

**FORM OF ENSUING AGREEMENT – TO BE COMPLETED AND  
EXECUTED FOLLOWING AWARD – PLEASE DO NOT SIGN AND  
RETURN**

**CONSULTING AGREEMENT**

This Consulting Agreement ("Agreement") is made and entered into by and between WILLIAMSON COUNTY, TEXAS, a political subdivision of the State of Texas (the "County") AND [REDACTED] (the "Consultant") for the provision of consultant services to County in relation to its Employee Health Benefit Plan.

**Article I - Recitals**

**Section 1.01 - Parties**

- A. County provides life, medical, dental, wellness, workers' compensation, and other related insurance or benefit coverage for their employees.
- B. Consultant is a consulting company doing business at [REDACTED], [REDACTED], [REDACTED].
- C. County desires to engage the services of the Consultant to perform the duties and functions set forth in this Agreement, and the Consultant desires to perform such duties for County, on the terms and conditions set forth herein.

**Section 1.02 - Purpose**

The parties enter into this Agreement in order to provide a full statement of their respective responsibilities. Except as otherwise set forth herein, this Agreement supersedes any and all other understandings or agreements between the parties, either oral or in writing, with respect to the subject matter hereof; any understanding, agreement, statement, or promise relating to the subject matter hereof that is not contained in this Agreement or an addendum hereto shall not be valid or binding.

**Article II - Rights and Obligations of Parties**

**Section 2.01 - Consultant**

County seeks to retain the Consultant as its advisor with respect to the matters specified in Section 2.06 of this Agreement.

**Section 2.02 - Independent Contractor**

The Consultant is and shall at all times be deemed to be an independent contractor and shall be wholly responsible for the manner in which the Consultant performs the services required of him

by the terms of this Agreement. Nothing herein, contained shall be construed as creating the relationship of employer and employee, or principal and agent, between County and the Consultant or any of the Consultant's agents or employees.

### **Section 2.03 - Competition**

So long as this Agreement remains in effect, the Consultant shall not, without the consent of County, accept any employment by, make financial investment in, become actively interested in, take part in the affairs of, or give advice and counsel to, any life, health, or accident insurance company that does any business with County.

### **Section 2.04 - Outside Services**

The Consultant may engage in, and be separately compensated for, any business or activity, so long as the service, investment, or activity does not violate the provisions of Section 2.03 of this Agreement or interfere with the services required to be provided by the Consultant to County under the terms of this Agreement.

### **Section 2.05 - Compensation**

The Consultant shall be paid by County for consulting services provided under this Agreement. During the term of this Agreement, the Consultant's fee for performing all services described under Section 2.06 below shall be [REDACTED] AND NO/100 DOLLARS (\$ [REDACTED]) per month. The Consultant shall invoice the County each month and the County shall pay such invoices as set forth herein below (See Section 4.17 - Payment, Interest and Late Payments).

### **Section 2.06 - Duties of Consultant**

The Consultant agrees to provide the following services:

#### **A. Brokering Services**

1. Develop long range employee/retiree benefit goals and strategies to meet the needs and objectives of County.
2. Work in coordination with County's Human Resources, Purchasing and Legal Staff to acquire third party administrator contracts during the RFP process and/or at any time during the term of this Agreement and ensure that the County's best interests are protected and vendor performance is guaranteed.
3. Assist in the soliciting of competitive bids from benefit plan vendor markets that specialize in group benefit plans and evaluate vendor bids/proposals and provide a written assessment based on County's selection criteria and timeframe. The written assessment must also include transition impacts, if applicable.
4. Assist County in negotiations with vendors to obtain the best possible values for the services described in this Agreement, to include negotiating all insurance renewals.
5. Evaluate vendor's proposed contracts to ensure appropriate compliance and liability.

6. Participate in the development, negotiation and implementation with health benefit providers and administrators on matters such as, but not limited to, premium rates, service, benefit levels, plan design, special terms and conditions, etc., and negotiate changes and additions to contracts.

**B. Benefit Program Design**

1. Provide benefits information to enable County to make effective decisions in developing an overall Employee Benefits Program that is comprehensive and meets established objectives with respect to cost and competitiveness with the goal of attracting and retaining employees.
2. Assist in the administration, design and implementation of new and existing benefit programs, and analyze the effectiveness of programs and offer creative solutions to problems.
3. Analyze claim experience/financial development for all benefit programs and provide benefits plan benchmarking, market analysis and best practices analysis.
4. Recommend specific alternative benefit plan designs, delivery systems, funding and communication methods as dictated by environmental/regulatory changes and emerging technologies.
5. Provide financial reports that support recommendations to include financial analysis and actuarial projections.
6. Assist County to strategically anticipate and implement any options developed to reduce future market trends.

**C. Plan Performance and Reporting**

1. Analyze claim experience/financial development for all benefit programs.
2. Track and report progress of benefit plans on a quarterly basis, coordinating with benefit providers to obtain relevant performance data.
3. Provide analysis of benefit plan performance, e.g. Health Care Plan – Premiums vs. Claims.
4. Identify key cost drivers of medical plan and provide solutions to reduce cost impact.
5. Provide cost projections based on financial performance of plan for forecasting and budgeting, cash flow analysis and estimates of renewal rates.
6. Identify excessive or problematic utilization patterns and assist in developing a strategy to reduce the impact of these costs.
7. Provide an annual review and summary of employee/retiree benefits including analysis of the quality of benefits provided, cost effectiveness, competitiveness and recommendations.

**D. Regulatory Compliance**

1. Review the Benefits Program on a continuous basis to ensure that the Plans are in compliance with government regulations and mandates.
2. Provide consultation and guidance with respect to all aspects of Healthcare Reform legislation and compliance.

E. Vendor Performance and Reporting

1. Provide monthly and annual reports to County. Reports must illustrate individual claims and total claims, attachment points, surplus/deficit and enrollment data.
2. Attend periodic management, Benefit Committee and employee meetings to facilitate and assist in the management of the County's health benefit plans and programs.
3. Advise on a continuing basis and in a timely manner any and all significant matters and developments regarding the progress of vendor service issues.
4. Regularly monitor and evaluate performance measures and guarantees for providers.
5. Enforce established vendor performance guarantees.
6. Resolve vendor performance concerns.

F. Claims Audits

1. Perform period vendor claims audits to ensure payment accuracy, reduce administrator errors and claim oversights[SL1].

G. Open Enrollment

1. Provide open enrollment support, including, but not limited to, assisting with the development of open enrollment materials and coordinate and participate in open enrollment meetings as reasonably requested.

H. Customer Service Center[SL2]

1. Be available Monday through Friday during regular business hours to provide day to day consultation, research and responses on matters such as, but not limited to, plan interpretation, claims, billing and other matters that may arise during the normal course of business for County employees and dependents.
2. Provide call documentation, resolution and a reporting system.

I. Communications

1. Assist in the development, preparation, and review of County's benefits program communications materials to include benefit plan documents, Annual Benefit Guide newsletters, booklets, SPD's and all other communication for accuracy, content and compliance.
2. Advise and assist County annually, during open enrollment and as regulatory changes occur on all benefit plan communications.
3. Assist County in developing a comprehensive Benefit Plan communication infrastructure utilizing existing and emerging technologies encompassing communication between County and vendors, County and employees and Employee Self Service (ESS).

4. Provide a toll free “Benefits Advisory Help Line” for employee questions and issues[SL3].

J. Wellness, Disease Management and Preventative Care Programs[SL4]

1. Implement programs to address chronic conditions.
2. Implement wellness programs to proactively increase health awareness and behavior modification.

K. Other Services

1. Provide any and all services set forth in County’s Request for Proposals for Health Related Benefits Broker/Consultant for Williamson County – RFP# 14RFP00203, as well as any services set forth in the Proposal submitted by Consultant in response to said Request for Proposals.

The above described services of Consultant shall cover all of the County’s health benefit plans. Any other services not specifically described above must be approved by both parties.

**Section 2.07 – Performance Guarantees**

The Consultant hereby agrees to comply with the Performance Guarantees set forth in Exhibit “A”, which is attached hereto and incorporated herein for all purposes.

**Article III - General Provisions**

**Section 3.01 - Term**

The initial term of this Agreement shall commence on January 1, 2017 and continue thereafter until[SL5], subject to the provisions of Section 3.02 of this Agreement. The term of this Agreement may be extended by mutual agreement of both parties. If the parties agree to extend this Agreement, such extension will be in twelve (12) month increments for up to an additional twenty-four (24) months, with the terms and conditions of this Agreement remaining the same. The total period of this Agreement, including all extensions, will not exceed a maximum combined period of thirty-six (36) months[SL6]. The extension of this Agreement is contingent on the appropriation of necessary funds by County for the fiscal year in question.

**Section 3.02 - Termination**

This Agreement shall terminate upon the occurrence of any of the following events:

- a. The dissolution or liquidation of County's insurance trust;

- b. A breach by the Consultant of any of the terms, conditions or covenants under this Agreement;
- c. Ninety (90) days written notice by either party.

In the event of termination by County, the Consultant shall cease all work for County under this Agreement upon receipt of the written notice unless instructed in writing by County to do otherwise.

### **Section 3.03 - Payment on Termination**

In the event of termination of this Agreement pursuant to Section 3.02 (a) or (c), the Consultant shall be entitled to compensation at the rate specified in Section 2.02 prorated up to the date of termination provided the Consultant is not then in breach of any of the terms, conditions or covenants under this Agreement.

### **Section 3.04 - Confidentiality**

Subject to the requirements of the Public Information Act, Chapter 552.001 et seq. of the Texas Government Code, the Consultant covenants and agrees that Consultant shall not, at any time during the term of this Agreement, directly or indirectly, divulge or disclose for any purpose whatsoever, any information concerning County that has been developed for County by the Consultant, or obtained by him for County, or disclosed to him by County, as a result of the performance of Consultant's work, duties, and obligations under this Agreement to the extent allowed by law. It is agreed that the provisions of this Section 3.04 shall be applicable and enforceable, unless the terms and conditions of this Section 3.04 are expressly waived on behalf of County and reduced to an instrument in writing signed by County.

## **Article IV - Miscellaneous**

### **Section 4.01 – Construction; Severability**

This Agreement shall be construed in accordance with the laws of the State of Texas. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

### **Section 4.02 - Paragraph Headings**

All paragraph headings in this Agreement are inserted for convenience only.

#### **Section 4.03 - Successors in Interest**

This Agreement shall be binding upon, and inure to the benefit of, the successors in interest and permitted assigns of the parties hereto.

#### **Section 4.04 - Notice**

Any notice to be given hereunder shall be in writing and may be affected by personal delivery, in writing or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

CONSULTANT:

[REDACTED]  
[REDACTED]  
[REDACTED], [REDACTED] [REDACTED]

COUNTY:

Williamson County  
c/o: Shelley M. Loughrey, PHR  
Director of Benefits Administration  
Williamson County Human Resources  
Human Resources Department  
301 S.E. Inner Loop, Suite 108  
Georgetown, Texas 78626

#### **Section 4.05 – Performance; Venue and Governing Law**

This Agreement shall be performed in Williamson County, Texas. Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in either Williamson County, Texas, and the parties hereto expressly consent and submit to such jurisdiction and venue. Furthermore, except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

#### **Section 4.06 - Assignment**

This Agreement may not be assigned without the written consent of all parties.

#### **Section 4.07 - Reference to Parties**

When referring to the Consultant, it shall refer to and be binding upon the Consultant named herein, its predecessors, successors, permitted assigns, heirs, executors, administrators, legal representative and all other persons, firms, or corporations in privity with Consultant.

## **Section 4.08 – Incorporation of Request for Proposals**

The parties hereto agree that the terms and conditions of County's Request for Proposals for Health Related Benefits Broker/Consultant for Williamson Count – RFP# and its Addenda; as well as the Consultant's Proposal in response to said RFP shall be incorporated herein by reference for all purposes. In the event a dispute or conflict arises between (1) terms and conditions of this Agreement, (2) the above reference RFP, and its Addenda; and (3) the Respondent's Proposal, applicable documents will be referred to for the purpose of clarification, conflict resolution or for additional detail in the following order of precedence: (1) terms and conditions of this Agreement and its Addenda, (2) the above reference RFP and its Addenda; and (3) the Consultant's Proposal.

## **Section 4.09 - Force Majeure**

If the party obligated to perform is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of said party, the other party shall grant such party relief from the performance of this Agreement. The burden of proof for the need of such relief shall rest upon the party obligated to perform. To obtain release based on force majeure, the party obligated to perform shall file a written request with the other party.

#### **Section 4.10 - Indemnification of County**

**CONSULTANT ALL INDEMNIFY, DEFEND, PROTECT, AND SAVE HARMLESS WILLIAMSON COUNTY, ITS OFFICIALS AND EMPLOYEES AND ITS AGENTS AND AGENTS' EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LIABILITY, LOSS, DAMAGE, REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES (INCLUDING, BUT NOT LIMITED TO EXPENSES RELATED TO EXPERT WITNESSES) OF ANY KIND WHATSOEVER, TO THE EXTENT ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF CONSULTANT OR ANY OF ITS EMPLOYEES AND ITS AGENTS AND AGENTS' EMPLOYEES IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT.**

## **Section 4.11 - Compliance with Laws**

Each party to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, salary and wage statutes and regulations, licensing laws and regulations.

## Section 4.12 - Entity Status

By Consultant's signature below, I certify that Consultant is a \_\_\_\_\_, duly authorized to transact and do business in Williamson County, Texas.



#### **Section 4.13 - No Waiver of Immunities**

Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to County, its past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

#### **Section 4.14 - No Waiver**

The failure or delay of any party to enforce at any time or any period of time any of the provisions of this Agreement shall not constitute a present or future waiver of such provisions nor the right of either party to enforce each and every provision. Furthermore, no term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of or excuse for any other, different or subsequent breach.

#### **Section 4.15 - County's Right to Audit**

Consultant agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Consultant which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Consultant agrees that County shall have access during normal working hours to all necessary Consultant facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. County shall give Consultant reasonable advance notice of intended audits.

#### **Section 4.16 - Appropriation of Funds by County**

County believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Agreement. Consultant understands and agrees that the County's payment of amounts under this Agreement is contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to continue to make payments under this Agreement.

#### **Section 4.17 - Payment, Interest and Late Payments**

County's payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by County within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall

be paid by County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, County shall notify Consultant of the discrepancy. Following County's notification of any discrepancy as to an invoice, Consultant must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. County shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. County's payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31<sup>st</sup>) day following the Williamson County Auditor's receipt of the corrected or revised invoice.

#### **Section 4.18 - Texas Public Information Act**

To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to County as to whether or not the same are available to the public. It is further understood that County's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that County, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to County by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

#### **Section 4.19 - Entire Agreement**

This Agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by each party to this Agreement. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS AGREEMENT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE WILLIAMSON COUNTY COMMISSIONERS COURT.

In Witness Whereof, the parties hereto have duly executed this Agreement to be effective as of the last party's execution hereof.

**WILLIAMSON COUNTY, TEXAS,  
a political subdivision of the State of  
Texas**

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

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

Dan A. Gattis,  
County Judge

Title: \_\_\_\_\_

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

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