City of Las Cruces®

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Council Action and Executive Summary

Item # 12 Ordinance/Resolution# 13-14-330A

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of November 18, 2013 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☐ LEGISLATIVE ☒ ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING AN AGREEMENT FOR EMPLOYEE HEALTH BENEFITS WITH BLUE CROSS BLUE SHIELD OF NEW MEXICO.

PURPOSE(S) OF ACTION:

Approve service agreement for employer sponsored health benefits provider.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Andre Moquin	**Department/Section:** Human Resources	**Phone:** 528-3401
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

An objective of the strategic plan is to be the employer of choice by promoting attractive benefits and wages. The City of Las Cruces has traditionally offered health and related benefits to its employees. In 2004 the City elected to migrate benefits to the State of New Mexico Risk Management Division (NMRMD). This provided for an initial decrease in premiums and more affordable plan designs.

To ensure the best market position for employer sponsored benefits the City undertook an in-depth review of City sponsored offerings in late Fall 2012. This study was undertaken in conjunction with Gallagher Benefits Services (GBS) and was comprised of three (3) phases. Phase I provided for a review and analysis of current plan designs, premium costs, and claims history for a three (3) year period. Phase II included the development of Requests for Proposals (RFP's) to solicit bids from benefit providers to determine if plan design changes and cost savings could be achieved when compared with current offerings. Phase III included the negotiations of final proposals, premiums, fees, and plan designs.

Phase III results determined the best option for the City was to leave NMRMD sponsored benefits and move towards a fully insured position. The RFP bids for health benefits, dental and vision insurance, life and supplemental life insurance and short and long term disability has identified best available options for employee benefits.

(Continue on additional sheets as required)

After a careful review, evaluation, and rating of the bids submitted pursuant to the RFP's, one of the current providers of medical insurance, Blue Cross Blue Shield of New Mexico (BCBS), was rated higher than other carriers that responded. It is recommended that BCBS become the City of Las Cruces fully insured sole medical and prescription insurance provider effective January 1, 2014.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Purchasing Manager's Request to Contract (PMRC).
3. Exhibit "B", Service Agreement.

SOURCE OF FUNDING:

Is this action already budgeted?			
	Yes	☒	See fund summary below
	No	☐	If No, then check one below:
	Budget Adjustment Attached	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____Fund.
Does this action create any revenue?			
	Yes	☐	Funds will be deposited into this fund: _____in the amount of $_____for FY__
	No	☒	There is no new revenue generated by this action.

BUDGET NARRATIVE

Total fees for leaving NMRMD sponsored benefits are estimated at $890,000. These funds are partially available within the current health care line item and will be recovered through an initial administrative fee of five (5) percent added to health benefits premiums.

Certain plan premiums are being recommended at more favorable rates. Given a proposed decrease to some of the premiums and a potential increase in enrollment we believe the effect of this action on departmental budgets will be neutral or positive.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Various	Various	Various	Various	Various	Various

(Continue on additional sheets as required)

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the service agreement with Blue Cross Blue Shield of New Mexico and allow for the continued offering of employer sponsored health benefits to City employees.
2. Vote "No"; this will delay the implementation of revised employer sponsored health benefits for City employees and result in no benefit coverage for City employees.
3. Vote to "Amend"; this could modify the Resolution to reflect the wishes of the City Council.
4. Vote to "Table"; this will delay the implementation of revised employer sponsored health benefits for City employees and result in a gap in coverage for City employees.

REFERENCE INFORMATION:

N/A

(Continue on additional sheets as required)

RESOLUTION NO. 13-14-330A

A RESOLUTION APPROVING AN AGREEMENT FOR EMPLOYEE HEALTH BENEFITS WITH BLUE CROSS BLUE SHIELD OF NEW MEXICO.

The City Council is informed that:

WHEREAS, an objective of the strategic plan is for the City to be the employer of choice and promote attractive benefits and wages; and

WHEREAS, the City's participation in the benefit programs offered through the State of New Mexico will expire December 31, 2013; and

WHEREAS, the Requests for Proposals (RFP's) were developed to solicit bids from benefit providers to determine if plan design changes and cost savings could be achieved when compared with current offerings; and

WHEREAS, Blue Cross Blue Shield of New Mexico (BCBS), was rated higher than other carriers that responded; and

NOW, THEREFORE, be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Purchasing Manager is hereby authorized to contract with Blue Cross Blue Shield of New Mexico, Albuquerque NM, amending the current service agreement, Exhibit "B" attached hereto, in the signed Purchasing Manager's Request to Contract form, Exhibit "A", attached hereto.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the above.

DONE AND APPROVED on this _____ day of_____ 20_____.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Levatino: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

CITY OF LAS CRUCES

PURCHASING MANAGER'S REQUEST TO CONTRACT

For Meeting of: November 18, 2013

Resolution No.: 13-14-330A

Contract Purchase For
Employee Health Benefits

The Las Cruces City Council is provided the following information concerning this request:

RFP SOLICITATION INFORMATION:

1. RFP No./ Due Date: **RFP No. 13-14-330 / August 20, 2013**
2. Description: **Employee Health Benefits**
3. Using Department: **Human Resources**
4. Number of Reponses Solicited: **Sixty-seven (67)**
5. Number of Responses Accepted: **Three (3)**
6. Award Recommendation To: **BlueCross BlueShield of NM**
7. Total Award Amount: **Indefinite quantity/cost**
8. Contract Duration: **One year with annual renewals**

LOCAL PREFERENCE FACTOR

Local Preference Factor Applied Per LCMC §24-100	No			LCMC §24-100 not applicable to this solicitation
	Yes	X		Made A Difference To Awards(s)
			X	Made No Difference To Bid Award(s)

PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to purchase is hereby requested pursuant to **Section 24-92**.

Purchasing Manager — Date: 11/8/13

CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION or PURCHASE ORDER NUMBER:	**TBD**

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Exhibit "B"

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this _____, 2013 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and BlueCross BlueShield of New Mexico, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company, of 5701 Balloon Fiesta Parkway, Albuquerque, NM 87125 hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION
Employee health insurance coverage and related administrative service for prescription medication and medical services.

2. SCOPE OF SERVICES
In a satisfactory and proper manner, the CONTRACTOR shall provide insurance coverage for prescription medication and medical services as proposed in response to the CITY'S RFP No. 13-14-330 incorporated herein by reference and made a part of this Agreement.

3. APPROPRIATIONS
The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION
In consideration for the provision of insurance coverage and services under this Agreement, the CITY shall pay the cost for such coverage as proposed by the CONTRACTOR in response to the CITY'S RFP No. 13-14-330.

CONTRACTOR is responsible for payment of applicable State of New Mexico Premium Tax, if any.

5. DEVOTION OF ADEQUATE TIME
CONTRACTOR will devote the necessary hours each week to the administration of the coverage under this AGREEMENT and it will serve the CITY diligently, faithfully, and will promote the best interests of the CITY relative to the insurance coverage provided under this Agreement subject to CONTRACTORS obligations hereunder.

6. TERM AND SCHEDULE
This Agreement shall become effective on _____, 2013 for a twelve month term through _____, 2014 and, pending mutual written agreement, may be extended annually thereafter.

7. EXTENSIONS, CHANGES, AND AMENDMENTS
This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra coverage or services nor shall CONTRACTOR be obligated to provide extra coverage or perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY
The CITY may make changes to coverage or services under this Agreement plus may also request CONTRACTOR to provide extra coverage or perform other extra services not incorporated within the Scope of Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR"S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR
In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the coverage, services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS
In the event that the provision of coverage or related services under this Agreement is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the terms and conditions of this Agreement may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION
This Agreement may be terminated by either party hereto upon ninety (90) calendar day written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon ninety (90) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for cost of coverage and services performed up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the coverage and related services unless otherwise directed and, upon final payment from the CITY, deliver to the CITY the required number of copies of all data, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process. Provision of data, reports, estimates, summaries and other such information and materials shall be limited to those materials and documents allowed to be shared by CONTRACTOR with the CITY under applicable law, including privacy laws.

12. RECORDS AND AUDITS
CONTRACTOR will maintain financial and related records of coverage and services rendered. The CITY has the right to audit these records and contest any portion thereof. Payments under this Agreement do not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES
All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

Nothing in this section is intended to prohibit CONTRACTOR's ability to subcontract or utilize vendors and/or affiliated companies and divisions to assist CONTACTOR in the performance of its obligations under this Agreement. Such ability of CONTRACTOR to flexibly manage its internal operations shall not require CITY approval hereunder.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR
CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in providing the coverage and related services under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the provision of coverage and performance of the services under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall provide coverage and perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

a. Professional Liability: $1,000,000 per claim

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the grossly negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES, unless otherwise directed, and upon final payment from the CITY deliver to the CITY the required number of copies of all data, reports, estimates, summaries, and such other information and materials as may have been accumulated

by CONTRACTOR in the performance of this Agreement, whether completed or in process.

22. NOTIFICATION
All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY:	City of Las Cruces PO Box 20000 Las Cruces, NM 88004 ATTENTION: Andre Moquin
With Copies to:	City Attorney Purchasing Manager
TO CONTRACTOR:	BlueCross BlueShield of New Mexico 5701 Balloon Fiesta Parkway Albuquerque, NM 87125 ATTENTION: Randy Shaffer

23. SCOPE OF AGREEMENT
This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

BLUECROSS BLUESHIELD OF NM	THE CITY OF LAS CRUCES
BY: _____ PRINCIPAL	BY: _____ PURCHASING MANAGER
DATE: _____	DATE: _____

APPROVED AS TO FORM:

_____
CITY ATTORNEY