



# City of Tarpon Springs, Florida

HUMAN RESOURCES DEPARTMENT  
324 E. PINE STREET  
TARPON SPRINGS, FLORIDA 34689  
TELEPHONE (727) 938-3711

MEMORANDUM

NOVEMBER 17, 2020

**TO:** HONORABLE MAYOR AND BOARD OF COMMISSIONERS

**FROM:** JANE KNIFFEN, HUMAN RESOURCES DIRECTOR

**THROUGH:** MARK G. LECOURIS, CITY MANAGER

**SUBJECT:** EMPLOYEE WELLNESS CENTER LEASE AGREEMENT

**RECOMMENDATION:**

It is recommended that the Mayor and Board of Commissioners approve the attached employee *Wellness Center Agreement (Attachment 1)* in partnership with the Florida Municipal Insurance Trust (FMIT) and CareATC, for a two-year period, effective October 1, 2020 through September 30, 2022, contingent upon the City's purchase of health insurance through FMIT for the period October 1, 2021 through September 30, 2022.

**BACKGROUND:**

For many years, the City has consistently focused on early intervention and utilization reduction through a variety of initiatives including a wellness program providing personal health assessments, newsletters, seminars, web links; EAP with 24/7 access; proprietary programs such as WeightWatchers (WW) and Smoking Cessation.

In 2013, the City entered into a partnership to open an employee wellness center, where health plan participants can see a doctor, have lab work performed and receive a number of prescription medications at no cost to them. In addition, there are no claims submitted to the carrier for these items, with the goal of reducing costs for both employees and the plan.

The City engaged the services of a benefit consultant The Gehring Group in early 2020, to evaluate its overall benefit program. After a comprehensive RFP process, the City elected to award the FY 21 medical insurance to FMIT at -2.0%. This included the cost of operating the center (excluding the lease of the facility), in partnership with FMIT and CareATC. The estimated lease cost is listed below:

FY 2021 WELLNESS CENTER BASE LEASE COST-SHARING		
City Share (79%)	CareATC Share (21%)	Total Lease Amount
\$3,032.13 per month	\$806.01 per month	\$3,838.14 per month
\$36,385.56 per year	\$9,672.12 per year	\$46,057.68 per year

Should the City decide to place its medical insurance with another carrier, the City would be responsible for the outstanding balance of the lease, which as shown above is approximately 1% of the annual medical premium.

Funding would come from account #001-8802-519.4400. General Fund Non Departmental Rents and Leases

Attachments:

- 1. Wellness Center Agreement*

## **WELLNESS CENTER AGREEMENT**

This Wellness Center Agreement (“Agreement”) is made and entered into as of the last signature date below, but effective October 1, 2020 (“Effective Date”), by and between the City of Tarpon Springs (“Tarpon Springs”), 324 Pine Street, Tarpon Springs, Florida 34689; Florida Municipal Insurance Trust (the “FMIT”), 301 South Bronough Street, Suite 300, Tallahassee, Florida 32301; and, CareATC, Inc. (“CareATC”), 4500 South 129<sup>th</sup> East Avenue, Suite 191, Tulsa, Oklahoma 74134.

### **WITNESSETH:**

**WHEREAS**, Tarpon Springs is established under Florida law to conduct municipal government, perform municipal functions, and render municipal services and to exercise any other power for municipal purposes except as otherwise provided by law; and

**WHEREAS**, Tarpon Springs is authorized under Florida law to provide health insurance benefits to employees and their eligible dependents (collectively Employees); and

**WHEREAS**, FMIT is a self-insurance program established under Florida law to provide certain civil rights, liability, casualty, property, and health benefits and coverages to participating units of local government located in Florida; and

**WHEREAS**, Tarpon Springs is currently a member of FMIT; and

**WHEREAS**, CareATC, an Oklahoma corporation for profit, operates wellness centers for Tampa and Hernando County, and is thus qualified to establish and operate a wellness center for all the Employees of Tarpon Springs; and

**WHEREAS**, all parties desire to jointly establish and fund a medical center designed to provide specified medical and wellness services to Tarpon Springs Employees at a Wellness Center facility in accordance with this Agreement; and

**WHEREAS**, Tarpon Springs finds its Employees' use of the Wellness Center serves a public purpose as it is intended to result in a decrease in health claim costs which in turn will decrease the health insurance costs of Tarpon Springs and its Employees; and

**WHEREAS**, it is the desire of the parties hereto that the duties and responsibilities of each party be set forth in a written agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions, and agreements hereinafter set forth, and for other good and valuable considerations set forth, the receipt of which is hereby acknowledged, the parties agree the foregoing recitals are true and correct and are incorporated herein by reference and furthermore, the parties hereto do covenant and specifically agree as follows:

## **I. Medical Facility**

- A. CareATC has entered into a lease agreement (“Lease” or “Lease Agreement”) to lease the property that will house the Wellness Center facility. CareATC will make all payments due and owing under the Lease. The term of the Lease will expire September 30, 2022. ~~Upon expiration of the Lease Agreement, CareATC will renew the Lease Agreement or find an alternative location for the Wellness Center facility, acceptable to the Parties of this Agreement, and secure a lease, with the same material terms as the current Lease Agreement, for the premises from October 1, 2022 to September 30, 2023. CareATC may not exercise any options to renew contained in said lease without the prior written approval of Tarpon Springs and FMIT.~~
- B. Under the Lease Agreement, CareATC shall assure there is a provision giving it the right to examine the landlord's business or accounting records supporting Rent amounts CareATC is required to pay under the Lease and FMIT and Tarpon Springs shall be permitted to participate in the examination of such records upon request.
- C. CareATC shall secure such commercial general liability and other insurance coverages reasonably necessary to cover the risks associated with the services contemplated by this Agreement and the separate FMIT/CareATC agreement outlining such services. Additionally, CareATC shall name FMIT and Tarpon Springs as additional insureds under such policies, providing evidence thereof within thirty (30) days of commencement of this Agreement.

## **II. Reimbursement of CareATC and Other Obligations of Tarpon Springs**

- A. Tarpon Springs hereby agree to reimburse CareATC monthly for the Wellness Center facility Rent in an amount equal to 79% of the Rent amount provided for in Item 1, Section (g) and Item 3 of the Lease, plus Overhead Rent calculated pursuant to Item 5 of the Lease, plus applicable taxes thereon, all including any increases as provided for under the Lease, but excluding any payments for penalties, interest or similar payments for the failure to pay rent or the untimely payment of rent by CareATC. CareATC will be responsible for the remaining 21% of the Rent amount provided for in Item 1, Section (g) and Item 3 of the Lease, plus Overhead Rent calculated pursuant to Item 5 of the Lease, plus applicable taxes thereon, all including any increases as provided for under the Lease. A copy of the Lease, as amended, is attached hereto and incorporated herein by reference as Exhibit “A.”
- B. Within five (5) business days following a payment of rent by CareATC then due and owing under the Lease (including any payment for any initial partial month), CareATC will invoice Tarpon Springs for reimbursement of the amount of such payment Tarpon Springs owes CareATC under Section II.A. above. All invoices will be accompanied by itemized statements, which statements will include copies of actual bills, receipts, and other evidences of payments made to the landlord. CareATC may provide electronic copies of the required invoices and/or required supporting documentation. Tarpon



Springs will reimburse CareATC within 15 business days of receipt of the invoice. Upon timely written request from Tarpon Springs, or FMIT, CareATC shall exercise its right under the lease to examine the landlord's business or accounting records supporting amounts CareATC is required to pay under the lease and Tarpon Springs and FMIT shall be permitted to participate in the examination of such records.

- C. Tarpon Springs will encourage its Employees to use the Wellness Center while this Agreement is in effect and will develop and implement incentives acceptable to FMIT to promote the Employees' use of the Wellness Center.
- D. Tarpon Springs will purchase its health insurance coverage from FMIT for the coverage years commencing October 1, 2020 and ending September 30, 202~~2~~<sup>3</sup>. For such coverage years, FMIT will compute Tarpon Springs' health premiums in accordance with standard industry practices and its normal underwriting practices including factors for customary health claim costs, insurance administrative costs and the required Wellness Center facility costs. Any reduction in the customary health claim costs factor arising from usage of the Wellness Center will be reflected in the computation of annual health premiums. **FMIT may terminate this Agreement immediately if Tarpon Springs does not purchase its health insurance coverage from FMIT at any time during the term of this Agreement.** In the event FMIT terminates this Agreement due to Tarpon Springs' failure to maintain insurance with FMIT pursuant to this paragraph, the remaining balance of the lease shall be paid by Tarpon Springs.
- E. Tarpon Springs covenants and agrees to appropriate in its annual budget and to pay when available and due sufficient non-ad valorem revenues to satisfy its obligations under this Agreement. Such covenants and agreements on the part of Tarpon Springs shall be cumulative, and shall continue until all required payments have been budgeted, appropriated, and actually paid. Notwithstanding the foregoing, Tarpon Springs does not covenant to maintain any services or programs now maintained by Tarpon Springs or to maintain the charges they presently collect for any such services or programs. It is understood and agreed all obligations of Tarpon Springs hereunder shall be payable only from non-ad valorem revenues budgeted and appropriated as provided hereunder. Nothing herein shall be deemed to pledge ad valorem tax revenues or to permit or constitute a mortgage or lien upon any assets or property owned by Tarpon Springs. No party to this Agreement or any other person, including the governing bodies of Tarpon Springs, may compel the exercise of the Tarpon Springs' ad valorem tax power or compel the levy of ad valorem taxes on real or personal property within the boundaries of Tarpon Springs to satisfy Tarpon Springs' obligations under this Agreement. The obligations hereunder do not constitute an indebtedness of Tarpon Springs within the meaning of any constitutional, statutory or charter provision or limitation. Tarpon Springs' obligations under this Agreement are subject in all respects to the provisions of Sec. 166.241, Fla. Stat., and are subject, further, to the payment for services and programs which are for essential public purposes affecting the health, safety, and welfare of the inhabitants of Tarpon Springs.

### III. Wellness Center Services Available to Tarpon Springs

- A. As provided in a separate agreement entered between CareATC and FMIT, CareATC shall provide a specified level of medical and wellness services to Tarpon Springs' Employees. FMIT shall approve the initial level of medical and wellness services available under the agreement and thereafter, the level of services shall not increase or decrease without the consent of all parties. That separate FMIT/CareATC agreement will be effective October 1, 2020 and will remain in effect through September 30, 202~~2~~<sup>3</sup>. Under that separate FMIT/CareATC agreement, CareATC will provide all professional personnel, technology including computer hardware and software and licenses, medical equipment and supplies, and all other items reasonably required to provide the medical and wellness services to Tarpon Springs as specified.

#### **IV. Future Participation in Wellness Center Services by Additional Parties**

- A. Upon the consent of the Tarpon Springs, which consent will not be unreasonably withheld, Tarpon Springs will permit other FMIT members to use the Wellness Center upon the request of FMIT, so long as the use does not unduly disrupt the services provided to Tarpon Springs' Employees and so long as Tarpon Springs and any new member agree to pay a mutually agreeable share of Tarpon Springs' costs to lease the property that houses the Wellness Center.

#### **V. Early Termination**

- A. Nonpayment by Tarpon Springs. This Agreement may be terminated by CareATC in the event of any non-payment by Tarpon Springs for amounts owed to CareATC, provided CareATC gives at least thirty (30) days prior written notice to all parties of its intent to terminate and provided CareATC gives at least fifteen (15) days for Tarpon Springs to render any payment due and thereby avoid termination for non-payment. Tarpon Springs' failure to render payments owed after receipt of notice as required hereunder shall entitle CareATC to recovery of any amounts owed hereunder pursuant to the dispute resolution provisions contained herein.
- B. Illegal Activity, Fraud, Misappropriation, Abuse or the like by CareATC. This Agreement may be terminated by FMIT or Tarpon Springs in the event either party discovers any illegal activity, fraud, misappropriation, waste, abuse, or substandard medical care by CareATC, any Physician or any medical staff of the Medical Facility, and provided FMIT or Tarpon Springs provides thirty (30) days prior written notice of intent to terminate to CareATC that reasonably describes such activity, and during such time, CareATC may undertake efforts to remedy the described illegality or misconduct. In the event of termination pursuant to this section, neither Tarpon Springs nor FMIT shall owe any further obligation to CareATC under this Agreement.
- C. Other bases for termination. This Agreement may be terminated by FMIT or Tarpon Springs if:



1. CareATC files a petition under any chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state, or a petition is filed against CareATC under any such statute and not dismissed with prejudice within twenty (20) days of filing, or a receiver or trustee is appointed for CareATC or for any substantial part of the assets of CareATC and such appointment is not dismissed with prejudice within sixty (60) days, or CareATC makes an assignment for the benefit of creditors.; or
  2. CareATC assigns or transfers its duties or obligations under this Agreement to a third party that is not a party to this Agreement, provided the party seeking termination provides thirty (30) days prior written notice of its intent to terminate pursuant to this provision.
- D. FMIT may terminate this Agreement immediately, without any penalty or other recourse from CareATC or Tarpon Springs, if Tarpon Springs does not purchase its health insurance coverage from the FMIT at any time during the term of this Agreement.
- E. Tarpon Springs May terminate this Agreement upon one hundred and twenty (120) days written notice to the parties of this Agreement. In the event that Tarpon Springs terminates this Agreement pursuant to this provision (V. E.), Tarpon Springs shall be responsible for any and all remaining payments relating to the Wellness Center lease agreement, as identified in Section II. A. & B. of this Agreement, for the full term, and any renewal terms, of the lease agreement.

#### **VI. Effective Date and Normal Termination Date.**

- A. This Agreement shall become effective on October 1, 2020 and shall remain in effect through September 30, 202~~2~~<sup>3</sup>, unless earlier terminated pursuant to any provision within the Agreement.

#### **VII. Miscellaneous Provisions**

- A. Should a dispute arise concerning a party's compliance with the terms of this Agreement, the party alleging the non-compliance shall provide written notice to the offending party specifying the exact circumstances surrounding the non-compliance and the specific steps the offending party must take to come into compliance or to otherwise resolve the dispute. Should the parties fail to amicably resolve the dispute within thirty (30) days of written notice of the non-compliance, the dispute shall be submitted to mediation as a condition precedent to the commencement of any legal proceeding. The parties shall submit the dispute to mediation before one mediator, held in Pinellas County, Florida. The parties shall select a mutually agreeable mediator. If the parties have not settled within thirty (30) calendar days after the appointment of a mediator, or within 14 days following impasse declared at any completed mediation conference, or earlier if the mediator finds there is no reasonable possibility of settlement (impasse), any party to the dispute may commence a legal proceeding. The parties shall share equally the costs and expenses of mediation, such as forum fees and mediator fees. If any party fails to make full and timely payment of its share of fees, such failure to pay shall constitute a default under Agreement. Nothing herein shall prevent any party from seeking to obtain

emergency relief related to the subject matter of this Agreement from a court of competent jurisdiction prior to or concurrent with a mediation.

- B. The parties hereto each represent and warrant to each other that (i) they enter into this Agreement knowingly and voluntarily and have had sufficient time to review this Agreement and consult with counsel of their choice; (ii) they have received such counsel as they deem necessary as to their legal rights under, and the validity and enforceability of, this Agreement, and (iii) they fully understand the content and legal effect of this Agreement. Therefore, the principle of construing a document most strictly against its drafter shall not apply with respect to the interpretation of this Agreement and this Agreement shall be construed as if the parties jointly prepared it so that any uncertainty or ambiguity shall not be interpreted against any one party and in favor of the other.
- C. Outside the agreements expressly referenced in this Agreement, this document embodies the entire contract between the parties, and supersedes all prior agreements and understandings between the parties relating to this transaction. All representations, warranties, or agreements of an inducement nature, if any, are merged with, and stated in this document. There are no promises, agreements, conditions, undertakings, warranties or representations, whether written or oral, expressed or implied, between the parties other than as set forth herein. This Agreement cannot be amended, supplemented, or modified except by an instrument in writing, signed by the party against whom enforcement of such amendment, supplement, or modification is sought.
- D. The failure of any party to this Agreement to insist upon the strict performance of any provision of this Agreement or to exercise any remedy under this Agreement shall not be construed as a waiver. The waiver of any non-compliance with this Agreement shall not prevent subsequent similar non-compliance from being or becoming a breach of this Agreement. No waiver shall be effective unless expressed in writing signed by the waiving party. No waiver shall affect any condition other than the one specified in the waiver and then only for the time and in the manner stated. A party's receipt of any payment or other sum with knowledge of non-compliance with this Agreement shall not be considered a waiver of the non-compliance. No payment of a lesser amount than the full amount then due shall be considered to be other than on account of the earliest amount due. No endorsement or statement of any check or any letter accompanying any check or payment shall be considered in accord and satisfaction, and a party may accept any check or payment without prejudice to the party's right to recover the balance owing and to pursue any other available remedy.
- E. Whenever one party is required or permitted to give notice to the other, such a notice shall be deemed given: when delivered by hand; one day after being given to an express courier with a reliable system for tracking delivery; when telecopied, faxed, or emailed, and receipt confirmed; or three days after the day of mailing, when mailed through United States mail, registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

In the case of the City of Tarpon Springs:



City of Tarpon Springs  
Attention: Mark LeCouris, City Manager  
324 Pine Street  
Tarpon Springs, Florida 34689  
Telephone: 727-938-3711  
Facsimile:  
Email: [mlecouris@ci.tarpon-springs.fl.us](mailto:mlecouris@ci.tarpon-springs.fl.us)

In the case of FMIT:

Florida League of Cities, Inc.  
Attention: Chris Krepcho, Director of Insurance Services  
125 E Colonial Dr,  
Orlando, FL 32801  
Telephone: 407-367-4004  
Facsimile: 407-425-9378  
Email: [ckrepcho@flcities.com](mailto:ckrepcho@flcities.com)

In the case of CareATC:

CareATC, Inc.  
Attention: Spencer D. Lloyd, Chief Financial Officer  
4500 South 129<sup>th</sup> East Avenue, Suite 191  
Tulsa, Oklahoma 74134.  
Telephone: 918.779.7458  
Email: [spencelloyd@careatc.com](mailto:spencelloyd@careatc.com)

- F. CareATC shall furnish the services contemplated by this Agreement as an independent contractor and not as an employee of the other parties to this Agreement. The method and means of providing its services shall be under the exclusive control, management, and supervision of CareATC. No party to this Agreement has the power or authority to act for, represent, or bind the other parties in any manner. Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between the parties to this Agreement, nor shall anything in this Agreement be deemed to constitute one party as an agent for the other parties. No party shall be or become liable or bound by the representation, act or omission whatsoever of the other parties.
- G. The law governing this Agreement shall be that of the United States and the State of Florida.
- H. Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be unenforceable, illegal or invalid, the remainder of the Agreement shall not be affected and shall remain in full force and effect.

- I. This Agreement may be signed in counterparts, each of which shall be considered an original for all purposes. Furthermore, a faxed signature shall operate for all purposes as an original.
- J. No party to this Agreement may assign or transfer this Agreement without the prior written consent of the other parties to this Agreement.
- K. All parties to this Agreement shall perform their duties and responsibilities under this Agreement in accordance with the laws of the United States and of the State of Florida.
- L. Each individual executing this Agreement on behalf of any person or entity expressly represents and warrants that he/she has the right, legal capacity, and full authority to execute same.
- M. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- N. For any legal proceeding brought to enforce or interpret any provision or obligation set forth in this Agreement, venue shall be in Pinellas County, Florida.

IN WITNESS WHEREOF, CareATC, FMIT and Tarpon Springs have executed and delivered this Agreement as of the dates shown below:

**Signed:**

**CareATC**

By: \_\_\_\_\_

Print Name: Spencer D. Lloyd

Its: Chief Financial Officer

Date: \_\_\_\_\_

**Countersigned:**

**FMIT**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**Tarpon Springs**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_