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**FLEXIBLE SPENDING ACCOUNT
ADMINISTRATIVE SERVICES AGREEMENT**

(Agreement)

between

THE CITY OF LONG BEACH

(PLAN SPONSOR)

and

ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY

(COMPANY)

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FLEXIBLE SPENDING ACCOUNT

ADMINISTRATIVE SERVICES AGREEMENT

This Agreement is made and entered into by and between the COMPANY, a California Life Insurance Company and the PLAN SPONSOR. In consideration of the mutual covenants contained herein, the execution of this Agreement, and other consideration, the adequacy and receipt of which is hereby acknowledged, the parties hereto agree as follows:

SECTION I: RECITALS

- 1.1 The PLAN SPONSOR has adopted or will adopt a Plan of flexible compensation in accordance with the requirements, as applicable, of the Employee Retirement Income Security Act of 1974 (ERISA) and Internal Revenue Code (IRC) §125 for its employees.
- 1.2 The PLAN SPONSOR wishes to retain the COMPANY to assist in the administration of said Plan, such services to include enrollment and claims administration and to provide related services as are more fully set forth herein.
- 1.3 The COMPANY wishes to provide such services in accordance with the terms of this Agreement.
- 1.4 The COMPANY may use the services of Blue Cross of California, or other affiliated companies, to assist in the performance of this Agreement.

SECTION II: DEFINITIONS

- 2.01 **Plan.** The CITY OF LONG BEACH Flexible Benefits Plan, effective as of January 1, 2014, and as it may subsequently be amended.
- 2.02 **Employee.** An employee of the PLAN SPONSOR who is eligible for benefits under the terms of the Plan, and any qualified beneficiary, as defined in IRC §4980B(g)(1), who elects continued medical coverage after the occurrence of a qualifying event.
- 2.03 **Plan Member.** An Employee of the PLAN SPONSOR who participates in the Plan.
- 2.04 **Participant.** A Plan Member who enrolls in a Flexible Spending Account.
- 2.05 **Flexible Spending Account.** The Medical Flexible Spending Account and Dependent Care Flexible Spending Account.
- 2.06 **Agreement Year.** The period commencing with the effective date of this Agreement or any Agreement Anniversary and ending immediately prior to the next following Agreement Anniversary.
- 2.07 **Agreement Anniversary.** January 1, 2015 and each January 1 of every calendar year thereafter.

SECTION III: SERVICES PROVIDED

- 3.01 Plan Design.** Upon written request, the COMPANY will assist the PLAN SPONSOR in developing a plan of flexible compensation for its Plan Members in accordance with specifications provided by the PLAN SPONSOR.
- 3.02 Administration of Employee Choices.** The PLAN SPONSOR shall be responsible for establishing an appropriate and satisfactory system for communication and selection of benefits by employees. The PLAN SPONSOR shall provide the COMPANY information related to such selection that is needed by the COMPANY in order to administer the Plan.
- 3.03 Processing of Selections.** The COMPANY shall take all reasonable steps to process selections and confirm such selections to persons entitled thereto under the Plan. The PLAN SPONSOR hereby authorizes the COMPANY to confirm such selections in accordance with the Plan on the PLAN SPONSOR's behalf. It is agreed and stipulated that under this Agreement, the COMPANY shall to no extent be liable to any person for any benefit selected by such person. The COMPANY shall be liable to the PLAN SPONSOR only for the negligence, bad faith or intentional fraud of the COMPANY's employees in issuing confirmation under this section.

Upon completion of the confirmation process, the COMPANY will provide the PLAN SPONSOR with reports to summarize the enrollment process and to aid the PLAN SPONSOR in the implementation and administration of the Plan.

- 3.04 Claim Administration.** Upon receipt of a claim for benefits under a Flexible Spending Account of the Plan, the COMPANY will review the claim to determine whether it has been properly filed and the amount, if any, which is due and payable with respect thereto. Claims for benefits must be submitted to the COMPANY in accordance with procedures prescribed by the COMPANY. The review and determination will be made in accordance with rules and procedures established by the COMPANY for the administration of claims, and with the terms of the Plan.

The claims administration procedures will provide for adequate written notice to any person whose claim for benefits has been denied and will set forth the specific reasons for such denial, as required by ERISA. Furthermore, the Plan will afford any person whose claim for benefits has been denied a reasonable opportunity for review of such denial by the appropriate named fiduciary.

The COMPANY will maintain records of claims received and determinations thereon for a period of 7 years. Such records shall be the property of the PLAN SPONSOR.

Claims to be processed under this Agreement shall include only claims for which benefits are payable under a Flexible Spending Account.

- 3.05 Payment of Claims.** The COMPANY shall take all reasonable steps to process claims and disburse payments on a weekly basis to persons entitled to such payments under the Plan. Such payment shall be made through a banking system established by the PLAN SPONSOR. The PLAN SPONSOR agrees to maintain at all times funds sufficient to pay claims under the Plan and to provide the COMPANY with such authorizations as shall be necessary to make the required instruments valid claims against the PLAN SPONSOR. It is understood and agreed that the COMPANY shall to no extent be liable to the payee or endorsee of any instrument issued or delivered pursuant to this Agreement. The COMPANY shall be liable to the PLAN SPONSOR only for negligence,

bad faith or intentional fraud of the COMPANY's employees in issuing instruments under this section.

In the event the COMPANY pays any person less than the amount to which he is entitled under the Plan, the COMPANY will promptly adjust the underpayment. In the event the COMPANY pays any person more than the amount to which he is entitled under the Plan or pays benefits to any person who is not entitled to them under the Plan, the COMPANY shall take all reasonable steps to recover the overpayment, provided that the COMPANY shall not be obligated to initiate court proceedings to recover such overpayment. The COMPANY will promptly notify the PLAN SPONSOR if it is unsuccessful in recovering any such over payment, and will promptly reimburse the PLAN SPONSOR the amount of any overpayment attributable to the negligence of the COMPANY.

- 3.06 Administrative Services.** The COMPANY shall not be responsible for distributing to Plan Members or filing with any government department such Plan descriptions and modifications thereto as may be required by law, but, may distribute such materials as the COMPANY deems necessary to protect itself from liability for any benefits hereunder.

The COMPANY will design administrative procedures consistent with the terms of the Plan, instruct the PLAN SPONSOR's designated personnel in their implementation, and will, at the PLAN SPONSOR's request, review the administration of the Plan by the PLAN SPONSOR and make recommendations pertaining thereto.

- 3.07 Plan Sponsor's Duty.** As a condition to the COMPANY's obligations hereunder, the PLAN SPONSOR shall cooperate with the COMPANY, provide the COMPANY with information requested by it, comply with the procedures prescribed by it, and make the payments required by this Agreement.
- 3.08 Determination of Eligibility.** Where applicable, the PLAN SPONSOR will provide certification in writing on the claim form, of the eligibility of the person who is submitting a claim for benefits under the Plan. In addition, the PLAN SPONSOR will provide the COMPANY with an eligibility list and a monthly deposit report for the Flexible Spending Account.

SECTION IV: CHARGES AND PREPAYMENTS

- 4.01 Administrative Charges for Services.** As compensation for the services rendered by the COMPANY under this Agreement, the PLAN SPONSOR agrees to pay to the COMPANY the following fees:
- (a) An Annual Case Initialization Fee of \$1,750 payable in one installment;
 - (b) A Monthly Participant Fee based upon the aggregate number of Participants for the immediately preceding month multiplied by \$5.00; and
 - (c) With respect to services rendered for any run-out period following the termination of either a plan year or the Plan, a Monthly Transaction Fee equal to the aggregate number of transactions processed by the COMPANY for each month of such run-out period multiplied by an amount mutually agreed to by the PLAN SPONSOR and the COMPANY.

The term "transaction" refers to each submission of (i) either a Health Care Plan Claim Form or a Dental Claim Form which requests reimbursement from the Medical Flexible

Spending Account, (ii) a Flexible Spending Account Medical Reimbursement Request Form, or (iii) a Flexible spending Account Dependent Care Reimbursement Request Form by a Plan Member to the COMPANY without regard to whether such claim forms are properly filed or whether any reimbursement is due.

Such fees may be modified upon the first Agreement Anniversary with thirty-one (31) days prior written notice, or any subsequent Agreement Anniversary upon thirty-one (31) days prior written notice. Payment of such fees shall be remitted to the COMPANY not later than thirty-one (31) days after the due date. The "due date" of subsequent payments for such Sections is the first day of each succeeding month. The "due date" for the fees in Section 4.01(c) is the day the PLAN SPONSOR receives a notice from the COMPANY that payment is due.

SECTION V: TERMINATION AND MODIFICATION OF AGREEMENT

5.01 At Will Termination of Agreement. This Agreement may be terminated at will by either party by sending written notice by certified mail, return receipt requested, to the other party. Termination will be effective ninety (90) days after receipt of such notice or the date specified in such notice, whichever is later (hereinafter the "Termination Date."). The preceding sentence is subject to the following additional terms:

- (a) In the event such Termination Date occurs on the day immediately prior to the Agreement Anniversary, such Termination Date shall be postponed for the limited purpose of conducting a run-out period, and only until the last day of the run-out period, and only until the last day of the run-out period provided for under the Plan; provided the PLAN SPONSOR pays to the COMPANY any Administrative Charges required by Section IV.
- (b) In the event the PLAN SPONSOR terminates this Agreement and such Termination Date is a date other than the day immediately prior to the Agreement Anniversary, the PLAN SPONSOR shall pay to the COMPANY any Administrative Charges required by Section IV up to and including the Termination Date, and the unpaid balance of any Case Initialization Fee or any Annual Employee Fee outstanding as of such Termination Date shall become immediately due and payable.
- (c) The COMPANY (i) will not terminate this Agreement at such a time when the resulting Termination Date will be a date other than the day immediately prior to the Agreement Anniversary and will occur less than ninety (90) days prior to the Agreement Anniversary, and (ii) may terminate this Agreement if such Termination Date will be a date other than the day immediately prior to the Agreement Anniversary and will occur ninety (90) or more days prior to the Agreement Anniversary.

The COMPANY's receipt of written notice of termination sent by the PLAN SPONSOR in accordance with this Section 5.01 shall immediately release the COMPANY from any duty to administer employee choices, in accordance with Section 3.02 of this Agreement, or process selection, in accordance with Section 3.03 of this Agreement, as of the date of receipt of such notice.

With respect to Sections 5.01(a) and 5.01(c)(ii), the COMPANY will process and make a determination on all claims submitted to the COMPANY on or before the end of normal

working hours on the Termination Date. Claims submitted after the end of normal working hours on the Termination Date shall be returned to the PLAN SPONSOR.

With respect to Section 5.01(b), the COMPANY will continue to process claims only until the end of normal working hours on the Termination Date. Claims not processed by the end of normal working hours on the Termination Date shall be returned to the PLAN SPONSOR.

5.02 Termination of Agreement for Cause. The COMPANY retains the right to immediately terminate this Agreement for cause by giving written notice of termination to the PLAN SPONSOR:

- (a) upon failure of the PLAN SPONSOR to pay the Administrative Charges required by Section IV when due; or
- (b) upon failure of the PLAN SPONSOR to provide sufficient funds to the Bank to pay claims in accordance with Section 3.05; or
- (c) upon failure of the PLAN SPONSOR to provide notice of an amendment, modification or change in accordance with Section 6.04; or
- (d) upon the PLAN SPONSOR's termination of the Group Contract on a date other than the day immediately prior to the anniversary date of said group contract.

Upon such termination for cause, the PLAN SPONSOR shall pay to the COMPANY any Administrative charges required by Section IV up to and including the Termination Date, and the unpaid balance of any Case Initialization Fee or any Annual Employee Fee outstanding as of such Termination Date shall become immediately due and payable.

Upon such termination for cause, the COMPANY shall return to the PLAN SPONSOR all claims and all Employee selections not processed by the end of normal working hours on the day this Agreement terminates.

The PLAN SPONSOR agrees to allow the COMPANY continuing access to records after termination of this Agreement for purposes of fulfilling its obligation under this Agreement.

5.03 Modification of Agreement. This Agreement may only be modified, altered or amended in writing and signed by an authorized officer of each party.

SECTION VI: GENERAL PROVISIONS

6.01 Company's Liability. The COMPANY's liability under this Agreement is limited to the performance of the services enumerated herein in accordance with the procedures prescribed by the COMPANY. In no event shall the COMPANY be liable for benefits under the Plan or for any other payment except as expressly stated here. The PLAN SPONSOR shall be liable for and shall protect, hold harmless and indemnify the COMPANY and its agents and employees from and against all fines, penalties, losses, damages, costs, expenses, attorneys' fees and court costs suffered by the COMPANY, its agents and employees for which the COMPANY, its agents and employees may be held or become liable as a result of the performance of the COMPANY's obligations hereunder except to the extent they are attributable to the negligence of the COMPANY. The COMPANY shall have no liability for any damages to participants in the Plan

resulting from a decision of the PLAN SPONSOR not to allow any selection or not to pay any claim, and the PLAN SPONSOR shall protect and hold harmless the COMPANY from any such damages, costs, expenses, attorneys' fees and court costs.

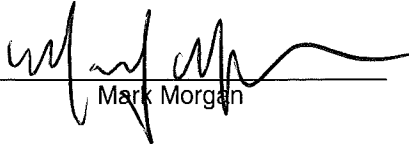
The PLAN SPONSOR shall also assume the liability for any assessment of tax by any taxing authority against the COMPANY with respect to the existence of the Plan or in connection with any amounts paid into or from the Plan, as distinct from the administrative fees paid to the COMPANY by the PLAN SPONSOR pursuant to Section IV of this Agreement, and the PLAN SPONSOR shall reimburse the COMPANY upon demand in the full amount of such taxes paid.

- 6.02 **Confidentiality.** Any information requested hereunder shall be used only for the purposes of performing the services described herein and shall not be released by the COMPANY to any other person for purposes other than those described here, unless otherwise directed, in writing, by the PLAN SPONSOR.
- 6.03 **Waiver.** Any forbearance or pattern of forbearances by either party of the other party's failure to cooperate or otherwise comply with the terms of this Agreement or the procedures prescribed hereunder shall not be deemed a waiver of the terms of the Agreement or said procedures nor shall it be deemed a modification of this Agreement or said procedure.
- 6.04 **Modification of Plan.** The PLAN SPONSOR shall deliver to the COMPANY all amendments of, modifications to or changes in the Plan at least 60 days prior to the proposed effective date of such amendment, modification or change. The COMPANY shall have no obligation to administer any such amendment, modification or changes that increases its duties and obligations hereunder unless and until approved by the COMPANY. The COMPANY retains the right to modify the fees set forth in Section IV to reflect any additional duties and obligations required by such amendment or change.
- 6.05 **Legal Services.** The PLAN SPONSOR herewith acknowledges that the COMPANY disclaims any intention or capacity to provide legal advice, legal opinions or other legal services relative to the establishment and maintenance of the Plan or relative to this Agreement. The PLAN SPONSOR agrees that it will rely solely upon the advice of its own legal counsel in evaluating the legal aspects of the Plan and this Agreement.
- 6.06 **Entire Agreement.** This Agreement constitutes the entire understanding of the parties with respect to its subject matter. It supersedes all prior or contemporaneous written or oral understandings between the parties.
- 6.07 **Governing Law.** This Agreement shall be governed by, and shall be construed in accordance with, ERISA and any other applicable federal laws and, to the extent not preempted by federal law, the laws of the State of California.
- 6.08 **Effective Date.** This Agreement shall be effective as of the first day of January 2014.

AUTHORIZATION

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date set forth herein.

FOR COMPANY


by: 
Mark Morgan

Title: Chief Executive Officer

by: 
Steven Scott

Vice President and General Manager
Title: Large Group

FOR PLAN SPONSOR

by: 
Title: City Manager

Assistant City Manager

by: _____
Title: _____

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM

July 9, 2014

CHARLES PARKIN City Attorney

By



GARY J. ANDERSON
DEPUTY CITY ATTORNEY