

## **AGREEMENT TO EXTEND THAT CERTAIN CONSULTING AND CONFIDENTIALITY AGREEMENT**

THIS AGREEMENT TO EXTEND THAT CERTAIN CONSULTING AND CONFIDENTIALITY AGREEMENT (the "Agreement") is executed to be effective as of the first day of June, 2008, between Williamson County (herein referred to as "County"), with a mailing address of 301 SE Inner Loop, Suite 108, Georgetown, TX 78626, and McQueary Henry Bowles Troy, a Texas limited liability partnership (herein referred to as "Consultant"), with a mailing address of 301 Congress, Suite 1000, Austin, Texas 78701.

### **RECITALS**

WHEREAS, on June 1, 2006, County and Consultant executed an original agreement pertaining to the consulting services described below. Such original agreement provided for the automatic renewal of the parties' agreement should the parties so desire to renew the agreement.

WHEREAS, on June 1, 2007, County and Consultant executed an agreement to extend the above referenced original agreement for an additional year;

WHEREAS, the County desires to continue obtaining the below described consulting services to be performed by Consultant;

WHEREAS, Consultant agrees to continue to perform such consulting services for County;

WHEREAS, the agreement effective as of June 1, 2007 has a termination date of May 31, 2008 and the parties hereto wish to extend said agreement pursuant to the terms and conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, it is agreed:

### **A. AGREEMENT**

1. The Consultant shall continue to perform certain consulting services as requested by County and agreed upon by both parties. The following services will be provided:
  - Review of policies, contracts and procedures
  - Benefit strategies and options guidance
  - Plan performance reporting including forecasts and pre and post renewal calculations
  - Plan modeling and financial impact study
  - Renewal negotiations and marketing of all health and welfare contracts
  - Review and maintain regulatory compliance
  - Communications
  - Claims service
  - Employee problem resolution
  - Enrollment & Educational Services

2. This Agreement shall commence on June 1, 2008 and remain in force until September 30, 2008. On or before said termination date, the parties may extend this Agreement for an additional one year term. Either party may terminate this Agreement for convenience and without cause or further liability upon thirty (30) days written notice to the other party. In the event of such termination, it is understood and agreed that only the amounts due to Consultant for services provided and expenses incurred to and including the date of termination, will be due and payable to Consultant. No penalty will be assessed for either party's termination of this Agreement for convenience.
3. Consultant Compensation:

County shall be obligated to pay Consultant the fixed sum of forty thousand dollars (\$40,000) (the "Consulting Fee" for the services to be performed under this Agreement during the above referenced term). This Consulting Fee shall be paid in equal monthly increments of ten thousand dollars (\$10,000.00) each beginning on June 30, 2008 and ending on September 30, 2008.
4. This agreement creates an independent contractor-employer relationship. County is interested only in the results to be achieved. Consultant is solely responsible for the conduct and control of the work. Consultant is not an employee of County for any purpose. Employees of Consultant are not entitled to any benefits County provides to the employees of County.
5. Consultant agrees that all information communicated to it with respect to the County ongoing business operations are confidential, whether that information was directly or intentionally communicated, and whether the information was obtained by Consultant or its staff. Consultant agrees that it shall not disclose any Confidential Information to any other person unless specifically authorized by County to do so. If an authorized representative of County gives consultant written authorization to make disclosures, Consultant shall do so only within the limits and to the extent of that authorization. Consultant shall use its best efforts to prevent inadvertent disclosure of Confidential Information to any third party and will be guided by the parameters of the privacy language of The Health Insurance Portability and Accountability Act (HIPAA). Consultant shall instruct its staff to treat Confidential Information with the same care and discretion that they use with similar data designated by Consultant as confidential. Consultant agrees that all of Consultant's obligations with respect to Confidential Information shall survive the termination of this Agreement and any relationship with County.

## **B. MISCELLANEOUS**

1. Severability. 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.

2. **Venue and Governing Law.** 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 Williamson County, Texas. Furthermore, 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.
3. **Assignment.** No party to this Agreement may assign or transfer its interest in or obligations under this Agreement without the prior written consent of all parties to this Agreement.
4. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of parties hereto and their respective successors and assigns.
5. **No Third Party Beneficiaries.** This Agreement is for the sole and exclusive benefit of the parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other person any rights, remedies or any other type or types of benefits.
6. **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.
7. **Construction.** Each party to this Agreement acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.
8. **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 or employees, 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.
9. **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.

10. 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.
11. 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.
12. 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 CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE WILLIAMSON COUNTY COMMISSIONERS COURT.

**THE REMAINDER OF THIS PAGE IS BLANK**

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement.

WILLIAMSON COUNTY

MCQUEARY HENRY BOWLES TROY, LLP

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

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

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

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

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

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

Approved as to Form:

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

Hal C. Hawes,  
Assistant Williamson  
County Attorney

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

James Gilger, CPA,  
Williamson County Contract  
Management Auditor