

**INSURANCE BROKER SERVICE AGREEMENT BETWEEN
THE CITY OF FORNEY, TEXAS AND ROACH HOWARD SMITH & BARTON**

This INSURANCE BROKER SERVICE AGREEMENT, (“Agreement”) is entered into this 1st day of September, 2015, by and between the City of Forney, a Texas home rule municipality whose principal offices are located at 101 East Main, Forney, Texas 75126; and Roach Howard Smith & Barton, (“Broker”) a Texas Corporation whose principal offices are located at 8750 N. Central Expressway, Suite 500, Dallas, Texas 75231.

RECITALS

WHEREAS, City has obtained proposals for professional insurance brokerage services relating to the placement of the City’s group health, dental, disability and life insurance programs; and

WHEREAS, Broker has presented a proposal to provide such services to City that the City finds reasonable and acceptable;

NOW THEREFORE, for and in consideration of the provisions and conditions set forth in this Agreement, City and Broker agree as follows:

I. SCOPE OF SERVICES

Broker agrees to provide the services outlined below with respect to the City’s 2015/2016 annual coverage term of Employee Benefits Insurance Program. Certain services may be provided directly by the carrier, in which case the Broker will provide oversight:

A. Employee Benefit Insurance Program Design

1. Consolidated plan design
2. Exposure data compilation
3. Consulting services in all areas of the employee benefits process

B. Marketing and Quotation Services

1. Coordinate overall marketing process
2. Recommend carriers and assist in selection
3. Write coverage program specifications
4. Analyze quotations received and prepare alternative program comparison spreadsheet, where applicable
5. Coordinate carrier interviews if necessary
6. Provide coverage recommendations to City
7. Complete final negotiations with selected carrier(s)
8. Facilitate binding process
9. Review policies when received from carrier(s)
10. Evaluate and Recommend Employee Assistance Program
11. Evaluate and Recommend Pharmacy Benefits Management
12. Evaluate and Recommend HRA & HSA Spending Arrangement
13. Evaluate and Recommend Cafeteria Plans
14. Evaluate and Recommend Short Term and Long Term Benefit Programs

C. Service Requests

1. Provide Certificates of Insurance to all parties with a financial interest
2. Coordinate communications process among City, Broker, and the carrier(s)

D. Claims Services Coordination

1. Establish the claims reporting process and communicate with City
2. Determine the type of claims history reports that will be needed and coordinate claim reporting data accordingly
3. Quality control 1+800 claims reporting and overall carrier claims administration
4. Provide claim history information to City on an agreed upon basis
5. Monitor claim reserve activity and participate with City in periodic reviews with carrier(s)

E. Stewardship Report

Provide mid-term status report of employee benefit services to City.

F. Client Communication

Respond to inquiries from all personnel at City on a timely basis, including returning telephone calls or e-mails the same business day.

G. Online Services to be Provided

Group Benefits online resource, “MyWave” “HRconnection” and “Broker Briefcase”.

II. TERM

This Agreement shall commence and be effective on September 1, 2015, and end on August 31, 2016, unless extended or terminated as set forth herein or as otherwise agreed by the parties.

III. FEE

For the services provided by Broker pursuant to this Agreement, City agrees to pay Broker a fee of TWENTY TWO THOUSAND AND NO/100 DOLLARS (\$22,000.00) as set forth in Exhibit “A”, attached hereto and incorporated herein by reference, payable at Broker’s main offices in four equal payments of \$5,500.00 each as follows:

1. \$5,500.00 not later than ten days after execution of this Agreement;
2. \$5,500.00 not later than December 1, 2015;
3. \$5,500.00 not later than March 1, 2016; and
4. \$5,500.00 not later than July 1, 2016

IV. NO COMMISSION

Broker understands and agrees that it will not accept any compensation from any third party for any services provided by Broker pursuant to this Agreement, including, but not limited to any commissions that might otherwise be earned for the sale of insurance coverage to City, it being the intent of the parties that Broker's sole compensation shall be the fees paid by City as provided in this Agreement.

V. INSURANCE

At all times during the course of this Agreement, Broker shall keep in full force and effect professional liability insurance coverage in an amount not less than \$1,000,000.00 per occurrence. Broker shall, upon request of City, direct its insurance carrier to provide a certificate of insurance to City indicating such coverage is in effect. Broker's insurance coverage must provide that it shall not be terminated or decreased below the minimum required coverage amounts without earlier than 30 days after City receives notice of the intended reduction or termination in coverage.

VI. ADDITIONAL PROVISIONS.

- A. **Amendments:** This Agreement may be modified or amended only by the written agreement of the parties hereto.
- B. **Entire Agreement:** This Agreement contains the complete and entire agreement between the parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, resolutions and understandings, if any, by and/or between the parties respecting such matters.
- C. **Notices:** Except as may be otherwise specifically provided in this Agreement, all notices required or permitted hereunder shall be in writing as follows:

If to Broker:
Chief Operating Officer
Roach Howard Smith & Barton
8750 N. Central Expressway Suite 500
Dallas, Texas 75231

If to the City:

City Manager
City of Forney, Texas
101 East Main
Forney, Texas 75126

- D. **Savings and Severability:** Any clause, sentence, provision, paragraph or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal or ineffective shall not impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph or article so held to be invalid, illegal or ineffective.

- E. **Applicable Law:** This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties hereunder are deemed to have been performed in Kaufman County, Texas. All services performed by Broker shall at all times be in compliance with all applicable federal, state, and local laws, ordinances, and regulations.
- F. **Agreement Binding on Successors:** This Agreement and all covenants, rights, benefits and privileges hereunder, shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.
- G. **Non-Waiver:** Neither this Agreement nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.
- H. **Warranty of Capacity:** Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.
- I. **Method of Delivering Notice:** Any communication, notice of demand of any kind whatsoever which either party may be required or may desire to give to or serve upon the other shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopy (if confirmed in writing set by registered or certified mail, postage prepaid, return receipt requested) or by registered or certified mail, postage prepaid, return receipt requested, addressed as set forth in Section VI.C., above.
- J. **Change of Address; Notice Deemed Delivered:** Any party may change its address for notice by written notice given to the other in the manner provided herein. Any such communication, notice or demand shall be deemed to have been given or served on the date personally served, if by personal service, on the date of confirmed dispatch, if by electronic communication, or five (5) calendar days (exclusive of City holidays) after being placed in the U.S. Mail, if properly addressed and mailed in accordance with Section VI.I., above. "City holidays" shall be those days declared by the City Council to be a non-working city holiday in accordance with City's personnel policies.
- K. **Mediation of Disputes:** In the event of any dispute under this Agreement as to any matter, term, provision, right or covenant herein contained, the meaning of any term or provision, the breach of or default under any provision or covenant of this Agreement, and/or the enforcement of and under any provisions, rights or covenants of this Agreement, the parties agree to attempt to resolve such dispute and conflict by mediation within forty-five (45) days after written notice thereof is given by a party to the other party utilizing a third party neutral agreed upon by the parties or if no agreement is reached as to such third party neutral then such neutral shall be appointed by a District Judge sitting in Kaufman County, Texas, upon any party's motion or request. The mediation shall be held in Forney, Kaufman County, Texas.

- L. **Execution of Multiple Counterparts:** This Agreement may be executed in any number or counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided each signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Agreement attached thereto.
- M. **Additional Instruments:** The parties agree to execute such other instruments and to do such further acts as may be reasonably necessary to carry out the provisions of this Agreement.
- N. **Incorporation of Exhibits:** All exhibits attached to this Agreement are incorporated by reference and expressly made part of this Agreement as if copied verbatim.
- O. **Force Majeure:** If by reason of Force Majeure any party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then if such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as used herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, order of any kind of the Government or the courts of the United States or the State of Texas, or any Civil or military authority insurrection or on account of any other causes not reasonably within the control of the party claiming such inability.

AGREED by the parties hereto as indicated by the signatures of their authorized representatives below.

City of Forney

Roach Howard Smith & Barton

By: _____
Brian Brooks, City Manager

By: _____
John Losurdo, Chief Operating Officer

ATTEST:

Dorothy Brooks City Secretary

**Disclosure Statement
Service Fees and Reimbursements**

Our agency may provide certain services that you request or that are necessary to place or maintain your insurance. Sections 550.001, 4005.003 and 4005.004 of the Texas Insurance Code authorize us to charge a fee for services if we obtain your written consent prior to providing the service or incurring the expense. The fee may be charged in addition to any commission we may receive from the insurance company providing the insurance coverage. In some cases where we charge a fee and also receive compensation from an insurer or other third party, we are required to disclose this fact to you and provide a description of the method and factors used to compute the compensation. The purpose of this Disclosure Statement is to comply with these requirements and agree with you that if we perform any of the following services on your behalf, you agree to pay the amount indicated as compensation for the services provided or expenses incurred.

You may call the Texas Department of Insurance at 800/252-3439 to obtain information on how to file a complaint if you have a complaint regarding these fees.

Category of Services	Description of Services to be Provided	Fee for Each Service
Printing or Reproduction		\$
Electronic Mail or Telephone Transmission		\$
Special Delivery or Postal		\$
Costs Similar to the Above Services		\$
Motor Vehicle Records	We will provide a copy of the record(s) to you.	\$ (actual cost only)
Photographs of Property		\$ (actual cost only)
Application Fee		\$
Inspection Fee		\$
Agent Fee (in addition to commission)*		\$
Agent Fee (in lieu of commission)		\$22,000
	TOTAL FEES	\$
	Sales Tax (if applicable)	\$
	TOTAL CHARGE	\$22,000

* ☐ When this box is checked, we disclose to you that our agency or an affiliate of our agency receives compensation from an insurer or other third party. The compensation we receive includes the following if one or more boxes is checked:

- ☐ Commission computed as a percentage of the premium you pay for the insurance.
- ☐ Contingent commission, profit sharing or non-financial rewards, computed annually and based on the amount of premium and profitability of all the insurance business we place through the insurer. This compensation is not guaranteed.
- ☐ Other:

I agree to pay the fees specified above to
Roach Howard Smith & Barton

(agency name)

Signed _____ Date _____