

Terms capitalized and used herein but not otherwise defined in this Business Associate Agreement (“BAA”) shall have the same meaning as those terms are defined in the Health Insurance Portability and Accountability Act and related regulations found at 45 CFR Part 160 and Part 164, and the HITECH Act of 2009 (Health Information Technology for Economic and Clinical Health) as amended, revised or updated from time to time.

I. Obligations and Activities of Business Associate.

A. Business Associate may use or disclose Protected Health Information (“PHI”) as follows:

1. as reasonably necessary to provide the services described in the separate primary agreement with Covered Entity (“Agreement”), and to undertake other activities of Business Associate permitted or required to satisfy its obligations under such Agreement;
2. as Required by Law;
3. for the proper management and administration of Business Associate, provided, that such use or disclosure is Required by Law;
4. to carry out the legal and compliance responsibilities of Business Associate; and
5. to report violations of law to appropriate Federal and State authorities.

B. Business Associate will:

1. use reasonable and appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Agreement;

2. implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI, which it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate acknowledges that the applicable provisions of the HIPAA Security Rule set forth at 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 are applicable to Business Associate;
 3. agree to cooperate in a timely manner with the Covered Entity to make any amendments of PHI in its possession; and
 4. will use reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
- C. Business Associate shall take reasonable measures to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its agents or subcontractors in violation herein.
- D. Business Associate will ensure through a separate, written Business Associate Agreement that any agent, including a subcontractor, to whom it provides or transmits PHI, including electronic PHI, agrees to restrictions and conditions that apply herein to Business Associate with respect to such information.
- E. Business Associate shall promptly report to Covered Entity: (i) any use, disclosure or compromise of PHI not provided for herein, and (ii) any Security Incident.
- F. Business Associate shall report to Covered Entity any Breach (or potential Breach) of Unsecured PHI as soon as possible without unreasonable delay but in no case later than thirty (30) calendar days after discovery of the Breach (except where a law enforcement official determines that such reporting would impede an investigation or cause damage to national security). Covered Entity shall have final determination as to whether a Breach has actually occurred. The reporting required under this section shall include, to the extent practicable:
1. information that identifies the Individual(s) whose Unsecured PHI has been or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during the Breach;
 2. a brief description of what happened;
 3. a description of the Unsecured PHI involved in the Breach;
 4. steps that the Individual(s) could take to protect him/herself from potential harm; and
 5. a brief description of steps taken by Business Associate to investigate, mitigate or protect against the Breach.

- G. To the extent applicable, Business Associate shall provide PHI contained in a Designated Record Set held by Business Associate (that is not duplicative of PHI in possession of Covered Entity) to Covered Entity in order for Covered Entity to meet the requirements under 45 CFR §164.524 or 45 CFR §164.526, as applicable. If any Individual requests access to his or her PHI directly from Business Associate, Business Associate shall forward such request to Covered Entity so that Covered Entity can comply with the request. Any disclosure of, or decision not to disclose, the PHI requested by an Individual or a personal representative and compliance with the requirements applicable to an Individual's right to obtain access to PHI shall be the sole responsibility of the Covered Entity.
- H. Business Associate shall document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Business Associate shall provide to Covered Entity, within a timeframe mutually agreed to by Covered Entity and Business Associate, information collected in accordance with this Section, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. If any Individual requests access to the foregoing information directly from Business Associate, Business Associate shall forward such request to Covered Entity so that Covered Entity can comply with the request.
- I. Business Associate agrees to make its internal practices, books and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary of Health and Human Services, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- J. Business Associate acknowledges that the additional requirements of the HITECH Act (Health Information Technology for Economic and Clinical Health Act enacted as part of the American Recovery and Reinvestment Act of 2009) that relate to privacy and security are applicable to Business Associate as described therein.
- K. In the event the Business Associate independently is also a Covered Entity under HIPAA, the Business Associate may respond directly to an Individual's request for purposes of complying with applicable sections herein.
- L. Any costs associated with Breach notifications, including mitigation costs, shall be the responsibility of the party causing the Breach.

- M. To the extent Business Associate carries out Covered Entity's obligations under the HIPAA Privacy Rule, comply with the requirements of the said Privacy Rule that apply to Covered Entity.

II. Obligations of Covered Entity.

- A. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by the Covered Entity.
- B. Covered Entity shall:
 - 1. notify Business Associate of any limitations in Covered Entity's Notice of Privacy Practices in accordance with 45 CFR § 164.520, if such limitations may affect Business Associate's use or disclosure of PHI;
 - 2. provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes may affect Business Associate's use or disclosure of PHI, upon Covered Entity becoming aware of such changes;
 - 3. immediately notify Business Associate of any restriction to the use or disclosure of PHI agreed to by Covered Entity in accordance with 45 CFR § 164.522, to the extent such restriction may affect Business Associate's use or disclosure of PHI;
 - 4. provide written authorization to the Business Associate prior to requesting that the Business Associate disclose, transfer or provide PHI to a third party; and
 - 5. where applicable, rely on the plan sponsor's representations certifying amendments to their plan documents with appropriate restrictions covering their use and disclosure of PHI.

III. Term and Termination.

- A. The term of the BAA shall commence on the Effective Date and shall continue in full force and effect until it expires or is terminated as set forth herein.
- B. This BAA may be terminated by Covered Entity if Business Associate materially breaches these terms or its Agreement and fails to cure such breach within ten (10) days after receipt of written notice of the breach. This BAA will automatically terminate upon the expiration or termination of the Agreement (or such portion of the Agreement which gave rise to the requirement for this Business Associate Agreement). If, in its reasonable discretion following

consultation with the other party, that neither termination of this BAA nor a cure is feasible; the non-breaching party may report the breach to the Secretary.

- C. Upon expiration or termination of this BAA for any reason, Business Associate will return or destroy all PHI to Covered Entity. Business Associate shall not retain any copies of the PHI. However, to the extent that Business Associate determines that it is infeasible to return or destroy Covered Entity's PHI, Business Associate shall notify Covered Entity in writing of the conditions that make return or destruction infeasible. For any PHI for which return or destruction is infeasible, Business Associate will continue to extend the protections of this Addendum to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Business Associate elects to destroy all PHI, it shall, if requested in writing by Covered Entity, certify in writing to Covered Entity that such PHI has been destroyed.

The terms of this section shall survive the expiration or termination of this BAA.

IV. Confidential Information

- A. "Confidential Information" means any information disclosed by or on behalf of a Party ("Disclosing Party") to the other Party ("Receiving Party") whether provided orally or in writing and on whatever medium, concerning the Disclosing Party's business and/or operations and includes without limitation any materials, trade secrets, know-how, formulas, processes, policies and procedures, training materials, IT security, algorithms, ideas, strategies, inventions, data, designs, flow charts, drawings, proprietary information, business and marketing plans, financial and operational information, and all other non-public information, material or data relating to the current and/or future business and operations of the Disclosing Party.
- B. Confidential Information shall not include any information that:
1. is already in the public domain at the time of disclosure or later becomes available to the public through no breach of this Agreement by the Receiving Party or its employees;
 2. is lawfully in the Receiving Party's possession, without an obligation of confidentiality, prior to receipt hereunder;
 3. is received independently by the Receiving Party from a third party who was free to lawfully disclose such information to the Receiving Party; or
 4. is independently developed by the Receiving Party without the use of Confidential Information as evidenced by the Receiving Party's business records.

- C. The Receiving Party agrees to use at least the same degree of care, and no less than reasonable care, to avoid disclosure of such Confidential Information as the Receiving Party uses with respect to its own proprietary or Confidential Information of like importance.

V. Amendment to Comply with Law.

The parties agree to take such action as is necessary to comply with and implement the standards and requirements of HIPAA (including, without limitation, the prompt amendment of this BAA).

VI. Interpretation.

If a term in Agreement conflicts or is otherwise inconsistent with a term in this BAA, the provisions of this BAA will prevail with respect to the subject matter hereof. This BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA.

VII. Indemnification.

Business Associate agrees to hold the Covered Entity and/or its Benefit Plan, and their respective elected officials, officers, directors, employees, agents, successors and assigns, harmless from, and indemnify each of them against any and all claims, losses, liabilities, penalties, fines, costs, damages and expenses, including reasonable attorney's fees incurred by or imposed upon any of them as a result of Business Associate's breach of this Agreement or the provisions of HIPAA. This provision shall survive the termination of this Agreement."

Covered Entity:

Signature: _____

Printed Name: Tommy Battle

Title: Mayor of the City of Huntsville

Organization: City of Huntsville

Date: _____

Business Associate:

Signature: Dick Aracich

Printed Name: Dick Aracich

Title: Vice President, Sales

Organization: Delta Dental Insurance Company

Date: 9/4/2013