

	ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS PROCUREMENT DIVISION	Issue Date: April 5, 2019
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NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Orange County, Florida, henceforth referred to as the County is accepting sealed proposals for:

**REQUEST FOR PROPOSALS #Y19-1032-AH
CONSULTING SERVICES FOR SELF-FUNDED MEDICAL PLANS, GROUP
INSURANCE PLANS, AND OTHER EMPLOYEE BENEFITS
TERM CONTRACT**

Copies of the Request for Proposals (RFP) documents may be obtained from the Orange County Procurement Division at the below address. Copies may be requested by phoning (407) 836-5635 or by download from the Internet at: <http://apps.ocfl.net/orangebids/bidopen.asp>

PROPOSAL SUBMISSION DUE DATE:

Sealed proposals in an **original** and **eight (8) copies** for furnishing the above will be accepted up to **2:00 PM (local time), Tuesday, May 7, 2019**, in the Procurement Division, Internal Operations Centre II, 400 E. South Street, 2nd Floor, Orlando, FL 32801.

NOTICE TO PROPOSERS:

To ensure that your bid is responsive, you are urged to request clarification or guidance on any issues involving this solicitation before submission of your response. Your point-of-contact for this solicitation is Alina Hernández Fernández, Purchasing Agent at Alina.Hernandez@ocfl.net.

QUESTIONS:

All questions or concerns regarding this Request for Proposals shall be submitted by email to Alina.Hernandez@ocfl.net, no later than 5:00 PM **Monday, April 15, 2019** to the attention of Alina Hernández Fernández, Procurement Division, referencing the RFP number.

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SECTION 1
GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS

1. INSTRUCTIONS TO PROPOSERS

Offers by e-mail, telephone, or fax shall not be accepted. An e-mailed or a faxed proposal shall be rejected as non-responsive regardless of where it is received.

It is the sole responsibility of the proposer to ensure that their proposal reaches the Procurement Division. **Proposals received after the specified time and date shall be returned unopened.** The time/date stamp clock located in the Procurement Division shall serve as the official authority to determine lateness of any proposal. **The decision to refuse to consider a proposal that was received beyond the date/time established in the solicitation shall not be the basis for a protest pursuant to the Orange County Code (Procurement Ordinance).**

Respondents are cautioned that they are responsible for delivery to the specific location cited above. If your proposal is delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the above address. This office shall not be responsible for deliveries made to any place other than the specified address.

All proposals will be opened publicly and the names of all proposers shall be read aloud.

2. QUESTIONS REGARDING THIS RFP

All questions or concerns regarding this Request for Proposals must be submitted in writing, by email as indicated on the coverage page of this RFP, referencing the RFP number. When required the Procurement Division will issue an addendum to the Request for Proposals. The addendum will be available on the Internet for access by potential proposers. Proposers are instructed not to contact the initiating division directly.

Proposers shall not direct any queries or statements concerning their proposal to the Orange County Procurement Committee or County staff during the selection process, from the time of submission of a proposal until the execution of a contract.

Any proposer who initiates any discussions with staff in any manner other than that described below is subject to disqualification from this procurement. **However, you may contact the Purchasing Agent at any time during this process, including during the Black Out Period.**

No oral interpretation of this Request for Proposals shall be considered binding. The County shall be bound by information and statements only when such statements are written and executed under the authority of the Procurement Division Manager.

This provision exists solely for the convenience and administrative efficiency of Orange County. No proposer or other third party gains any rights by virtue of this provision or the application thereof, nor shall any proposer or third party have any standing to sue or cause of action arising therefrom.

3. CONTRACT TERM

It is the intent of the County to enter into a three (3) year term contract, with renewal clause for two (2) additional one (1) year terms for services as described herein.

4. DRAFT CONTRACT

The contract that the County intends to use for award is enclosed for reference. Any exceptions to this standard contract must be clearly indicated by return of the standard contract with the proposal, with exceptions clearly noted. The County has the right to require the selected respondent to sign the attached contract or to negotiate revisions to the contract language prior to execution of the contract, at its sole discretion.

Modification or alteration of the documents contained in the solicitation or contract shall only be valid if mutually agreed to in writing by the parties.

5. BUSINESS ASSOCIATE AGREEMENT

The Business Associate Agreement, hereby incorporated into the document as Attachment A, shall govern all matters necessary to enforce the provisions of the HIPAA Privacy and Security 45 CFR Parts 160, 162, and 164 as applicable to this contract.

6. INSURANCE REQUIREMENTS

Vendor/Contractor agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by Vendor/Contractor is not intended to and shall not in any manner limit or qualify the liabilities assumed by Vendor/Contractor under this contract. Vendor/Contractor is required to maintain any coverage required by federal and state workers' compensation or financial responsibility laws including but not limited to Chapter 324 and 440, Florida Statutes, as may be amended from time to time.

The Vendor/Contractor shall require and ensure that each of its sub-Vendors/sub-Contractors providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein.

Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

(Note: State licenses can be checked via www.floir.com/companysearch/ and A.M. Best Ratings are available at www.ambest.com)

Required Coverage:

Commercial General Liability - The Vendor/Contractor shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$1,000,000 per occurrence.

Vendor/Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.

Required Endorsements:

Additional Insured- CG 20 26 or CG 20 10/CG 20 37 or their equivalents.
Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations

Waiver of Transfer of Rights of Recovery- CG 24 04 or its equivalent.
Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number.

Business Automobile Liability - The Vendor/Contractor shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$500,000 (five hundred thousand dollars) per accident. In the event the Vendor/Contractor does not own automobiles the Vendor/Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation - The Vendor/Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any Vendor/Contractor using an employee leasing company shall complete the Leased Employee Affidavit.

Professional Liability- with a limit of not less than \$1,000,000 per occurrence/claim

When a self-insured retention or deductible exceeds \$100,000 the COUNTY reserves the right to request a copy of Vendor/Contractor most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis the Vendor/Contractor agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Vendor/Contractor agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Vendor/Contractor of the obligation to provide replacement coverage.

By entering into this contract Vendor/Contractor agrees to provide a waiver of subrogation or a waiver of transfer of rights of recovery, in favor of the County for the workers' compensation and general liability policies as required herein. When required by the insurer or should a policy condition not permit the Vendor/Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Vendor/Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Subrogation or a Waiver of Transfer of Rights of Recovery Against Others endorsement.

Prior to execution and commencement of any operations/services provided under this contract the Vendor/Contractor shall provide the COUNTY with current certificates of insurance evidencing all required coverage. In addition to the certificate(s) of insurance the Vendor/Contractor shall also provide endorsements for each policy as specified above. All specific policy endorsements shall be in the name of the Orange County Board of County Commissioners.

For continuing service contracts renewal certificates shall be submitted immediately upon request by either the COUNTY or the COUNTY's contracted certificate compliance management firm. The certificates shall clearly indicate that the Vendor/Contractor has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. Vendor/Contractor shall notify the COUNTY not less than thirty (30) business days (ten business days for non-payment of premium) of any material change in or cancellation/non-renewal of insurance coverage. The Vendor/Contractor shall provide evidence of replacement coverage to maintain compliance with the aforementioned insurance requirements to the COUNTY or its certificate management representative five (5) business days prior to the effective date of the replacement policy (ies).

The certificate holder shall read:

Orange County Board of County Commissioners
c/o Procurement Division
400 E. South Street, 2nd Floor
Orlando, Florida 32801

7. ACCEPTANCE/REJECTION/CANCELLATION

The County reserves the right to accept or reject any or all proposals, with or without cause, to waive technicalities, or to accept the proposal which, in its sole judgment best serves the interest of the County, or to award a contract to the next most qualified proposer if a successful proposer does not execute a contract within thirty (30) days after approval of the selection by the Board of County Commissioners or other competent authority.

The County also reserves the right to reject the proposal of any proposer who has previously failed in the proper performance of an award or to deliver on time contracts of a similar nature or who, in the County's opinion, is not in a position to perform properly under this award. The County reserves the right to inspect all facilities of proposers in order to make a determination as to the foregoing.

Orange County reserves the right, and the Manager of Procurement Division has absolute and sole discretion, to cancel a solicitation at any time prior to approval of the award by the Board of County Commissioners when such approval is required. The decision to cancel a solicitation cannot be the basis for a protest pursuant to the Orange County Code.

8. DEVELOPMENT OR ASSISTANCE IN DEVELOPMENT OF SPECIFICATIONS/ REQUIREMENTS/ STATEMENTS OF WORK

Firms and/or individuals that assisted in the development or drafting of the specifications, requirements, statements of work, or solicitation documents contained herein are excluded from competing for this solicitation.

This shall not be applicable to firms and/or individuals providing responses to a publicly posted Request for Information (RFI) associated with a solicitation.

9. CLARIFICATION

The County reserves the right to request clarification of information submitted and to request additional information of one or more proposers.

10. WITHDRAWAL OF PROPOSAL

Any proposal may be withdrawn until the date and time set above for the submission of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of one hundred and twenty (120) days, to provide to the County the services set forth in this Request for Proposals, or until one or more of the proposals have been awarded.

11. SEALED PROPOSALS

Proposals shall be delivered in a sealed envelope and proposers should label their proposal with the following:

- A. Request for Proposals Number
- B. Date of Opening
- C. Name of Proposer

Proposers are encouraged to utilize the label provided herein.

12. PROPOSAL PREPARATION

Costs of preparation of a response to this request for proposals are solely those of the Proposer. The County assumes no responsibility for any such costs incurred by the Proposer. The Proposer also agrees that the County bears no responsibility for any costs associated with any administrative or judicial proceedings resulting from the solicitation process.

13. ACCOUNTING SYSTEM

The Contractor shall establish and maintain a reasonable accounting system, which enables ready identification of Contractor's cost of goods and use of funds. The accounting system shall also include adequate records and documents to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in providing the goods for at least five (5) years after completion of this contract. The County or designee shall have access to books, records, subcontract(s), financial operations, and documents of the Contractor or its subcontractors, as required to comply with this section, for the purpose of inspection or audit anytime during normal business hours at the Contractor's place of business. This right to audit shall include the contractor's subcontractors used to procure goods or services under the contract with the County. Contractor shall ensure the County has these same rights with subcontractor(s) and suppliers.

14. SHORTLISTS, PROTESTS AND LOBBYING

The recommended award will be posted for review by interested parties at the Procurement Division and at: <http://apps.ocfl.net/OrangeBids/AwardsRec/default.asp> prior to submission through the appropriate approval process and will remain posted for a period of five (5) full business days.

Orange County Lobbyist Regulations General Information

<http://www.orangecountyfl.net/OpenGovernment/LobbingAtOrangeCounty.aspx>

A lobbying blackout period shall commence upon issuance of the solicitation until the Board selects the Contractor. For procurements that do not require Board approval, the blackout period commences upon solicitation issuance and concludes upon contract award.

The Board of County Commissioners may void any contract where the County Mayor, one or more County Commissioners, or a County staff person has been lobbied in violation of the black-out period restrictions of Ordinance No. 2002-15.

Orange County Protest Procedures

<http://www.orangecountyfl.net/VendorServices/VendorProtestProcedures.aspx>

Failure to file a protest with the Procurement Manager by 5:00 PM on the fifth full business day, after posting, shall constitute a waiver of bid protest proceedings.

Information regarding Procurement Committee scheduling and Board approvals is available by calling the Procurement Reception Desk at (407) 836-5635.

15. PUBLIC ENTITY CRIME

Section 287.133(3)(d), Florida Statutes, provides that the Florida Department of Management Services shall maintain a list of the names and addresses of those who have been disqualified from participating in the public contracting process under this section.

http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists/convicted_vendor_list

A person or affiliate who has been placed on The Convicted Vendor list following a conviction for a public entity crime shall not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, shall not submit bids on leases of real property to a public entity, shall not be awarded or perform work as a contractor, supplier, subcontractor, or Contractor under a contract with a public entity, and shall not transact business with any public entity in excess of the threshold amount provided in Florida Statute Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on The Convicted Vendor List.

16. AVAILABILITY OF FUNDS

The obligations of the County under this award are subject to the availability of funds lawfully appropriated for its purpose by the State of Florida and the Orange County Board of County Commissioners, or other specified funding source for this procurement.

17. TOBACCO FREE CAMPUS

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars,

cigarettes, e-cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

18. VERIFICATION OF EMPLOYMENT STATUS

Prior to the employment of any person under this contract, the Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the contract term, and an express requirement that Contractors include in such subcontracts the requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. For more information on this process, please refer to United States Citizenship and Immigration Service site at:

<http://www.uscis.gov/portal/site/uscis>.

Only those employees determined eligible to work within the United States shall be employed under the contract.

Therefore, by submission of a proposal in response to this solicitation, the Contractor affirms that all employees in the above categories will undergo e-verification before placement on this contract. The Contractor shall commit to comply with this requirement by completing the E- Verification certification, attached to this solicitation.

19. SCHEDULE OF SUBCONTRACTING

Proposers shall list **all** proposed sub-contractors to be used, regardless of racial or gender grouping. Include names, addresses, phone numbers, type of work subcontracted (discipline, trade or commodity), proposed percentage of work, and the M/WBE or Majority designation (M/WBE or Non-M/WBE).

20. EQUAL OPPORTUNITY

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the Contractor shall abide by the following provisions:

- A. The Contractor shall represent that the Contractor has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this contract.
- B. The Contractor shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the non-discrimination provision of the contract.

The provisions of the prime contract shall be incorporate by the Contractor into the contracts of any applicable subcontractors.

21. CONFLICT OF INTEREST

The award is subject to provisions of applicable State Statutes and County Ordinances. All proposers must disclose with their offer the name of any officer, director, or agent who is also an employee of Orange County. Further, all proposers must disclose the name of any County employee who owns, directly or indirectly, an interest of ten percent (10%) or more in the Proposer's firm or any of its branches. Should the Contractor permanently or temporarily hire any County employee who is, or has been, directly involved with the Contractor prior to or during performance of the resulting contract, the contract shall be subject to immediate termination by the County.

22. DEBRIEFING OF PROPOSERS

Not later than thirty (30) days after Board approval of a selection or shortlist, a proposer may submit a written request to the applicable contract administrator or purchasing agent for a debriefing on the evaluation of their proposal. The contract administrator/purchasing agent will schedule a meeting with the Proposer for the debriefing. However, at the Proposer's request, the debriefing may be conducted via telephone conference. The debriefing shall include the following minimum information:

- A. Key requirements of the solicitation.
- B. The overall ranking of all proposals.
- C. The significant weaknesses or deficiencies in the proposal in response to the requirements of the solicitation.
- D. If requested, an explanation of the score received for each evaluation criteria will be provided, including costs, if applicable.
- E. If applicable, a summary of the rationale for award.
- F. Responses to any relevant questions of the Proposer.

Untimely debriefing requests will also be considered.

23. REFERENCE CHECKS

The contact person listed as a reference shall be someone who has personal knowledge of the Proposer's performance during the referenced contract. Contact persons shall have been informed that they are being used as a reference and that the County may be contacting them. More than one person can be listed but all shall have knowledge of the project. DO NOT list principals or officers who will not be able to answer specific questions regarding the project.

Failure of references listed to respond to the County's inquiries may negatively impact the evaluation of the Proposal. The reference shall be the owner or a representative of the owner.

24. CONFIDENTIAL INFORMATION

In accordance with Chapter 119 of the Florida Statutes (Public Records Law), and except as may be provided by other applicable State or Federal Law, all proposers should be aware that Request for Proposals or Invitation for Bids and the responses thereto are in the public domain. **Proposers must identify specifically** any information contained in their response which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, **citing specifically the applicable exempting law**. If a Proposer fails to cite the applicable exempting law, we will treat the information as public.

25. PUBLIC RECORDS COMPLIANCE

Orange County is a public agency subject to Chapter 119, Florida Statutes. The Contractor agrees to comply with Florida's Public Records Law. Specifically, the Contractor shall:

1. Keep and maintain public records required by Orange County to perform the service.
2. Upon request from Orange County's custodian of public records, provide Orange County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from the public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to Orange County.
4. Upon completion of the contract, Contractor agrees to transfer at no cost to Orange County all public records in possession of the Contractor or keep and maintain public records required by Orange County to perform the service. If the Contractor transfers all public record to Orange County upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Orange County, upon request from Orange County's custodian of public records, in a format that is compatible with the information technology systems of Orange County.
5. A Contractor who fails to provide the public records to Orange County within a reasonable time may be subject to penalties under section 119.10, Florida Statutes.

6. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT :

**PROCUREMENT PUBLIC RECORDS LIAISON
400 E. SOUTH STREET, 2ND FLOOR, ORLANDO, FL 32801
PROCUREMENTRECORDS@OCFL.NET, 407-836-5897**

26. FEDERAL AND STATE TAX

The County is exempt from Federal and State Sales and Use Taxes for tangible personal property (Certificate of Registry for tax transactions under Chapter 32, Internal Revenue Code and Florida Sales/Use Tax Exemption Certificate). The Manager, Procurement Division will sign an exemption certificate submitted by the Contractor.

Contractors doing business with the County shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the County, nor shall any Contractor be authorized to use the County's Tax Exemption Number in securing such materials.

27. PROPRIETARY/RESTRICTIVE SPECIFICATIONS

If a proposer considers the specification contained herein to be proprietary or restrictive in nature, thus potentially resulting in reduced competition, they are urged to contact the Procurement Division prior to bid opening. Specifications which are unrelated to performance will be considered for deletion via addendum to this Request for Proposals.

28. MISTAKES

In the event of extension error(s), the unit prices will prevail and the proposer's total offer will be corrected accordingly. In the event of addition errors, the extended totals will prevail and the Proposer's total will be corrected accordingly. Any discrepancy between words and numbers will be resolved in favor of the written words. Proposers must check their submissions where applicable. Failure to do so will be at the Proposer's risk. Proposals having erasures or corrections must be initialed in ink by the Proposer.

29. CONTRACTUAL AGREEMENT

This solicitation shall be included and incorporated in the final contract or purchase order. The order of contract precedence will be the contract (purchase order), solicitation, and proposal. Any and all legal actions associated with this Request for Proposals and/or the resultant contract (purchase order) shall be governed by the laws of the State of Florida. Venue for any litigation involving this contract shall be the Ninth Circuit Court in and for Orange County, Florida.

30. PAYMENT TERMS/DISCOUNTS

The County's payment terms are in accordance with Florida Statute 218, Local Government Prompt Payment Act. Cash discounts for prompt payment will be considered in determining the lowest net cost for fee proposal evaluation purposes. Notwithstanding the above, discount payment terms shall not be less than net 30 calendar days from receipt of correct invoice.

31. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

By submission of this offer, the Proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, that in connection with this procurement:

- A. The prices in this offer have been arrived at independently, without consultation, collusion, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor.

- B. Unless otherwise required by law, the prices which have been offered in this proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to opening, directly or indirectly to any other Proposer or to any competitor; and,
- C. No attempt has been made or shall be made by the Proposer to induce any other person or Proposer to submit or not to submit an offer for the purpose of restricting competition.

32. FEDERAL REQUIREMENTS

In the event this Contract is paid in whole or in part from any federal government agency or source, the specific terms, regulations and requirements governing the disbursement of these funds shall be specified herein and become a part of this clause.

Equal Employment Opportunity: For any federally assisted construction contract, as defined in 41 CFR 60-1.3, the contractor, subcontractor, subrecipient shall follow all of the requirements of the Equal Opportunity Clause as stated in 41 CFR 60-1.4.

Davis-Bacon Act: For any federally assisted construction contract, in excess of two thousand dollars (\$2,000), the contractor, subcontractor, subrecipient shall comply with all of the requirements of the Davis-Bacon Act (40 U.S.C. 3141 – 3148) as supplemented by Department of Labor Regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and assisted Construction”); and the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). For a definition of “Construction” see 48 CFR 2.101.

Contract Work Hours and Safety Standards Act: For any federally assisted contract, in excess of one hundred thousand dollars (\$100,000), that involves the employment of mechanics or laborers, the contractor, subcontractor, subrecipient shall comply with all of the requirements of the Contract work Hours and Safety Standards Act (40 U.S.C. 3702 and 3704), as supplemented by Department of Labor Regulations (29 CFR Part 5).

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding one hundred thousand dollars (\$100,000) must file the required Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements Appendix A. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Rights to Inventions Made Under a Contract or Agreement: For any federally assisted contract, awarded to a small business firm or nonprofit organization as defined in 37 CFR 401.2 for the performance of experimental, developmental, or research work, the contractor, subcontractor, subrecipient agrees to all of the terms in 37 CFR 401.14(a) and (b) regarding Patent Rights and The Allocation of Principal Rights.

Clean Air Act and the Federal water Pollution Control Act: For any federally assisted contract, or subgrant, in excess of one hundred and fifty thousand dollars (\$150,000), the contractor, subcontractor, subrecipient or subgrant recipient shall comply with all of the requirements of the Clean Air Act (42 U.S.C. 7401 -7671q.) and the Federal water Pollution Control Act as amended (33 U.S.C. 1251 – 1387).

Procurement of Recovered Materials:

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired
 - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - b. Meeting contract performance requirements; or
 - c. At a reasonable price.
- (2) Information about this requirement, along with a list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

Awarded Contractors are required to fully comply with all requirements outlined in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

SECTION 2
SCOPE OF SERVICES

SCOPE OF SERVICES

A. Employee Benefits Consulting Services

The Consultant shall provide consulting services for group insurance programs under Section 125 of the Internal Revenue Code as well as self-funded medical plans. Agencies participating in the current group insurance medical plan with the Board of County Commissioners (BCC), hereinafter referred to as the County, as of January 1, 2019 are:

Agencies	Employee & Retirees
Orange County Board of County Commissioners	7526
Comptroller	209
Clerk of Courts	439
Central Florida Research Park	2
Housing & Finance Authority	9
OBT Development Board	4
Property Appraiser	127
Supervisor of Elections	43
Tax Collector	292
International Drive Master Transit	8
Metro Plan	17

The Consultant shall designate a Project Manager for Employee Benefit Consulting Services. Changes to this position(s) cannot be made without at least two (2) weeks prior notification to the County's Human Resources Administrator or his designated representative.

The Consultant shall provide ongoing benefit consulting services, which may include, but is not limited to, the following:

1. Review, analyze and make recommendations on future self-funded medical plan changes, to include: plan experience, rate setting, employee contribution strategy, plan design, network review, statement development and ensuring the actuarial soundness of the plan.
2. Review, analyze and make recommendations on future group insurance plan changes, including all Medicare components, to include: plan experience, rate setting, employee contribution strategy, plan design, network review, statement development and ensuring the actuarial soundness of the plan.
3. Analyze health care cost and utilization patterns in order to communicate to clients the effect of historical and future trends on their expected healthcare expenditures.
4. Participate in negotiations with the health care plan Administrative Services Only (ASO) agreement, as well as with providers and provider networks as applicable.
5. Prepare and evaluate Requests for Proposals for various employee benefits plan arrangements.
6. Evaluate and validate responses to Request for Proposals for various employee benefit plans.

7. Evaluate and analyze the adequacy and equity of pharmacy rebates relative to the all rebates, fees and any compensation received by the vendor from the drug manufacturer.
8. Recommend procedures for managing self-funded insurance programs. Develop administrative guidelines and financial controls.
9. Provide ongoing training for County administrative staff to ensure appropriate controls, plan provision and regulatory compliance.
10. Develop performance standards and guarantees for ASO providers/plan administrators as applicable to measure levels of service.
11. Prepare and present annual review of the BCC's group health plan.
12. Provide assistance with Medicare D registration and ongoing reporting.
13. Assist the County with current Section 125 Plan administrative issues as well as future Section 125 Plan document updates and applications.
14. Provide timely and appropriate support to the County's contracted actuary to conduct annual medical plan actuarial analyses for incurred but not reported (IBNR), other post-employment benefits (OPEB) and Florida statutes 112.08 reporting.
15. Conduct periodic validation of medical plan ASO claims system processing as appropriate.
16. Assist Human Resources staff in drafting of health plan communication materials.
17. Assist Human Resources in development of open enrollment information materials and in conducting enrollment sessions.
18. Provide consulting services and assistance to County Benefits Wellness team in the design, delivery, tracking and analysis of targeted employee health programs and initiatives.
19. Review County Wellness for Life screening data and results, and provide recommendations on actions needed to engage employees and improve aggregate results. This document governs all County benefits and is required under Federal Regulation Section 125.
20. Recommend performance measures for all employee benefit plans including, but not limited to, group medical, dental, vision, life and disability benefits.
21. Develop systems for monitoring progress and success of new programs.
22. Research and recommend medical plan carve-out options for retirees.
23. Provide independent annual review of group health programs to include funding, reserves, service, benefit plan provisions, premium history, contractual provisions and competitive position.
24. Review future health insurance policies or benefits plans and related contracts submitted to the Consultant and prepare and update policy kit to include a cover note for each policy.
25. Provide guidance to the County on all applicable Federal and State benefits legislation and regulatory law changes.

26. Provide updates on current innovative healthcare plan models, new wellness and prevention initiatives and delivery systems.

B. Group Insurance Plans and other Employee Benefits Consulting Services

The Consultant shall provide technical assistance to the Orange County Board of County Commissioners in the negotiation, renewal and award of future medical, dental, vision, life and Accidental Death and Dismemberment (AD&D), long-term disability, short-term disability, Medicare, Health Savings Account, Flexible Spending Account, COBRA and Retiree Administration and other benefits contracts, to include, but not be limited to, the following:

1. Assist the County in an ongoing review of changing employee demographics, competitive practices and benefit plan design options.
2. Prepare financial analysis of plan costs, and evaluate proposed rates and plan changes.
3. Represent the County in renewal discussions with benefits providers, and assist Human Resources with Board of County Commissioner presentations.
4. Review plan documents and proposed amendments for accuracy and completeness.
5. Evaluate plans currently in place through an independent review of existing employee benefit programs including analysis of funding, reserves, service, benefit plan provisions, premium history, contractual provisions and competitive position as well as translation of group claims data into meaningful information to be utilized in long term benefits and human resource planning.
6. Assist with preparation of solicitation specifications, analysis of responses and award recommendations for benefits plans and programs, and supplemental voluntary insurance coverage.
7. Assist in preparation of Request for Proposals documents that will be utilized to solicit the required services.
8. Evaluate proposals that are received, and serve in the capacity of advisor to the BCC's procurement committee.

Orange County data and /or any data collected is the property of the County and shall be returned to the County by the end of the contract. Additionally, members of the Agencies listed in Section A, Scope of Services, may also use the Consultant for consulting as necessary.

Note: Services ordered by Agencies specified in the chart other than the Orange County Board of County Commissioners shall be at the expense of those Agencies. However, the pricing terms, and conditions of the contract shall apply to any such purchases. The services that may be required under this section of the contract shall include, but not be limited to, the following:

- a. Annual Review – Preparation and presentation of an annual review of the Agencies' programs.
- b. Availability of Personnel – Provision of professional personnel for telephone consultation, attendance at meetings, research and advice as requested.

- c. Communications Materials – Drafting of communication elements for BCC or other Agencies. Purchase, or draft and supply the communication elements on a subcontracted basis subject to BCC or Agency approval.
- d. Enrollment Assistance – Assist the BCC representatives as needed in the administration of the annual Open Enrollment process.
- e. Negotiation with Providers – Provision of assistance in implementation of a direct purchase provider or insurer agreement.
- f. Performance Standards and Guarantees – Development of performance standards and guarantees for insurers and/or plan administrators to measure levels of service.
- g. Preparation of Policy Kit – Review current and future insurance policies or benefit plans and related contracts submitted to the consultant and preparation or updating of a policy kit including a cover note for each of the policies, plans or contracts reviewed.
- h. Evaluation of Other Types of Group Insurance/Employee Benefits – Provide review and evaluation of additional group plan related services including, but not limited to: Health Reimbursement Arrangements, Commuter Benefit Plans, etc.

Agencies listed under Scope of Service, Section A, shall have access to the services under this contract under the same contractual terms, conditions and fees that are established for the Board of County Commissioners.

C. Inmate Health Care Services

The Consultant may be requested to assist the Orange County Corrections Department (Corrections) in services related to inmate medical services. Accordingly, the Consultant shall:

1. Assist with the inmate medical strategy, providing options, and support Corrections staff in executing and implementing any modifications.
2. Assist the County with contracts for local hospitals and providers relative to off-site inmate medical services, modify as needed, and provide analysis and presentations to County staff.
3. Assist in the development, analysis, and presentations for inmate medical services solicitations.
4. Assist with inmate medical services negotiations and contract administration.
5. Assist with inmate medical services contract implementation.
6. Assist with inmate medical services monthly financial statements and quarterly utilization reports.
7. Recommend and assist with the implementation of programs and services that reduce the need for off-site inmate medical services, transportation and security.

D. List of Current Consulting Needs

Currently, the County utilizes consulting services to include, but not limited to, the areas listed below:

1. Cigna – Medical Insurance
2. Cigna – Dental Insurance
3. Humana – Vision Insurance
4. The Standard – Life Insurance and Disability
5. Chard Snyder – Flexible Spending Accounts
6. ComPsych – Employee Assistance Programs
7. Corporate Cost Control – Unemployment Compensation
8. Wakeley Consulting – Actuarial Services
9. Advent Health – Diabetes Care Program
10. Cigna – Medicare Supplement
11. AdventHealth – Wellness Nurse and Onsite Services
12. Deferred Compensation

SECTION 3
PROPOSAL SUBMISSION REQUIREMENTS AND DOCUMENTATION

STATEMENT OF NO-PROPOSAL

The Procurement Division is committed to continuously improve its processes and our goal is to receive maximum participation from the vendor community. If your firm chooses not to participate in responding to this solicitation please email Alina.Hernandez@ocfl.net, referencing the RFP number, and briefly explain why the decision was made to not participate.

SEALED RESPONSE SUBMITTAL LABEL:

All submittals, should use the hard-copy label below and place on front of their outermost sealed envelope/package.

**DO NOT OPEN - SEALED RESPONSES - DO NOT OPEN
RESERVED FOR PUBLIC BID OPENING**

Company : _____

Contact Name: _____

Contact Phone/ Email: _____

Address: _____

CONTACT:	Alina Hernández Fernández
RFP NUMBER:	Y19-1032-AH
TITLE:	CONSULTING SERVICES FOR SELF-FUNDED MEDICAL PLANS, GROUP INSURANCE PLANS, AND OTHER EMPLOYEE BENEFITS

PROPOSAL DUE DATE: _____

DELIVER TO:
ORANGE COUNTY PROCUREMENT DIVISION
INTERNAL OPERATIONS CENTRE II
400 E. SOUTH STREET, 2ND FLOOR
ORLANDO, FL 32801.

PROPOSAL FORMAT

The County reserves the right to award a contract pursuant to this RFP without further discussion with proposers. Therefore, it is important that each proposal is complete, adheres to the format and instructions contained herein, and is submitted in the most favorable manner possible.

Proposers must respond in the format delineated below:

- Submit one (1) original, eight (8) copies and one (1) electronic copy on USB drive. Electronic copy shall be in Microsoft Word or Adobe – the most recent software version.
- All responses and copies are to be submitted on 8 ½ x 11 inch paper, bound individually and tabbed as applicable.
- If your response contains any information deemed confidential, in accordance with Chapter 119 of the Florida Statutes, provide an additional USB drive with a redacted version of your response labeled REDACTED. Electronic copy shall be in Microsoft Word or Adobe – the most recent software version.

SUBMITTAL REQUIREMENTS

The following information shall be submitted with your proposal in the following format. Failure to submit this information in its entirety may negatively impact the evaluation of your proposal.

TAB 1. PRE-REQUISITE SUBMITTALS

Proposals are being sought by the County for a Consultant to provide Employee Benefit Consulting Services. The Consultant shall meet the following criteria:

- A. Provide a statement confirming unequivocally that the Proposer is an independent benefits consultant, not a benefits insurance broker.
- B. Provide a statement confirming unequivocally that the Proposer’s primary source of revenue is derived from fee-for-services, not from commission received from insurance companies, third party administrators, or other entities such as prescription drug manufacturers, pharmacy benefit managers, hospital systems or other healthcare entities.

Proposals failing to meet this requirement shall be deemed non-responsive.

TAB 2. QUALIFICATIONS OF STAFF

The firm selected shall be an established, experienced organization with a strong history of working with governmental agencies.

- A. Describe the proposer’s qualifications to provide services as described in the Scope of Services. Include a listing of all staff to be assigned to provide the required services and comprehensive resumes for each describing experience, training and education in the required area of consulting.
Ensure complete resumes are included for each team member describing qualifications, credentials, and relevant experience for each individual on the proposer’s team who will perform services relative to this RFP. Identify staff experience working with governmental entities and list those projects.

B. Self-funded Medical Plan

1. Provide a list of staff dedicated to this contract demonstrating expertise, training and background in Group Insurance Programs, plans and components, and for providing self-funded medical plan and employee wellness consulting services to employers.

At least one staff member assigned to the account to provide these services must have experience in health care finance, including underwriting, pricing, trend analysis, financial modeling and forecasting, finance, accounting, statistics or economics. Specify assigned team members and detail their experience with Self Funded Medical Plans in this section.

C. Group Insurance Programs, Plans and Other Employee Benefits Consulting Services

1. Proposed staff shall demonstrate expertise, training and experience in the Cafeteria Plans under Section 125 Plans; Patient Protection and Affordable Care Act (PPACA); group medical, dental, vision; life and accidental death and dismemberment; disability insurance plans; flexible spending accounts; health savings accounts; insurance plan funding mechanisms and related components. Specify assigned team members and detail their experience with group insurance programs, plans and other employee benefits consulting services in this section.
2. Proposer must designate a Project Manager in the proposal for Employee Benefit Consulting Services. Changes to this position/s cannot be made without at least 2 weeks prior notification to the County's Human Resources Administrator or his designated representative. Specify assigned Project Manager and his/her experience and detail their experience with group insurance programs, plans and other employee benefits consulting services in this section.

TAB 3. QUALIFICATIONS OF FIRM

- A. Provide a list of five (5) references within the past ten (10) years, four (4) references shall demonstrate governmental entity experience, for which the Proposer has performed work similar in scope and magnitude. Include the contact name, address, email address, telephone number and dates of the contract. The Consultant shall be experienced in providing Employee Benefit Consulting Services for large Florida governmental employers with a minimum of 1,000 employees.
- B. Provide a description and history of the firm focusing on previous governmental experience.
- C. Provide a statement delineating the Proposer's business area. The statement shall confirm the Consultant's primary business is to provide expertise, strategic advice and recommendations on employee benefits and project related consulting

services.

- D. State the location of the office from which the majority of the work is to be performed and the number of professional staff employees at the office.
- E. Provide a description of previous projects for evaluating, negotiating and communicating employee benefit plans and in providing consultative services to employers in design, review and administration of self-funded medicals plans.

TAB 4. TECHNICAL APPROACH

- A. Confirm the firm's agreement to meet the minimum requirements of this Request for Proposals.
- B. Describe the proposer's independence from insurance companies, third party administrators or other entities through which the firm procures services to the County.
- C. Provide a brief description of the firm's approach to delivery of services.
- D. Proposers may offer alternative solutions/options to achieve successful completion of the scope of services herein.

TAB 5. FEE SCHEDULE

Each proposer shall complete and submit the Fee Schedule included herein. **The monthly fees shall include ALL costs associated with performance of the contract including travel and out-of-pocket expenses.**

TAB 6. ORANGE COUNTY COMPLIANCE DOCUMENTATION

- A. **Proposal Cover Page** shall be completed and submitted with your proposal.
- B. **Current W-9** shall be completed and submitted with your proposal.
- C. **Acknowledged Addenda(s) OR Acknowledgement of Addenda Form** shall be completed and submitted with your proposal.
- D. **Authorized Signatories/Negotiators Form** shall be completed and submitted with your proposal.
- E. **Drug-Free Workplace Form** shall be completed and submitted with your proposal.
- F. **Conflict/Non-Conflict of Interest Form** shall be completed and submitted with your proposal.
- G. **E-Verification Certification** shall be completed and submitted with your proposal.
- H. **Relationship Disclosure Form** – The purpose of this form is to document Section 3, Proposal Submission Requirements and Documentation | Page 4

any relationships between a bidder, proposer or responder to an Orange County solicitation and the Mayor or any other member of the Orange County Board of County Commissioners. This form shall be completed and submitted with your proposal. The Proposer shall not be awarded a contract unless this form has been completed and submitted.

- I. **Orange County Specific Project Expenditure Report** -The purpose of this form is to document any expenses incurred by a lobbyist for the purposes described in Section 2-351, Orange County Code. This form shall be completed and submitted with any bid, proposal or other response to an Orange County solicitation. The Proposer shall not be awarded a contract unless this form has been completed and submitted.
- J. **Agent Authorization Form** (if Applicable) shall be completed and submitted with your proposal OR marked “Not Applicable.”
- K. **Leased Employee Affidavit** (if Applicable) shall be completed and submitted with your proposal OR marked “Not Applicable.”
- L. **Information for determining Joint Venture Eligibility** (if Applicable) shall be completed and submitted with your proposal OR marked “Not Applicable.”

TAB 7.

LOCATION FORM

The Location Form determining proximity to the project site shall be completed and submitted with your proposal in order to receive credit.

SECTION 4
SELECTION CRITERIA

SELECTION CRITERIA

<u>CRITERIA</u>	<u>WEIGHT</u>
Qualifications of Staff	25
Qualifications of Firm	15
Technical Approach	30
Location	10
Fee Proposal	20
TOTAL	100

**SECTION 5
ATTACHMENTS**

**FEE SCHEDULE FORM
RFP #Y19-1032-AH**

The Contractor shall provide all labor, equipment, manpower and other resources necessary to provide the goods or services in strict accordance with the scope of services, specifications defined in this solicitation for the amounts specified in this Fee Schedule Form.

ITEM NO.	DESCRIPTION	MONTHLY FEE	TOTAL ESTIMATED 3-YEAR FEE
1.	Senior Consultants	\$ _____/Flat X 36 =	\$ _____
2.	Consultants	\$ _____/Flat X 36 =	\$ _____
3.	Analysts	\$ _____/Flat X 36 =	\$ _____
4.	Administrative Personnel	\$ _____/Flat X 36 =	\$ _____

Note:

1. *All services shall be mutually agreed by the Consultant and the County prior to commencement of work. Estimated number of hours and deadlines for services shall be mutually agreed by the County and Consultant prior to commencement of services.*

2. *Monthly Fee shall be a flat rate for all hours necessary to meet the scope of services. Historically, the monthly utilization has been 25 Hours for Senior Consultants, 10 Hours for Consultants, 10 Hours for Analysts and 5 Hours for Administrative. This average utilization is provided for historical perspective. Actual usage and requirements will vary depending on current and arising projects and shall not be limited by hourly constraints.*

Company Name: _____

PROPOSAL COVER PAGE

Company Name: _____

NOTE: COMPANY NAME MUST MATCH LEGAL NAME ASSIGNED TO TIN
NUMBER. **CURRENT W9 MUST BE SUBMITTED WITH PROPOSAL.**

TIN#: _____ D-U-N-S® # _____

(Street No. or P.O. Box Number) (Street Name) (City)

(County) (State) (Zip Code)

Contact Person: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

EMERGENCY CONTACT

Emergency Contact Person: _____

Telephone Number: _____ Cell Phone Number: _____

Residence Telephone Number: _____ Email: _____

ACKNOWLEDGEMENT OF ADDENDA

The Proposer shall acknowledge receipt of any addenda issued to this solicitation by completing the blocks below or by completion of the applicable information on the addendum and returning it not later than the date and time for receipt of the proposal. Failure to acknowledge an addendum that has a material impact on this solicitation may negatively impact the responsiveness of your proposal. Material impacts include but are not limited to changes to specifications, scope of work/services, delivery time, performance period, quantities, bonds, letters of credit, insurance, or qualifications.

Addendum No._____, Date_____ Addendum No._____, Date_____

Addendum No._____, Date_____ Addendum No._____, Date_____

Addendum No._____, Date_____ Addendum No._____, Date_____

Addendum No._____, Date_____ Addendum No._____, Date_____

AUTHORIZED SIGNATORIES/NEGOTIATORS

The Proposer represents that the following **principals** are authorized to sign proposals, negotiate and/or sign contracts and related documents to which the proposer will be duly bound. Principal is defined as an employee, officer or other technical or professional in a position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

Name	Title	Telephone Number/Email
------	-------	------------------------

--	--	--

(Signature)	(Date)
(Title)	
(Name of Business)	

The Proposer shall complete and submit the following information with the proposal:

Type of Organization

Sole Proprietorship Partnership Non-Profit
 Joint Venture* Corporation

(a) _____
(b) **State of Incorporation:** _____

Principal Place of Business (Florida Statute Chapter 607): _____
City/County/State

THE PRINCIPAL PLACE OF BUSINESS SHALL BE THE ADDRESS OF THE PROPOSER’S PRINCIPAL OFFICE AS IDENTIFIED BY THE FLORIDA DIVISION OF CORPORATIONS.

Federal I.D. number is: _____

* *Joint venture firms must complete and submit with their Proposal Response the form titled “Information for Determining Joint Venture Eligibility”, and a copy of the formal agreement between all joint venture parties. This joint venture agreement must indicate the parties’ respective roles, responsibilities and levels of participation for the project. **If proposing as a Joint Venture, the Joint Venture shall obtain and maintain all contractually required insurance in the name of the Joint Venture as required by the Contract. Individual insurance in the name of the parties to the Joint venture will not be accepted.** Failure to timely submit the required form along with an attached written copy of the joint venture agreement may result in disqualification of your Proposal Response*

DRUG-FREE WORKPLACE FORM

The undersigned Proposer, in accordance with Florida Statute 287.087 hereby certifies that
_____ does:

Name of Business

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Florida Statute 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs 1 thru 5.

As the person authorized to sign this statement, I certify that this firm complies fully with above requirements.

Proposer's Signature

Date

CONFLICT/NON-CONFLICT OF INTEREST STATEMENT

CHECK ONE

To the best of our knowledge, the undersigned proposer has no potential conflict of interest due to any other clients, contracts, or property interest for this project.

OR

The undersigned proposer, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts, or property interest for this project.

LITIGATION STATEMENT

CHECK ONE

The undersigned proposer has had no litigation and/or judgments entered against it by any local, state or federal entity and has had no litigation and/or judgments entered against such entities during the past ten (10) years.

The undersigned proposer, **BY ATTACHMENT TO THIS FORM**, submits a summary and disposition of individual cases of litigation and/or judgments entered by or against any local, state or federal entity, by any state or federal court, during the past ten (10) years.

COMPANY NAME

AUTHORIZED SIGNATURE

NAME (PRINT OR TYPE)

TITLE

Failure to check the appropriate blocks above may result in disqualification of your bid. Likewise, failure to provide documentation of a possible conflict of interest, or a summary of past litigation and/or judgments, may result in disqualification of your bid.

E VERIFICATION CERTIFICATION

Contract No. Y19-1032-AH

I hereby certify that I will utilize the U.S. Department of Homeland Security’s E-Verify system in accordance with the terms governing the use of the system to confirm the employment eligibility of the individuals classified below. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duties shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida statutes.

All persons, including subcontractors and their workforce, who will perform work under **Contract No. Y19-1032-AH, Consulting Services for Self-Funded Medical Plans, Group Insurance Plans, and Other Employee Benefits**, within the state of Florida.

NAME OF CONTRACTOR: _____

ADDRESS OF CONTRACTOR: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE: _____

**RELATIONSHIP DISCLOSURE FORM
FOR USE WITH PROCUREMENT ITEMS, EXCEPT THOSE WHERE THE COUNTY
IS THE PRINCIPAL OR PRIMARY PROPOSER**

For procurement items that will come before the Board of County Commissioners for final approval, this form shall be completed by the Proposer and shall be submitted to the Procurement Division by the Proposer.

In the event any information provided on this form should change, the Proposer must file an amended form on or before the date the item is considered by the appropriate board or body.

Part I

INFORMATION ON PROPOSER:

Legal Name of Proposer:

Business Address (Street/P.O. Box, City and Zip Code):

Business Phone: () _____

Facsimile: () _____

**INFORMATION ON PROPOSER'S AUTHORIZED AGENT, IF APPLICABLE:
(Agent Authorization Form also required to be attached)**

Name of Proposer's Authorized Agent:

Business Address (Street/P.O. Box, City and Zip Code):

Business Phone: () _____

Facsimile: () _____

Part II

IS THE PROPOSER A RELATIVE OF THE MAYOR OR ANY MEMBER OF THE BCC?

___ YES ___ NO

IS THE MAYOR OR ANY MEMBER OF THE BCC THE PROPOSER'S EMPLOYEE?

___ YES ___ NO

IS THE PROPOSER OR ANY PERSON WITH A DIRECT BENEFICIAL INTEREST IN THE OUTCOME OF THIS MATTER A BUSINESS ASSOCIATE OF THE MAYOR OR ANY MEMBER OF THE BCC?

___ YES ___ NO

If you responded "YES" to any of the above questions, please state with whom and explain the relationship.

(Use additional sheets of paper if necessary)

Part III

ORIGINAL SIGNATURE AND NOTARIZATION REQUIRED

I hereby certify that information provided in this relationship disclosure form is true and correct based on my knowledge and belief. If any of this information changes, I further acknowledge and agree to amend this relationship disclosure form prior to any meeting at which the above-referenced project is scheduled to be heard. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Signature of Proposer

Date

Printed Name and Title of Person completing this form:

STATE OF _____ :
COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the _____ day of _____, in the year _____.

(Notary Seal)

Signature of Notary Public
Notary Public for the State of _____
My Commission Expires: _____

Staff signature and date of receipt of form

Staff reviews as to form and does not attest to the accuracy or veracity of the information provided herein.

**FREQUENTLY ASKED QUESTIONS (FAQ)
ABOUT THE
RELATIONSHIP DISCLOSURE FORM**
Updated 6-28-11

WHAT IS THE RELATIONSHIP DISCLOSURE FORM?

The Relationship Disclosure Form (form OC CE 2D and form OC CE 2P) is a form created pursuant to the County's Local Code of Ethics, codified at Article XIII of Chapter 2 of the Orange County Code, to ensure that all development-related items and procurement items presented to or filed with the County include information as to the relationship, if any, between the applicant and the County Mayor or any member of the Board of County Commissioners (BCC). The form will be a part of the backup information for the applicant's item.

WHY ARE THERE TWO RELATIONSHIP DISCLOSURE FORMS?

Form OC CE 2D is used only for development-related items, and form OC CE 2P is used only for procurement-related items. The applicant needs to complete and file the form that is applicable to his/her case.

WHO NEEDS TO FILE THE RELATIONSHIP DISCLOSURE FORM?

Form OC CE 2D should be completed and filed by the owner of record, contract purchaser, or authorized agent. Form OC CE 2P should be completed and filed by the proposer, offeror, quoter, or respondent, and, if applicable, their authorized agent. In all cases, the person completing the form must sign the form and warrant that the information provided on the form is true and correct.

WHAT INFORMATION NEEDS TO BE DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM?

The relationship disclosure form needs to disclose pertinent background information about the applicant and the relationship, if any, between, on the one hand, the applicant and, if applicable, any person involved with the item, and on the other hand, the Mayor or any member of the BCC.

In particular, the applicant needs to disclose whether any of the following relationships exist: (1) the applicant is a business associate of the Mayor or any member of the BCC; (2) any person involved with the approval of the item has a beneficial interest in the outcome of the matter *and* is a business associate of the Mayor or any member of the BCC; (3) the applicant is a relative of the Mayor or any member of the BCC; or (4) the Mayor or any member of the BCC is an employee of the applicant. (See Section 2-454, Orange County Code.)

HOW ARE THE KEY RELEVANT TERMS DEFINED?

Applicant means, for purposes of a development-related project, the owner, and, if applicable, the contract purchaser or owner's authorized agent. Applicant means, for purposes of a procurement item, the proposer, offeror, quoter, respondent, and, if applicable, the authorized agent of the proposer, offeror, quoter, or respondent.

Business associate means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venture, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property. In addition, the term includes any person or entity engaged in or carrying on a business enterprise, or otherwise engaging in common investment, with a public officer, public employee, or candidate as a partner, member, shareholder, owner, co-owner, joint venture partner, or other investor, whether directly or indirectly, whether

through a Business Entity or through interlocking Parent Entities, Subsidiary Entities, or other business or investment scheme, structure, or venture of any nature. (See Section 112.312(4), Florida Statutes, and Section 2-452(b), Orange County Code.)

Employee means any person who receives remuneration from an employer for the performance of any work or service while engaged in any employment under any appointment or contract for hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors. (See Section 440.02(15), Florida Statutes.)

Relative means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee. (See Section 112.312(21), Florida Statutes.)

DOES THE RELATIONSHIP DISCLOSURE FORM NEED TO BE UPDATED IF INFORMATION CHANGES?

Yes. It remains a continuing obligation of the applicant to update this form whenever any of the information provided on the initial form changes.

WHERE DO THE RELATIONSHIP DISCLOSURE FORM AND ANY SUBSEQUENT UPDATES NEED TO BE FILED?

For a development-related item, the Relationship Disclosure Form and any update need to be filed with the County Department or County Division where the applicant filed the application. For a procurement item, the Relationship Disclosure Form and any update need to be filed with the Procurement Division.

WHEN DO THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES NEED TO BE FILED?

In most cases, the initial form needs to be filed when the applicant files the initial development-related project application or initial procurement-related forms. However, with respect to a procurement item, a response to a bid will not be deemed unresponsive if this form is not included in the initial packet submitted to the Procurement Division.

If changes are made after the initial filing, the final, cumulative Relationship Disclosure Form needs to be filed with the appropriate County Department or County Division processing the application not less than seven (7) days prior to the scheduled BCC agenda date so that it may be incorporated into the BCC agenda packet. When the matter is a discussion agenda item or is the subject of a public hearing, and an update has not been made at least 7 days prior to BCC meeting date or is not included in the BCC agenda packet, the applicant is obligated to verbally present such update to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

WHO WILL REVIEW THE INFORMATION DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES?

The information disclosed on this form and any updates will be a public record as defined by Chapter 119, Florida Statutes, and may therefore be inspected by any interested person. Also, the information will be made available to the Mayor and the BCC members. This form and any updates will accompany the information for the applicant's project or item.

However, for development-related items, if an applicant discloses the existence of one or more of the relationships described above and the matter would normally receive final consideration by the Concurrency Review Committee or the Development Review Committee, the matter will be directed to the BCC for final consideration and action following committee review.

CONCLUSION:

We hope you find this FAQ useful to your understanding of the Relationship Disclosure Form. Please be informed that if the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance or law governing relationship disclosures, the ordinance or law controls.

Also, please be informed that the County Attorney's Office is not permitted to render legal advice to an applicant or any other outside party. Accordingly, if the applicant or an outside party has any questions after reading this FAQ, he/she is encouraged to contact his/her own legal counsel.

ORANGE COUNTY SPECIFIC PROJECT EXPENDITURE REPORT

This lobbying expenditure form shall be completed in full and filed with all application submittals. This form shall remain cumulative and shall be filed with the department processing your application. Forms signed by a principal's authorized agent shall include an executed Agent Authorization Form.

This is the initial Form: _____
This is a Subsequent Form: _____

Part I

Please complete all of the following:

Name and Address of Principal (legal name of entity or owner per Orange County tax rolls): _____

Name and Address of Principal's Authorized Agent, if applicable: _____

List the name and address of all lobbyists, Contractors, contractors, subcontractors, individuals or business entities who will assist with obtaining approval for this project. (Additional forms may be used as necessary.)

1. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
2. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
3. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
4. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
5. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
6. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
7. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
8. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___

Part II

Expenditures:

For this report, an "expenditure" means money or anything of value given by the principal and/or his/her lobbyist for the purpose of lobbying, as defined in section 2-351, Orange County Code. This may include public relations expenditures including, but not limited to, petitions, fliers, purchase of media time, cost of print and distribution of publications. However, the term "expenditure" **does not** include:

- Contributions or expenditures reported pursuant to chapter 106, Florida Statutes;
- Federal election law, campaign-related personal services provided without compensation by individuals volunteering their time;
- Any other contribution or expenditure made by or to a political party;
- Any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4), in accordance with s.112.3215, Florida Statutes; and/or
- Professional fees paid to registered lobbyists associated with the project or item.

The following is a complete list of all lobbying expenditures and activities (including those of lobbyists, contractors, Contractors, etc.) incurred by the principal or his/her authorized agent and expended in connection with the above-referenced project or issue. **You need not include de minimus costs (under \$50) for producing or reproducing graphics, aerial photographs, photocopies, surveys, studies or other documents related to this project.**

Date of Expenditure	Name of Party Incurring Expenditure	Description of Activity	Amount Paid
		TOTAL EXPENDED THIS REPORT	\$

Part III

Original signature and notarization required

I hereby certify that information provided in this specific project expenditure report is true and correct based on my knowledge and belief. I acknowledge and agree to comply with the requirement of section 2-354, of the Orange County code, to amend this specific project expenditure report for any additional expenditure(s) incurred relating to this project prior to the scheduled Board of County Commissioner meeting. I further acknowledge and agree that failure to comply with these requirements to file the specific expenditure report and all associated amendments may result in the delay of approval by the Board of County Commissioners for my project or item, any associated costs for which I shall be held responsible. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Date

Signature of Principal or Principal's Authorized Agent
(check appropriate box)

Printed Name and Title of Person completing this form:

STATE OF _____ :
COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the _____ day of _____, in the year _____.

(Notary Seal)

Signature of Notary Public
Notary Public for the State of _____
My Commission Expires: _____

Staff signature and date of receipt of form

Staff reviews as to form and does not attest to the accuracy or veracity of the information provided herein.

**FREQUENTLY ASKED QUESTIONS (FAQ)
ABOUT THE
SPECIFIC PROJECT EXPENDITURE REPORT**
Updated 3-1-11

WHAT IS A SPECIFIC PROJECT EXPENDITURE REPORT (SPR)?

A Specific Project Expenditure Report (SPR) is a report required under Section 2-354(b) of the Orange County Lobbying Ordinance, codified at Article X of Chapter 2 of the Orange County Code, reflecting all lobbying expenditures incurred by a principal and their authorized agent(s) and the principal's lobbyist(s), contractor(s), subcontractor(s), and Contractor(s), if applicable, for certain projects or issues that will ultimately be decided by the Board of County Commissioners (BCC).

Matters specifically exempt from the SPR requirement are ministerial items, resolutions, agreements in settlement of litigation matters in which the County is a party, ordinances initiated by County staff, and some procurement items, as more fully described in 2.20 of the Administrative Regulations.

Professional fees paid by the principal to his/her lobbyist for the purpose of lobbying need not be disclosed on this form. (See Section 2-354(b), Orange County Code.)

WHO NEEDS TO FILE THE SPR?

The principal or his/her authorized agent needs to complete and sign the SPR and warrant that the information provided on the SPR is true and correct.

A principal that is a governmental entity does not need to file an SPR.

HOW ARE THE KEY RELEVANT TERMS DEFINED?

Expenditure means "a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. This may include public relations expenditures (including but not limited to petitions, flyers, purchase of media time, cost of print and distribution of publications) but does not include contributions or expenditures reported pursuant to Chapter 106, Florida Statutes, or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4)." (See Section 112.3215, Florida Statutes.) Professional fees paid by the principal to his/her lobbyist for the purpose of lobbying are not deemed to be "expenditures." (See Section 2-354, Orange County Code.)

Lobbying means seeking "to encourage the approval, disapproval, adoption, repeal, rescission, passage, defeat or modification of any ordinance, resolution, agreement, development permit, other type of permit, franchise, vendor, Contractor, contractor, recommendation, decision or other foreseeable action of the [BCC]," and "include[s] all communications, regardless of whether initiated by the lobbyist or by the person being lobbied, and regardless of whether oral, written or electronic." (See Section 2-351, Orange County Code.) Furthermore, *lobbying* means communicating "directly with the County Mayor, with any other member of the [BCC], or with any member of a procurement committee." (See Section 2-351, Orange County Code.) *Lobbying* also

means communicating “indirectly with the County Mayor or any other member of the [BCC]” by communicating with any staff member of the Mayor or any member of the BCC, the county administrator, any deputy or assistant county administrator, the county attorney, any county department director, or any county division manager. (See Section 2-351, Orange County Code.) *Lobbying* does not include the act of appearing before a Sunshine Committee, such as the Development Review Committee or the Roadway Agreement Committee other than the BCC.

Principal means “the person, partnership, joint venture, trust, association, corporation, governmental entity or other entity which has contracted for, employed, retained, or otherwise engaged the services of a lobbyist.” *Principal* may also include a person, partnership, joint venture, trust, association, corporation, limited liability corporation, or other entity where it or its employees do not qualify as a lobbyist under the definition set forth in Section 2-351 of the Orange County Code but do perform lobbying activities on behalf of a business in which it has a personal interest.

DOES THE SPR NEED TO BE UPDATED IF INFORMATION CHANGES?

Yes. It remains a continuing obligation of the principal or his/her authorized agent to update the SPR whenever any of the information provided on the initial form changes.

WHERE DO THE SPR AND ANY UPDATES NEED TO BE FILED?

The SPR needs to be filed with the County Department or County Division processing the application or matter. If and when an additional expenditure is incurred subsequent to the initial filing of the SPR, an amended SPR needs to be filed with the County Department or County Division where the original application, including the initial SPR, was filed.

WHEN DO THE SPR AND ANY UPDATES NEED TO BE FILED?

In most cases, the initial SPR needs to be filed with the other application forms. The SPR and any update must be filed with the appropriate County Department or County Division not less than seven (7) days prior to the BCC hearing date so that they may be incorporated into the BCC agenda packet. (See Section 2-354(b), Orange County Code.) When the matter is a discussion agenda item or is the subject of a public hearing, and any additional expenditure occurs less than 7 days prior to BCC meeting date or updated information is not included in the BCC agenda packet, the principal or his/her authorized agent is obligated to verbally present the updated information to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

WHO WILL BE MADE AWARE OF THE INFORMATION DISCLOSED ON THE SPR AND ANY UPDATES?

The information disclosed on the SPR and any updates will be a public record as defined by Chapter 119, Florida Statutes, and therefore may be inspected by any interested person. Also, the information will be made available to the Mayor and the BCC members. This information will accompany the other information for the principal’s project or item.

CONCLUSION:

We hope you find this FAQ useful to your understanding of the SPR. Please be informed that in the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance governing specific project expenditure reports, the ordinance controls.

Also, please be informed that the County Attorney's Office is not permitted to render legal advice to a principal, his/her authorized agent, or any other outside party. Accordingly, if after reading this FAQ the principal, his/her authorized agent or an outside party has any questions, he/she is encouraged to contact his/her own legal counsel.

LOCATION FORM

Proposers shall complete and submit the information below to clearly identify the location and applicable percentage of the work to be performed at each location listed.

PRIME CONTRACTOR

**PERCENTAGE OF
WORK ASSIGNED**

- | | | | | | | |
|----|----------------|-------------|---------------|------------------|--|---------|
| 1. | Name: _____ | | | | | _____ % |
| | Address: _____ | City: _____ | County: _____ | State/Zip: _____ | | |
| 2. | Name: _____ | | | | | _____ % |
| | Address: _____ | City: _____ | County: _____ | State/Zip: _____ | | |
| 3. | Name: _____ | | | | | _____ % |
| | Address: _____ | City: _____ | County: _____ | State/Zip: _____ | | |
| 4. | Name: _____ | | | | | _____ % |
| | Address: _____ | City: _____ | County: _____ | State/Zip: _____ | | |

SUBCONTRACTOR / SUBCONTRACTOR

- | | | | | | | |
|----|----------------|-------------|---------------|------------------|--|---------|
| 1. | Name: _____ | | | | | _____ % |
| | Address: _____ | City: _____ | County: _____ | State/Zip: _____ | | |
| 2. | Name: _____ | | | | | _____ % |
| | Address: _____ | City: _____ | County: _____ | State/Zip: _____ | | |
| 3. | Name: _____ | | | | | _____ % |
| | Address: _____ | City: _____ | County: _____ | State/Zip: _____ | | |
| 4. | Name: _____ | | | | | _____ % |
| | Address: _____ | City: _____ | County: _____ | State/Zip: _____ | | |

Total Percentage (**Must Equal 100%**) _____ %
(Use additional pages if necessary)

AGENT AUTHORIZATION FORM

I/We, (Print Proposer name) _____, Do hereby authorize (print agent's name), _____, to act as my/our agent to execute any petitions or other documents necessary to affect the CONTRACT approval PROCESS more specifically described as follows, (RFP NUMBER AND TITLE) _____, and to appear on my/our behalf before any administrative or legislative body in the county considering this CONTRACT and to act in all respects as our agent in matters pertaining TO THIS CONTRACT.

Signature of Proposer

Date

STATE OF _____ :
COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the _____ day of _____, in the year _____.

(Notary Seal)

Signature of Notary Public
Notary Public for the State of _____
My Commission Expires: _____

LEASED EMPLOYEE AFFIDAVIT

I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the County in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the County with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any County jobsite.

I further agree to notify the County if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

I further agree to notify the County in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the County that documents the change of carrier.

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____

INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY

If the proposer is submitting as a joint venture, please be advised that this form **MUST** be completed and the **REQUESTED** written joint-venture agreement **MUST** be attached and submitted with this form.

HOWEVER, IF THE PROPOSER IS NOT A JOINT VENTURE, CHECK THE FOLLOWING BLOCK: () NOT APPLICABLE

1. Name of joint venture: _____

2. Address of joint venture: _____

3. Phone number of joint venture: _____

4. Identify the firms which comprise the joint venture: _____

5. Describe the role of the MWBE / Labor Surplus Area(LSA) Firm (if applicable) in the joint venture: _____

6. Provide a copy of the joint venture's written contractual agreement.

7. What is the claimed percentage of ownership and identify any MWBE/LSA partners (if applicable)?

INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY – PAGE 2

8. Ownership of joint venture: (This need not be filled in if described in the joint venture agreement provided by question 6.)

(a) Profit and loss sharing:

(b) Capital contributions, including equipment:

(c) Other applicable ownership interests:

9. Control of and participation in this contract. Identify by name, race, sex, and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decision making, including, but not limited to, those with prime responsibility for:

(a) Financial decisions: _____

(b) Management decisions, such as:

(1) Estimating:

(2) Marketing and sales:

(3) Hiring and firing of management personnel:

INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY – PAGE 3

(4) Purchasing of major items or supplies:

(c) Supervision of field operations:

NOTE: If, after filing this form and before the completion of the joint venture's work on the subject contract, there is any significant change in the information submitted, the joint venture must inform the County in writing.

*** Joint venture must be properly registered with the Florida Division of Corporations before the contract award and the name of the Joint Venture must be the same name used in the Bid Response.**

AFFIDAVIT

"The undersigned swear or affirm that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operation of our joint venture and the intended participation by each joint venturer in the undertaking. Further, the undersigned covenant and agree to provide to the County current, complete and accurate information regarding actual joint venture work and the payment therefore and any proposed changes in any of the joint venture. Also, permit authorized representatives of the County to audit and examine records of the joint venture. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements."

Name of Firm: _____ Name of Firm: _____

Signature: _____ Signature: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY – PAGE 4

Date _____
State of _____
County of _____

AFFIDAVIT

On this _____ day of _____, 20____, before me appeared (name) _____, to me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____ to execute the affidavit and did so as his or her free act and deed.

Notary Public _____
Commission Expires _____

(Seal)

Date _____
State of _____
County of _____

On this _____ day of _____, 20____, before me appeared _____ (name), to me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____ to execute the affidavit and did so as his or her free act and deed.

Notary Public _____
Commission Expires _____

(Seal)

CONTRACT #Y19-1032

This Contract is made as of the ____ day of _____, 2019 by and between Orange County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and _____ [] an individual, [] a partnership, [] a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. or Social Security number is _____.

In consideration of the mutual promises contained herein, the COUNTY and the CONSULTANT agree as follows:

ARTICLE 1 **SERVICES**

The CONSULTANT'S responsibility under this Contract is to provide professional/consultation services in the area of employee benefits, as more specifically set forth in the Scope of Services detailed in Exhibit "A".

The COUNTY'S representative/liaison during the performance of this Contract shall be Patrick Peters, telephone no. (407) 836-5817.

ARTICLE 2 **SCHEDULE**

The CONSULTANT shall commence services on _____ and complete all services by _____.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

This contract may be renewed, for two (2) additional one (1) year periods upon mutual written agreement of the parties at the same prices, terms and conditions. Any change in price, terms or conditions shall be accomplished by written amendment to this contract.

Any order issued during the effective date of this contract, but not completed within that period, shall be completed by the CONSULTANT within the time specified in the order. The contract shall govern the CONTRACTOR and the COUNTY'S rights and obligations with respect to the extent as if the order were completed during the contract's performance period.

ARTICLE 3 **PAYMENTS TO CONSULTANT**

- A. The total amount to be paid by the COUNTY under this Contract for the base period, shall not exceed _____ Dollars (\$_____). The CONSULTANT will notify the COUNTY, in writing, when 90% of the estimated contract amount has been reached. The CONTRACTOR will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "B" for services rendered toward the completion of the Scope of Services. Where incremental billing for partially completed items is permitted, the total incremental billings shall not exceed the percentage of estimated completion as of the billing date.
- B. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the initiating County Department, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for payment. Invoices will be paid in accordance with the State of Florida Local Government Prompt Payment Act.

A valid invoice shall include the following:

1. Reference to the Delivery Order/ Purchase Order Number
2. Delivery Dates/ Service Dates
3. Itemization of Goods Delivered/ Services Rendered
4. Unit Prices in accordance with the Exhibit "B"

C. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "final invoice" on the CONSULTANT'S final/last billing to the COUNTY. This certifies that all services have been properly performed and all charges and costs have been invoiced to Orange County. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONSULTANT.

ARTICLE 4 REQUIREMENTS CONTRACT

This is a Requirements Contract and the COUNTY shall order from the CONSULTANT all of the supplies and/or services specified in the contract's price schedule that are required to be purchased by the COUNTY. If the COUNTY urgently requires delivery of goods or services before the earliest date that delivery may be required under this contract, and if the CONSULTANT will not accept an order providing for accelerated delivery, the COUNTY may acquire the goods or services from another source.

Except as this contract may otherwise provide, if the COUNTY'S requirements do not result in orders in the quantities described as "estimated" in the contract's price schedule, that fact shall not constitute the basis for an equitable adjustment.

ARTICLE 5 INSURANCE REQUIREMENTS

Vendor/Contractor agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by Vendor/Contractor is not intended to and shall not in any manner limit or qualify the liabilities assumed by Vendor/Contractor under this contract. Vendor/Contractor is required to maintain any coverage required by federal and state workers' compensation or financial responsibility laws including but not limited to Chapter 324 and 440, Florida Statutes, as may be amended from time to time.

The Vendor/Contractor shall require and ensure that each of its sub-Vendors/sub-Contractors providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein.

Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

(Note: State licenses can be checked via www.floir.com/companysearch/ and A.M. Best Ratings are available at www.ambest.com)

Required Coverage:

- Commercial General Liability - The Vendor/Contractor shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$1,000,000 per occurrence. Vendor/Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.

Required Endorsements:

- Additional Insured- CG 20 26 or CG 20 10/CG 20 37 or their equivalents.
Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations
- Waiver of Transfer of Rights of Recovery- CG 24 04 or its equivalent.
Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number.
- Business Automobile Liability - The Vendor/Contractor shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$500,000 (five hundred thousand dollars) per accident. In the event the Vendor/Contractor does not own automobiles the Vendor/Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
- Workers' Compensation - The Vendor/Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any Vendor/Contractor using an employee leasing company shall complete the Leased Employee Affidavit.
- Professional Liability- with a limit of not less than \$1,000,000 per occurrence/claim

When a self-insured retention or deductible exceeds \$100,000 the COUNTY reserves the right to request a copy of Vendor/Contractor most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis the Vendor/Contractor agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Vendor/Contractor agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Vendor/Contractor of the obligation to provide replacement coverage.

By entering into this contract Vendor/Contractor agrees to provide a waiver of subrogation or a waiver of transfer of rights of recovery, in favor of the County for the workers' compensation and general liability policies as required herein. When

required by the insurer or should a policy condition not permit the Vendor/Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Vendor/Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Subrogation or a Waiver of Transfer of Rights of Recovery Against Others endorsement.

Prior to execution and commencement of any operations/services provided under this contract the Vendor/Contractor shall provide the COUNTY with current certificates of insurance evidencing all required coverage. In addition to the certificate(s) of insurance the Vendor/Contractor shall also provide endorsements for each policy as specified above. All specific policy endorsements shall be in the name of the Orange County Board of County Commissioners.

For continuing service contracts renewal certificates shall be submitted immediately upon request by either the COUNTY or the COUNTY's contracted certificate compliance management firm. The certificates shall clearly indicate that the Vendor/Contractor has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. Vendor/Contractor shall notify the COUNTY not less than thirty (30) business days (ten business days for non-payment of premium) of any material change in or cancellation/non-renewal of insurance coverage. The Vendor/Contractor shall provide evidence of replacement coverage to maintain compliance with the aforementioned insurance requirements to the COUNTY or its certificate management representative five (5) business days prior to the effective date of the replacement policy (ies).

The certificate holder shall read:

Orange County Board of County Commissioners
c/o Procurement Division
400 E. South Street, 2nd Floor
Orlando, Florida 32801

ARTICLE 6 INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT shall defend, indemnify, and hold harmless the COUNTY, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the CONSULTANT or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the COUNTY.

ARTICLE 7 FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONSULTANT. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONSULTANT authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONSULTANT shall be responsible for payment of its own and its share of its employee FICA and Social Security benefits with respect to this Contract.

ARTICLE 8 AVAILABILITY OF FUNDS

The COUNTY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners, or other specified funding source for this procurement.

ARTICLE 9 CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes 112.311. The CONSULTANT further represents that no person having any interest shall be employed for said performance.

The CONSULTANT shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONSULTANT. The COUNTY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of the notification by the CONSULTANT. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the COUNTY shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONSULTANT under the terms of this Contract.

ARTICLE 10 TERMINATION

A. Termination for Default:

The COUNTY may, by written notice to the CONSULTANT, terminate this contract for default in whole or in part (delivery orders, if applicable) if the CONSULTANT fails to:

1. Provide products or services that comply with the specifications herein or fails to meet the COUNTY'S performance standards
2. Deliver the supplies or to perform the services within the time specified in this contract or any extension.
3. Make progress so as to endanger performance of this contract
4. Perform any of the other provisions of this contract.

Prior to termination for default, the COUNTY will provide adequate written notice to the CONSULTANT through the Manager, Procurement, affording them the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the CONSULTANT in accordance with the County's Procurement Ordinance.

The CONSULTANT and its sureties (if any) shall be liable for any damage to the COUNTY resulting from the CONSULTANT's default of the contract. This liability includes any increased costs incurred by the COUNTY in completing contract performance.

In the event of termination by the COUNTY for any cause, the CONSULTANT will have, in no event, any claim against the COUNTY for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONSULTANT shall:

1. Stop work on the date and to the extent specified.
2. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
3. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the COUNTY.
4. Continue and complete all parts of that work that have not been terminated.

Neither CONSULTANT nor COUNTY shall be liable, nor may cancel this contract for default, when delays arise out of causes beyond the control of CONSULTANT or COUNTY. Such causes may include but are not restricted to acts of God, acts of COUNTY in sovereign capacity, fires, floods, lightning strikes, epidemics, quarantine restrictions, strikes, freight embargoes, wars, civil disturbances, work stoppage, power failures, laws, regulations, ordinances, acts or orders of any governmental agency or official thereof, and unusually severe weather. In every case, the delay must be beyond the control of the claiming party. If CONSULTANT is delayed in its performance as a result of the above causes, COUNTY, shall upon written request of CONSULTANT, agree to equitably adjust the provisions of this contract, including price and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit COUNTY'S right to terminate for convenience.

B. Termination for Convenience

The COUNTY, by written notice, may terminate this contract, in whole or in part, when it is in the County's interest. If this contract is terminated, the COUNTY shall be liable only for goods or services delivered and accepted. The COUNTY Notice of Termination shall provide the CONSULTANT thirty (30) days prior notice before it becomes effective. **A termination for convenience may apply to individual delivery orders, purchase orders or to the contract in its entirety.**

ARTICLE 11 FORCE MAJEURE

1. The Contractor shall not be held responsible for any delay and/or failure in performance of any part of this contract to the extent such delay or failure is caused by explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond the Contractor's control so long as the Contractor's delay is not caused by the Contractor's own fault or negligence. That notwithstanding, the Contractor shall notify the County in writing within two (2) weeks after the beginning of any such cause that would affect its performance hereunder and the County reserves the right the request additional information that supports the validity of the Contractor's Force Majeure claim. Failure to notify the County

in a timely manner of any claim of Force Majeure made pursuant to this section is cause for termination of this contract.

2. If the Contractor's performance is delayed pursuant to this section for a period exceeding two (2) calendar days from the date the County receives the required Force Majeure notice, the County shall have the right to terminate this contract thereafter and shall only be liable to the Contractor for any work performed and validated (if required for payment hereunder) prior to the date of the County's contract termination.
3. If the Contractor's performance is delayed pursuant to this section, the County may, upon written request of the Contractor, agree to equitably adjust the provisions of this contract, including price, performance, and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit the County's right to terminate for convenience.

ARTICLE 12 PERSONNEL

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereafter shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONSULTANT'S key personnel, as may be listed in Exhibit "A", must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY before said change or substitution can become effective.

The CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. The COUNTY may require, in writing, that the CONSULTANT remove from this contract any employee the COUNTY deems incompetent, careless, or otherwise objectionable.

ARTICLE 13 TRUTH IN NEGOTIATION CERTIFICATE

Signature of this Contract by the CONSULTANT shall act as the execution of the truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONSULTANT'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside Consultants. The COUNTY shall exercise its right under this "Certificate" within one (1) year following final payment.

ARTICLE 14 ARREARS

The CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 15 DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONSULTANT shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment or any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

All oral and written information not in the public domain or not previously known, and all information and data obtained, developed or supplied by the COUNTY, or at its expense, will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced at the discretion of the COUNTY.

The COUNTY and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 16 INDEPENDENT CONTRACTOR RELATIONSHIP

The CONSULTANT is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than as specifically provided for in this Agreement.

ARTICLE 17 CONTINGENT FEES

The CONSULTANT warrants that it has not employed or retrained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 18 ACCESS AND AUDITS

The CONSULTANT shall establish and maintain a reasonable accounting system, which enables ready identification of CONSULTANT'S cost of goods and use of funds. Such accounting system shall also include adequate records and documents to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in providing the goods for at least five (5) years after completion of this contract. The COUNTY or its designee shall have access to such books, records, subcontract(s), financial operations, and documents of the CONSULTANT or its sub-Contractors as required to comply with this section for the purpose of inspection or audit anytime

during normal business hours at the CONSULTANT'S place of business. This right to audit shall include the CONSULTANT'S sub-Contractors used to procure goods or services under the contract with the COUNTY. CONSULTANT shall ensure the COUNTY has these same rights with sub-Contractor(s) and suppliers.

ARTICLE 19 EQUAL OPPORTUNITY

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the CONSULTANT shall abide by the following provisions:

- A. The CONSULTANT shall represent that the CONSULTANT has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this contract.
- B. The CONSULTANT shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the non-discrimination provision of the contract.
- C. The provisions of the prime contract shall be incorporate by the CONSULTANT into the contracts of any applicable subcontractors.

ARTICLE 20 DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

By executing this contract the firm affirms that it is in compliance with the requirements of 2 C.F.R. Part 180 and that neither it, its principals, nor its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

ARTICLE 21 FLORIDA CONVICTED/SUSPENDED/DISCRIMINATORY COMPLAINTS.

By executing this contract the firm affirms that it is not currently listed in the Florida Department of Management Services Convicted/Suspended/Discriminatory Complaint Vendor List.

ARTICLE 22 SCRUTINIZED COMPANIES

- A. By executing this Agreement, the Contractor certifies that it is eligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes.
- B. Specifically, by executing this Agreement, the Contractor certifies that it is **not** on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.
- C. Additionally, if this Agreement is for an amount of one million dollars (\$1,000,000) or more, by executing this Agreement, the Contractor certifies that it is **not**:

1. On the “Scrutinized Companies with Activities in Sudan List” or the “Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List,” created pursuant to Section 215.473, Florida Statutes; and/or
 2. Engaged in business operations in Cuba or Syria.
- D. The County reserves the right to terminate this Agreement immediately should the Contractor be found to:
1. Have falsified its certification of eligibility to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes; and/or
 2. Have become ineligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statute subsequent to entering into this Agreement with the County.
- E. If this Agreement is terminated by the County as provided in subparagraph 4(a) above, the County reserves the right to pursue any and all available legal remedies against the Contractor, including but not limited to the remedies as described in Section 287.135, Florida Statutes.
- F. If this Agreement is terminated by the County as provided in subparagraph 4(b) above, the Contractor shall be paid only for the funding-applicable work completed as of the date of the County’s termination.
- G. Unless explicitly stated in this Section, no other damages, fees, and/or costs may be assessed against the County for its termination of the Agreement pursuant to this Section.

ARTICLE 23 MODIFICATIONS OF WORK

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the COUNTY’S notification of a contemplated change, the CONSULTANT shall (1) if requested by COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY in writing if the contemplated change shall affect the CONSULTANT’S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONSULTANT shall suspend work on that portion of the work affected by a contemplated change, pending the COUNTY’S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall issue a Contract Amendment or Change Order and the CONSULTANT shall not commence work on any such change until such written amendment or change order has been issued and signed by each of the parties.

ARTICLE 24 CONTRACT CLAIMS

“Claim” as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the

adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

Claims made by a Contractor/Contractor against the County relating to a particular contract shall be submitted to the Procurement Manager in writing clearly labeled "Contract Claim" requesting a final decision. The Contractor also shall provide with the claim a certification as follows: "I certify that the claim is made in good faith;

that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor/Contractor believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Contractor/Contractor."

Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract.

The decision of the Procurement Manager shall be issued in writing and shall be furnished to the Contractor/Contractor. The decision shall state the reasons for the decision reached. The Procurement Manager shall render the final decision within sixty (60) days after receipt of Contractor's/Contractor's written request for a final decision. The Procurement Manager's decision shall be final and conclusive.

The Contractor/Contractor shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal or action arising under the contract and shall comply with any final decision rendered by the Manager of Procurement.

ARTICLE 25 TOBACCO FREE CAMPUS

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, e-cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

ARTICLE 26 VERIFICATION OF EMPLOYMENT STATUS

Prior to the employment of any person under this contract, the contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of (a) all persons employed during the contract term by the contractor to perform employment duties within Florida and (b) all persons, including subcontractors, assigned by the contractor to perform work pursuant to the contract with Orange County. Please refer to USCIS.gov for more information on this process.

Only those employees determined eligible to work within the United States shall be employed under the contract.

Therefore, by submission of a bid or proposal in response to this solicitation, the contractor confirms that all employees in the above categories will undergo e-verification before placement on this contract. The contractor further confirms his commitment to comply with this requirement by completing the E- Verification certification.

ARTICLE 27 LAWS AND REGULATIONS

All applicable Federal and State laws, municipal and County ordinances shall apply to the solicitation and Contract.

ARTICLE 28 PRICE ESCALATION/DE-ESCALATION (CPI)

The County may allow a price escalation provision within this award. The original contract prices shall be firm for the entirety of the initial (3 year) contract period. A price escalation/de-escalation will be considered at the time of contract renewal and at renewal intervals thereafter, provided the Contractor notifies the County, in writing, of the pending price escalation/de-escalation a minimum of sixty (60) days prior to the contract renewal date. Price adjustments shall be based on the latest version of the Consumers Price Index (CPI-U) for All Urban Consumers, All Items, U.S. City Average, non-seasonal, as published by the U.S. Department of Labor, Bureau of Labor Statistics. This information is available at www.bls.gov.

Price adjustment shall be calculated by applying the simple percentage model to the CPI data. This method is defined as subtracting the base period index value (at the time of initial award) from the index value at time of calculation (latest version of the CPI published as of the date of request for price adjustment), divided by the base period index value to identify percentage of change, then multiplying the percentage of change by 100 to identify the percentage change. Formula is as follows:

$$\text{Current Index} - \text{Base Index} / \text{Base Index} = \% \text{ of Change}$$

$$\% \text{ of Change} \times 100 = \text{Percentage Change}$$

CPI-U Calculation Example:

CPI for current period	232.945
Less CPI for base period	229.815
Equals index point change	3.130
Divided by base period CPI	229.815
Equals	0.0136
Result multiplied by 100	0.0136 x 100
Equals percent change	1.4%

A price increase may be requested only at each time interval specified above, using the methodology outlined in this section. To request a price increase, Contractor shall submit a letter stating the percentage amount of the requested increase and adjusted price to the Orange County Procurement Division. The letter shall include the complete calculation utilizing the formula above, and a copy of the CPI-U index table used in the calculation. The maximum allowable increase shall not exceed 4%, unless authorized by the Manager, Procurement Division. If approved, the price adjustment shall become effective on the contract renewal date. All price adjustments must be accepted by the Manager, Procurement Division and shall be memorialized by written amendment to this contract. No retroactive contract price adjustments will be allowed.

Should the CPI-U for All Urban Consumers, All Items, U.S City Average, as published by the U.S. Department of Labor, Bureau of Labor Statistics decrease during the term of the contract, or any renewals, the Contractor shall notify the Orange County Procurement Division of price decreases in the method outlined above. If approved, the price adjustment shall become effective on the contract renewal date. If the Contractor fails to pass the decrease on to the County, the County reserves the right to place the Contractor in default, cancel the award, and remove the Contractor from the County Vendor List for a period of time deemed suitable by the County. In the event of this occurrence, the County further reserves the right to utilize any options as stated herein.

ARTICLE 29 BUSINESS ASSOCIATE AGREEMENT

The Business Associate Agreement attached hereto shall govern all matters necessary to enforce the provisions of the HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164 as applicable to this contract.

ARTICLE 30 ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the Parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Agreement and any litigation that arises either directly, or indirectly.

ARTICLE 31 JURY WAIVER

Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this agreement.

ARTICLE 32 GOVERNING LAW AND VENUE

Any and all legal actions associated with this contract will be governed by the laws of the State of Florida. Venue for any litigation involving this contract shall be in the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.

ARTICLE 33 NO REPRESENTATIONS

Each party represents that they have had the opportunity to consult with an attorney, and have carefully read and understand the scope and effect of the provisions of this Agreement. Neither party has relied upon any representations or statements made by the other party hereto which are not specifically set forth in this Agreement.

ARTICLE 34 AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to, conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY upon request.

ARTICLE 35 SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 36 SUCCESSORS AND ASSIGNS

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

ARTICLE 37 REMEDIES

This Contract shall be governed by the laws of the State of Florida. Venue for any litigation involving this contract shall be the Circuit Court in and for Orange County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or at equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 38 ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONTRACTOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, deleted, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

ARTICLE 39 NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

and if sent to the CONTRACTOR shall be mailed to:

ARTICLE 40 ATTACHMENTS

The following attachment(s) is/are attached hereto, and made a part of this Contract in order of precedence:

- A.** Attachment A: Business Associate Agreement
- B.** Attachment B: Orange County Section 125 Wellness For Life Plan Restatement

IN WITNESS WHEREOF, the Board of County Commissioners of Orange County, Florida has made and executed this Contract on behalf of the COUNTY and CONTRACTOR has hereunto set its hand the day and year above written.

CONSULTANT:

ORANGE COUNTY, FLORIDA:

Company Name

Carrie Mathes, MPA, CFCM, CPPO, C.P.M.,
Procurement Division Manager

Signature

Date

Typed Name

Title

Date

ORANGE COUNTY, FLORIDA*and***BUSINESS ASSOCIATE****ADDENDUM TO CONTRACT NO. Y19-1032***related to***BUSINESS ASSOCIATE ASSURANCE OF COMPLIANCE WITH THE
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)
PRIVACY, BREACH AND SECURITY RULES AND THE
FLORIDA INFORMATION PROTECTION ACT (FIPA)**

THIS ADDENDUM is by and between, **ORANGE COUNTY, FLORIDA** (the “County”), a charter county and political subdivision of the State of Florida, located at 201 South Rosalind Avenue, Orlando, Florida 32801, on behalf of its HUMAN RESOURCES DEPARTMENT (the “Covered Healthcare Component”), and **BUSINESS ASSOCIATE NAME** (“Business Associate”), located at **BUSINESS ASSOCIATE ADDRESS**. The County and Business Associate may be referred to herein individually as “Party” or collectively as “Parties”.

RECITALS

WHEREAS, the County has been designated as a “Hybrid Entity” under the HIPAA Privacy and Security Rules, 45 CFR §164.105; and

WHEREAS, pursuant to 45 CFR §164.105(a)(2)(iii)(D), the County, as a Hybrid Entity, has documented that its HUMAN RESOURCES DEPARTMENT is a “Covered Healthcare Component” of the County and, as such, when the County is acting through its HUMAN RESOURCES DEPARTMENT, it must be treated as a “Covered Entity”; and

WHEREAS, in connection with the provision of services to the County (collectively referenced to as “Services”) by the Business Associate, the County, through its Covered Healthcare Component, may disclose to the Business Associate certain Protected Health Information (“PHI”) that is subject to protection under the HIPAA Privacy and Security Rules, 45 CFR Parts 160, 162, and 164; and

WHEREAS, the HIPAA Privacy and Security Rules require that a Covered Entity, as well as a Hybrid Covered Entity when it is acting through one of its Covered Healthcare Components, receives adequate assurances that the Business Associate will comply with certain obligations with respect to the PHI received in the course of providing Services to, or on behalf of, the Covered Entity or Hybrid Covered Entity; and

WHEREAS, the purpose of this Addendum is to comply with the requirements of the HIPAA Privacy and Security Rules, 45 CFR Parts 160, 162, and 164, and the Florida Information Protection Act, §501.171, Florida Statutes, and 42 CFR Part 2, where applicable, and as amended; and

WHEREAS, the County and Business Associate have entered, or will be entering into, a contract for services known as Contract No. Y19-1032 (the “Agreement”) and the Parties wish to adopt this Addendum to the Agreement in order to ensure that the Services provided by the Business Associate pursuant to the Agreement are provided in compliance with the requirements of the HIPAA Privacy and Security Rules, 45 CFR Parts 160, 162, and 164, and the Florida Information Protection Act, §501.171, Florida Statutes, and 42 CFR Part 2, where applicable, and as amended.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, agreements and obligations herein stated, the Parties agree as follows:

Section 1. Incorporation

A. **Recitals Incorporated.** The above recitals are true and correct and are hereby incorporated as a material part of this Addendum.

B. HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164, and the Florida Information Protection Act, §501.171, Florida Statutes, and 42 CFR Part 2, where applicable and as amended, are hereby incorporated into this Addendum.

C. To the extent that this Addendum, or the Agreement, imposes more stringent requirements than those contained in HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164, the Florida Information Protection Act, §501.171, Florida Statutes, and 42 CFR Part 2, where applicable and as amended, those more stringent requirements of this Addendum, or the Agreement, will control.

Section 2. Definitions.

A. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in 45 CFR §§160.103, 162.103, 164.103, 164.402, and 164.501, and §501.171, Florida Statutes.

1. ***Breach*** shall have the meaning given to such term as found in 45 CFR §164.402, and the Florida Information Protection Act, §501.171, Florida Statutes.
2. ***Designated Record Set*** shall mean a group of records maintained by or for a covered entity that is: (a) the medical records and billing records about individuals maintained by or for a covered health care provider; (b) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (c) used, in whole or in part, by or for the covered entity to make decisions about individuals. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.
3. ***Disclosure*** shall mean the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.
4. ***Florida Information Protection Act*** shall mean the Florida Information Protection Act (“FIPA”) codified at §501.171, Florida Statutes.

5. ***HIPAA Privacy and Security Rules*** shall mean the Standards for Privacy, Security, Breach, Notification, and Enforcement at 45 CFR Parts 160, 162 and 164.
6. ***Individual*** shall mean the person who is the subject of PHI, and shall include a person who qualifies as a personal representative, in accordance with 45 CFR §164.502(g).
7. ***Individually Identifiable Health Information*** shall mean information that is a subset of health information, including demographic information collected from an individual, and: (a) is created or received by a health care provider, health plan, employer, or health care clearinghouse; (b) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (c) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
8. ***Privacy Officer*** shall mean the individual designated by the County pursuant to 45 CFR §164.530, who is responsible for the development and implementation of the County's policies and procedures as they relate to its, and its Covered Healthcare Component's, compliance with HIPAA Privacy and Security Rules.
9. ***Personally Identifiable Information ("PII")*** shall mean either of the following:
 - a. An individual's initials, first name, or first initial and last name in combination with any one or more of the following data elements for that individual:
 - i. A social security number;
 - ii. A driver's license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;
 - iii. A financial account number or credit or debit card number in combination with any required security code, access code, or password that is necessary to permit access to an individual's financial account;
 - iv. Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
 - v. An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
 - vi. Any other identifier, as referenced in the Department of Health & Human Services "Safe Harbor Standards."

- vii. The term “Personally Identifiable Information” does not include information about an individual that has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.
 - b. A user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.
 - c. The PII provided pursuant to the Agreement shall be limited to what is necessary for the Business Associate to meet its obligations thereunder.
- 10. ***Protected Health Information (“PHI”)*** shall mean an individual’s identifiable health information that is – or has been – created, received, transmitted, or maintained in any form or medium, on or behalf of the County, with the exception of education records covered by the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, as amended, and the health care records of students at post-secondary educational institutions or of students eighteen (18) years of age or older, used exclusively for their health care treatment which have not been disclosed to anyone other than a health care provider at the student’s request. The PHI provided pursuant to the Agreement shall limited to what is necessary for the Business Associate to meet its obligations thereunder.
- 11. ***Required by Law*** shall have the same meaning as the term “required by law” in 45 CFR §164.103.
- 12. ***Secretary of Health and Human Services*** shall mean the Secretary of the Health and Human Services (“HHS”) or any other officer or employee of HHS to whom the authority involved has been delegated.
- 13. ***Security Incident or Incident*** shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PII contained in any form or interference with system operations in an information system that contains PHI or PII.
- 14. ***Use*** shall mean the sharing, employment, application, utilization, examination, or analysis of PII or PHI within an entity that maintains such information.

Section 3. Scope of Agreement

A. **Independent Status of Parties.** The Parties agree that they are, and shall be, independently responsible for complying, and shall independently comply, with the HIPAA Privacy and Security Rules and FIPA, as it may be amended from time to time. The Parties further agree that they are, and shall be, responsible for their own actions and conduct and shall not assume responsibility for the actions and conduct of one another. Additionally, the Parties agree that they shall maintain all

corporate formalities establishing separate and individual control by each organization's board of directors, as applicable.

B. The Business Associate acknowledges that the confidentiality requirements set forth herein shall apply to all of its employees, agents, and representatives. The Business Associate assumes responsibility and liability for any damages or claims, including state and federal administrative proceedings and sanctions brought against the County, including costs and attorneys' fees, resulting from the breach by the Business Associate of the confidentiality requirements of this Addendum.

Section 4. Privacy of Protected Health Information and Confidentiality of Personal Information.

A. **Permitted Uses and Disclosures of PHI and PII by Business Associate.** The Business Associate may use, or disclose, PHI and PII received from the County to its officers and employees. The Business Associate may disclose PHI and PII to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit PHI and PII on its behalf if the Business Associate obtains satisfactory assurances, in accordance with 45 CFR §164.504(e)(1)(i) and §501.171(2), that the subcontractor will appropriately safeguard the information. All other uses or disclosures, not otherwise authorized by this Addendum or otherwise governed by law, are prohibited.

B. **Responsibilities of the Business Associate.** Regarding the use or disclosure of PHI and PII, the Business Associate agrees to:

1. Only use or disclose the PHI and PII as allowed under this Addendum or otherwise by applicable law.
2. Only use or disclosure PHI and PII in a manner that would not violate the HIPAA Privacy and Security Rules, or FIPA, if done so by a Covered Entity.
3. Establish and implement appropriate procedures, physical, and technical safeguards to prevent improper access, uses, transmissions, or disclosures of PHI and PII for mitigating, to the greatest extents possible under the circumstances, any deleterious effects from any improper access, use, or disclosure of PHI and PII that the Business Associate reports to the County. Safeguards shall include, but are not limited to: (a) the implementation and use of electronic security measures to safeguard electronic data; (b) requiring employees to agree to access, use, or disclose PHI and PII only as permitted or required by this Addendum; and (c) taking related disciplinary action for inappropriate access, use or disclosure as necessary.
4. Ensure that the Business Associate's subcontractors or agents to whom the Business Associate provides PHI or PII, created received, maintained, or transmitted on behalf County agree to the same restrictions and conditions that apply to the Business Associate with respect to PHI and PII, and ensure that its subcontractors or agents agree to establish and implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of all PHI and PII that it creates receives, maintains, or transmits on behalf of the County.

5. Make the Business Associate's records, books, accounts, agreements, policies, and procedures available to the Secretary of HHS for determining the County's compliance with the HIPAA Privacy and Security Rules, and also, with the State of Florida's Department of Legal Affairs to determine the County's compliance with FIPA.
6. Limit use by, or disclosure to, its subcontractors, agents, and other third parties, to the minimum PHI and PII necessary to perform or fulfill a specific function required or permitted hereunder.
7. Provide information to the County to permit the County to respond to a request by an individual for an accounting of disclosures within five (5) days of receiving a written request from the County, if the Business Associate maintains a Designated Records Set on behalf of the County.
8. At the request of, and in the time and manner designated by, the County, provide access to the PHI and PII maintained by the Business Associate to the County or individual, if the Business Associate maintains a Designated Records Set on behalf of the County.
9. At the request of, and in the time and manner designated by, the County, make any amendment(s) to the PHI and PII when directed by the County, if the Business Associate maintains a Designated Record Set on behalf of the County.
10. Establish and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI and PII the Business Associate creates, receives, maintains, or transmits on behalf of the County.
11. Report to the County any Security Incident involving PHI and PII that the Business Associate discovers in the manner detailed in Section 7 below.

C. **Compliance with the County's Policies.** The Business Associate hereby agrees to abide by the County's policies and practices for its Covered Healthcare Component that relate to the confidentiality, privacy, and security of PHI and PII.

D. **Use of PHI and PII for Management and Administration or Legal Responsibilities of the Business Associate.** The Business Associate may use PHI and PII received by the County pursuant to the Agreement for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. However, the Business Associate will only be allowed to use PHI and PII for the aforementioned uses if:

1. the disclosure is required by law; or
2. the Business Associate obtains reasonable assurances from the person to whom the PHI and PII is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notified the Business Associate of any instances in which the person is aware of a confidentiality breach of PHI or PII.

E. **Data Aggregation Services.** With respect to PHI and PII created or received by the Business Associate in its capacity as the Business Associate of the County, the Business Associate may combine such PHI and PII it has received from the County with the PHI and PII received by the Business Associate in its capacity as a Business Associate of another Covered Entity, or Hybrid Covered Entity, to permit data analysis that relates to the health care operation of the respective Covered Entity, or Hybrid Covered Entity, if data analyses is part of the Services that Business Associate is to provide to the County pursuant to the Agreement.

F. **Compliance.** The Business Associate agrees to keep all PHI and PII confidential and secure in compliance with the provisions of this Addendum and according to current state and federal laws.

Section 5. Confidentiality

A. In the course of performing under this Addendum, each Party may receive, be exposed to, or acquire the confidential information including, but not limited to, all information, data, reports, records, summaries, tables, and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identifiable as confidential (“Confidential Information”) of the other Party.

B. For purposes of this Addendum, Confidential Information shall **not** include PHI, the security and privacy of which is the subject of this Addendum. The Parties, including their employees, agents, or representatives shall:

1. not disclose to any third party the Confidential Information of the other Party except as otherwise permitted by this Addendum, or as mandated by the State of Florida’s Public Records Laws;
2. only permit use of such Confidential Information by employees, agents, and representatives having a need to know in connection with performance under the Agreement; and
3. advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential.

C. This provision shall not apply to Confidential Information:

1. after it becomes publicly available through **no fault** of either Party;
2. which is later publically released by either Party in writing;
3. which is lawfully obtained from third parties without restrictions; or
4. which can be shown to be previously known or developed by either Party independently of the other Party.

Section 6. Security

A. **Security of Electronic Protected Health Information and Personal Information.** The Business Associate will develop, implement, maintain, and use administrative, technical, and

physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI (as defined in 45 C.F.R. §160.103) and PII (as defined by §501.171, Florida Statutes) that the Business Associate creates, receives, maintains, or transmits on behalf of the County consistent with the HIPAA Privacy and Security Rules and FIPA.

B. **Reporting Security Incidents.** The Business Associate will report to the County any Incident of which the Business Associate becomes aware that is:

1. a successful unauthorized access, use or disclosure of Electronic PHI or PII;
2. a modification or destruction of electronic PHI or PII; or
3. interference with system operations in an information system containing electronic PHI or PII.

Section 7. Reporting Requirements

A. **Reporting.** The Business Associate shall make a good faith effort to identify any use or disclosure of protected information not provided for in this Addendum.

B. **Reporting to the County.**

1. The Business Associate will report to the County within:
 - a. two (2) days of any suspected – or confirmed – access, use, or disclosure of PHI or PII, regardless of form, not permitted or required by this Addendum of which the Business Associate becomes aware; and
 - b. twenty-four (24) hours of discovery, any Security Incident of which the Business Associate is aware.
2. Such report shall include the identification of each individual whose unsecured PHI and PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
3. Reports of Security Incidents shall include a detailed description of each Incident, at a minimum, to include: (a) the date of the Incident; (b) the nature of the Incident; (c) the information involved, whether the information was accessed, disclosed, used, modified, destroyed, etc.; (d) the identities of the individual(s) and their relationship to the Business Associate; (e) a description of the Business Associate's response to each Incident; (f) and the name and title of the individual the County should contact for additional information.
4. The Business Associate will conduct such further investigation as is reasonably required by the County and promptly advise the County of additional information pertinent to the Incident.
5. The Business Associate will cooperate with the County in conducting any required risk analysis related to such Security Incident(s).

6. The Business Associate will cooperate with the County in complying with any applicable notification requirements pursuant to the Breach Notification Rule and/or pursuant to Florida law (including but not limited to, §§501.171 and 817.5681, Florida Statutes), and in taking steps determined by the County to be necessary to mitigate any potential harm caused by a Security Incident. The Business Associate will pay and/or reimburse the County for any reasonable expenses the County incurs in notifying individuals of, and /or mitigating potential harm caused by, a Security Incident caused by the Business Associate and/or its subcontractors or agents.

C. **Reporting to Individuals.** In the case of a breach of PHI or PII discovered by the Business Associate, the Business Associate shall first notify the County of the pertinent details of the breach and, upon prior approval of the County's Privacy Officer, shall notify each individual whose unsecured PHI or PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed as a result of such breach. Such notification shall be in writing by first-class mail to the individual (or the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are ten (10) or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting on the web site of the Business Associate involved or notice in major print or broadcast media, including major media in the geographic areas where the individuals affected by the breach are likely to reside. In any case deemed by the Business Associate to require urgency because of possible imminent misuse of unsecured PHI or PII, the Business Associate may also provide information to individuals by telephone or other means, as appropriate.

D. **Reporting to Media.** In the case of a breach of PHI discovered by the Business Associate where the unsecured PHI of more than five hundred (500) persons or unsecured PII of more than five hundred (500) persons is reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall provide notice to prominent media outlets serving the state or relevant portion of the state involved.

E. **Reporting to HHS and the State of Florida Department of Legal Affairs.** The Business Associate shall cooperate with the County to provide notice to the Secretary of HHS of unsecured PHI and to the State of Florida, Department of Legal Affairs, of unsecured PII that has been acquired or disclosed in a breach. If the breach was with respect to five hundred (500) or more individuals, such notice must be provided immediately. If the breach was with respect to less than five hundred (500) individuals, the Business Associate may maintain a log of such breach occurring and annually submit such log to the County so that it may satisfy its obligation to notify the Secretary of HHS documenting such breaches occurring in the year involved.

F. **Content of Notices.** All notices and reports required under this Addendum shall include the content set forth 45 C.F.R § 164.404 and FIPA. Notification to individuals, except that references therein to a "Covered Entity," shall be read as references to the Business Associate.

1. Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following: (a) a brief description of what happened, including the date of the breach and the date of

the discovery of the breach, if known; (b) a description of the types of unsecured PHI and PII that were involved in the breach (such as full name, social security number, date of birth, home address, account number, or disability code); (c) the steps individuals should take to protect themselves from potential harm resulting from the breach; (d) a brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches; and (e) contact procedures for individuals to ask questions or learn additional information, which shall include a toll free telephone number, an e-mail address, web site, or postal address.

G. **Notice to Credit Reporting Agencies.** In the case of a breach of PII discovered by the Business Associate where the unsecured PII of more than one thousand (1000) individuals has reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall notify all consumer reporting agencies nationwide, that complete and maintain files in accordance with the provisions of §501.171(5), Florida Statutes.

H. **Financial Responsibility.** The Business Associate shall be responsible for all costs related to the notice required by this Section.

I. **Mitigation.** The Business Associate shall mitigate, to the extent practicable, any harmful effects that are known to the Business Associate of use or disclosure of PHI or PII in violation of this Addendum, the HIPAA Privacy and Security Rules, HITECH Act, and FIPA.

J. A violation of this Section shall be a material violation of this Addendum.

Section 8. Termination

A. **Automatic Termination.** The County is authorized to automatically terminate the Agreement, if it determines that the Business Associate has violated a material term of this Addendum.

B. **Opportunity to Cure or Terminate.** At the County's sole discretion, the County may either: (1) provide notice of breach and an opportunity for the Business Associate to reasonably and promptly cure the breach or end the violation and terminate the Agreement if the Business Associate does not cure the breach, or end the violation within the reasonable time specified by the County; or (2) immediately terminate the Agreement if the Business Associate has breached a material term of this Addendum and cure is not possible.

C. **Effects of Termination.** Termination of the Agreement shall not affect any claim or rights that may arise based on the acts or omissions of the Parties prior to the effective date of termination.

D. **Duties of Business Associate Upon Termination of the Agreement.**

1. When the Agreement is terminated, the PHI and PII that the Business Associate received from, created, or received on behalf of the County must be destroyed or returned to the County, at the Business Associate's expense, including all PHI and PII in the possession of the Business Associate's subcontractors or agents. However, if the Business Associate determines that returning or destroying PHI and PII is not feasible, the Business Associate must maintain the privacy protections under this Addendum, and according to applicable law, for as long as the Business

Associate retains the PHI and PII, and the Business Associate may only use or disclose the PHI and PII for specific uses or disclosures that make it necessary for the Business Associate to retain the PHI and PII.

2. If the Business Associate determines that it is not feasible for the Business Associate to return PHI or PII in the subcontractor's or agent's possession, the Business Associate must provide a written explanation to the County of such reasons and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Addendum to the subcontractor's or agent's use or disclosure of any PHI and PII retained after the termination of the Agreement, and to limit any further uses or disclosures for the purposes that make the return or destruction of the PHI or PII not feasible.

Section 9. Miscellaneous

A. **Agreement Subject to All Applicable Laws.** The Parties recognize and agree that the Agreement, and any and all activities performed thereunder, is governed by federal, state, and local laws, including the regulations, rules, and policies of the U.S. Department of Health and Human Services including, but not limited to, HIPAA Privacy and Security Rules, FIPA, and their accompanying regulations. The Parties further recognize and agree that the Agreement is subject to new legislation as well as amendments to government regulations, rules, and police, and agree to amend this Addendum accordingly.

B. **No Third Party Beneficiaries.** Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties any rights, remedies, obligations, or liabilities whatsoever.

C. **Survival.** The rights and obligations of the Parties in Sections 4, 5, 6, 7 in their entirety, as well as subsections 8D., 9E., 9G., and 9H., shall survive termination of the Agreement indefinitely.

D. **Amendment.** This Addendum may only be revoked, amended, changed, or modified by a written amendment that is executed by both Parties.

E. **Enforcement Costs and Attorneys Fees.** If any legal action or other proceedings, including arbitration, is brought for the enforcement of this Addendum, or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Addendum, each Party will hereby be responsible for its own costs and attorneys' fees.

F. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the County to comply with the Privacy and Security Rules.

G. **Indemnification.** To the fullest extent permitted by law, the Business Associate shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or part by any act or omission of the Business Associate, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the County. In the event the Business

Associate is a state department or division, or a political subdivision of the State of Florida, indemnification shall follow the provisions of §768.28, Florida Statutes.

H. **Signatory Authority.** Each signatory to this Addendum represents and warrants that he or she possesses all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf he or she is signing.

I. **Governing Law.** This Addendum shall be governed by and construed in accordance with the laws of the State of Florida to the extent not preempted by the HIPPA Privacy Rules or other applicable federal law.

J. **Notice.** All notices and other communications under this Addendum shall be in writing and shall be deemed received when delivered personally or when deposited in the U.S. mail, postage prepaid, sent registered, or certified mail, return receipt requested, or sent via nationally recognized and receipted overnight courier service, to the Parties at their respective principal office or record as set forth below or as designed in writing from time-to-time. No notice of a change of address shall be effective until received by the other Party(ies).

To the County: Orange County HIPAA Privacy Officer
2002-A East Michigan Street
Orlando, FL 32806
(407) 836-9214

AND

Orange County Administrator
Administration Building, 5th Floor
201 S Rosalind Avenue
Orlando, FL 32801

To the Business Associate:

K. **Severability.** If any provision of this Addendum, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Addendum, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Addendum shall be valid and shall be enforced to the fullest extent permitted by law. It is further the intention of the Parties that if any provision of this Addendum were capable of two constructions, one that rendered the provision void and one that renders the provision valid, then the provision shall have the meaning that renders it valid.

L. **Successors and Assigns.** The Business Associate shall not assign either its obligations or benefits under this Addendum without the expressed written consent of the County, which shall be at the sole discretion of the County. Given the nature of this Agreement, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

M. **Venue and Waiver of Jury Trial.** Any action or proceeding seeking to enforce any provision, or based on any right arising out of this Addendum shall be brought in the federal or state courts located in Orange County, Florida, and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue therein. Any and all rights to a trial by jury are hereby waived.

N. **Waiver and Breach.** No failure by a Party to insist upon the strict performance of any covenant, agreement, term, or condition of this Addendum shall constitute a waiver of any such breach or such covenant, agreement, term, or condition. Any Party may waive compliance by the other Party with any of the provisions of this Addendum if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.

O. **Entire Agreement.** The Agreement, this Addendum and/or any additional addenda or amendments to the Agreement, any documents incorporated herein by reference, and/or attachments hereto, shall construe the entire understanding between the Parties as to the rights, obligations, duties, and services to be performed hereunder.

IN WITNESS HEREOF, the parties have executed this Addendum as of the date first above written.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

ORANGE COUNTY, FLORIDA

By: Orange County Board of County Commissioners

BY: _____

DATE: _____

THE BUSINESS ASSOCIATE

Business Associate: _____

By: _____

Printed Name: _____

Official Title: _____

Date: _____

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____
20____, by _____.

(Seal)

Signature Notary Public
Print, Type/Stamp Name of Notary

Personally Known [] or Produced Identification []

Type of Identification Produced: _____



APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
OCT 20 2015 JKL

Memorandum

October 7, 2015

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: *J. Ricardo Daye*
J. Ricardo Daye, Director
Human Resources Division

SUBJECT: **BCC Consent Agenda – October 20, 2015**
Orange County Section 125 Wellness for Life Plan Restatement

The purpose of this item is to seek Board approval on revisions made to the County's Benefits Plan Document to capture recent Plan changes and additions, and to reflect Internal Revenue Service (IRS) Section 125 updates and Patient Protection and Affordable Care Act (PPACA) changes made since the plan document was last revised.

Background

Orange County first established a Section 125 Cafeteria Plan in January 1991. The plan, authorized by Section 125 of the Internal Revenue Code, allows the County to deduct employee premium contributions on a pre-tax basis for the qualified benefit options selected (medical, dental, etc.) inclusive of Flexible Spending Arrangements. Under Section 125, these benefit options reduce the federal and FICA taxes paid by the employee and the payroll taxes paid by the County.

Under Section 125, employers are required to have a written Plan document. The County's Section 125 Wellness for Life Plan document was first established and approved by the Board effective January 1991. The current Plan document was last updated and approved July 31, 2012 effective January 1, 2011.

Proposed Wellness For Life Plan Document Changes

- **Effective Date** – The proposed effective date of this Plan document restatement is January 1, 2015.
- **Benefit Definition** – Revisions are being made to the language describing Dependent to provide clarity to include the definition under IRC §152 and the expanded definition under the Patient Protection and Affordability Care Act and the Healthcare Reconciliation and Education Act of 2010 (Article II.2.01(J)).
- **Benefit Definition** – “Marketplace” – A state or federal health insurance exchange as outlined in Section 2311 of the Patient Protection and Affordable Care Act (Article II 2.01(U)).
- **Benefit Definition** – “Spouse” – An individual who is legally married to the Employee as defined under federal law and as modified by Revenue Ruling 2013-17 (Article II 2.01(GG)).
- **Benefit Revision** – An Employee may prospectively revoke an election of coverage under the group health plan that is not a Medical Flexible Spending Account if the Employee is eligible to enroll in a qualified health plan through a Marketplace pursuant to guidance issued by the Department of Health and Human Services and any other applicable guidance either through a special enrollment period or through a Marketplace annual enrollment

period as long as the Employee and/or Spouse/Dependents under the existing plan enroll in Marketplace coverage that is effective no later than the day immediately following the last day of coverage under the original plan (Article V 5.04(O)).

- **Benefit Revision** – Clarification of the benefit election effective date relative to loss of benefit eligibility as reflected in Article III 3.04 Cessation of Participation (Article V 5.04).
- **Benefit Revision** – Expansion of eligibility for Health Savings Accounts pursuant to Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 Eligibility; Health Savings Accounts are not affected by the receipt of medical care for a service connected disability.
- **Benefit Revision** – Maximum Employer Contribution. The maximum Employer contribution into a Medical Flexible Spending Account includes Non-Elective Contributions made by the Employer and Elective Contributions on behalf of a Participant pursuant to a Salary Reduction Agreement. The Elective Contributions through the Participant's Salary Reduction Agreement shall be limited to \$2,550 (indexed for inflation) under Internal Revenue Code 125(i) and communicated to the Participants in writing (Article VIII 8.05).
- **Benefit Revision** – Change to type of Flexible Spending Account offered to former Low Deductible Plan Participants. Employees enrolled in a Medical Flexible Spending Account and who chose to enroll in the High Deductible Plan with a Health Savings Account the subsequent plan year will have their Medical Flexible Spending Account converted into a Limited Purpose Flexible Spending Account during the Medical Flexible Spending Account's Grace Period and 90 day Run-Out Period (Article VIII 8.08).
- **Benefit Revision** – Maximum Employer Contribution. The maximum Employer contribution into a Limited Purpose Flexible Spending Account includes Non-Elective Contributions made by the Employer and Elective Contributions on behalf of a Participant pursuant to a Salary Reduction Agreement. The Elective Contributions through the Participant's Salary Reduction Agreement shall be limited to \$2,550 (indexed for inflation) under Internal Revenue Code 125(i) and communicated to the Participants in writing (Article IX 9.05).

For the Board's reference, a black lined version as well as a clean version of the document are located in the file labeled "BCC Agenda Backup" in the top drawer of the BCC file cabinet in the supply room adjacent to Commissioner Thompson's office.

Action Requested: Approval of Orange County, Florida Wellness For Life Section 125 Cafeteria Plan, Original Effective Date: January 1, 1991; Effective Date of this Restatement: January 1, 2015.

Attachment

cc: Ajit Lalchandani, County Administrator
Eric Gassman, Chief Accountability Officer
Patrick Peters, HR Administrator

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
OCT 20 2015 JK/B

ORANGE COUNTY, FLORIDA

WELLNESS FOR LIFE PLAN
Section 125 Cafeteria Plan

ORIGINAL EFFECTIVE DATE: JANUARY 1, 1991

EFFECTIVE DATE OF THIS RESTATEMENT: January 1, 2015

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ARTICLE I
ESTABLISHMENT OF PLAN

1.01 Establishment of Plan. The Orange County, Florida Wellness For Life Plan (WFL) was adopted by Orange County on behalf of its eligible Employees to be effective January 1, 1991 and amended effective January 1, 1993, January 1, 2009 and January 1, 2011. This document amends and restates the Orange County, Florida WFL Plan in its entirety to be effective January 1, 2015.

1.02 Purpose of Plan; Intent of Employer. The Orange County, Florida WFL Plan is intended to qualify under Section 125 of the Internal Revenue Code of 1986 as a “cafeteria plan” with participating Employees permitted to elect taxable or non-taxable benefits hereunder. The Orange County, Florida WFL Plan should be read and construed in a manner which is consistent with the terms of Internal Revenue Code Section 125, other applicable sections of the Internal Revenue Code and Department of Treasury Regulations promulgated thereunder.

ARTICLE II DEFINITIONS

2.01 Definitions. Unless expressly provided to the contrary, whenever used in the Plan, the following words or phrases shall have the designated meanings set forth below, when the initial letter of each word of the term is capitalized.

- A. "Account" – The individual account established on the Employer's records and maintained in the name of each Participant for the purpose of accounting for contributions allocated to and benefits paid or acquired for such Participant, as a result of the Elections made pursuant to the Plan and as permitted under Section 125 of the Code.
- B. "Administrator" – The Employer or such other person or committee as may be appointed from time to time by the Employer to supervise the administration of the Plan, as provided in Article XI and Exhibit A.
- C. "COBRA" – The Consolidated Omnibus Budget Reconciliation Act of 1985 and regulations promulgated thereunder.
- D. "Code" – The Internal Revenue Code of 1986, as amended from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation, which amends, supplements or replaces such section or subsection and includes applicable final, temporary, or proposed regulations issued by the Department of the Treasury.
- E. "Compensation" – The regular basic salary paid by the Employer to an Employee, determined prior to any Election to reduce such salary by contributions to the Plan pursuant to a Salary Reduction Agreement; provided, however, Compensation shall not include bonuses, overtime, shift premium, or other forms of additional remuneration.
- F. "Component Plan" – The Employee welfare benefit plans sponsored by Orange County, Florida on behalf of its Employees, the Employees of other state or local governments and the Employees which are intended to be included in the Plan and which are listed in the attached Exhibit "B," as they may be amended from time to time and as described in the plan document for each such Component Plan each of which is incorporated herein by reference.
- G. "Core Benefits" – The Non-Taxable Benefits provided under Component Plans to Employees and/or Dependents who are eligible for such benefits as determined by the terms of the applicable Component Plans. The Non-Taxable Benefits, which are to be considered "Core Benefits", shall be determined annually by the Employer in advance of each Plan Year under rules uniformly applicable to all Employees similarly situated and the costs of which shall be paid by Employer Non-Elective Contributions and/or Employee contributions.

- H. "County" – Orange County, Florida, a political subdivision and charter county existing under the Constitution and laws of the State of Florida and Orange County Charter.
- I. "Dependent" – With respect to any Employee, any such Employee's legally married spouse, child, or other family member subject to further limitations provided by each Component Plan and IRS Code 152 sections (c)(1) and (d)(1) and The Patient Protection and Affordable Care Act and Health Care and Education Reconciliation Act of 2010 as it refers to the dependent age.
- J. "Dependent Care Flexible Spending Account" – A separate and segregated portion of the Account of the Participant established for the purpose of accounting for contributions allocated to Dependent Care Flexible Spending Account Benefits paid for such Participant, as a result of the Elections made pursuant to Article VII and as permitted under section 129 of the Code.
- K. "Effective Date" – January 1, 2011.
- L. "Election" – The Employee's decision, per their enrollment form, which specifies the Participant's election for the ensuing Plan Year with respect to the Plan and which shall include:
 - a. The Participant's selection of Employee and/or Dependent coverage, for each applicable Component Plan;
 - b. The Participant's selection of Optional Benefits;
 - c. The Participant's selection to receive Optional Benefits as either Taxable Benefits or Non-Taxable Benefits; and
 - d. A Salary Reduction Agreement, which shall specify either, the amount of the Participant's Elective Contributions or the Optional Benefits to be purchased with Elective Contributions.
- M. "Elective Contributions" – Amounts contributed to the Plan on behalf of a Participant pursuant to a Salary Reduction Agreement whereby a Participant's Compensation is reduced by an amount equal to the cost of Optional Benefits provided as Non-Taxable Benefits elected by the Participant.
- N. "Employee" – Any individual employed by the Employer as an administrative (appointed) or regular full time or part time employee.
- O. "Employer" – Orange County, Florida Board of County Commissioners
- P. "Grace Period" – A period of two and one half months immediately following the end of the Plan Year, as determined by the Employer. Expenses from Medical Flexible Spending Accounts, Dependent Care Flexible Spending Accounts and Limited Purpose Flexible Spending Accounts incurred during the Grace Period qualify for reimbursement from contributions remaining unused at the end of the immediately preceding Plan Year. To the extent any Participant's unused contributions from the immediately preceding Plan Year exceed the eligible expenses for the Medical Flexible Spending Account, Dependent Care Flexible Spending Account and Limited

Purpose Flexible Spending Account incurred during the Plan Year and Grace Period, the remaining unused contributions may not be carried forward to any subsequent Plan Year. Participants are not entitled to a refund of any contributions made to the Plan.

- Q. "Health Savings Account (HSA)" – A special banking account that an individual can only establish with a qualified HSA trustee or custodian bank if the individual has health plan coverage under a High Deductible Health Plan. An HSA allows eligible individuals to pay for Qualified HSA Medical Expenses on a tax-free basis as defined by Code 213 and 223.
- R. "High Deductible Health Plan (HDHP)" – A health plan which has a minimum annual deductible and maximum out of pocket expenses as defined by the IRS under Code 223(c) (2) (A) and restated annually by the designated federal agency.
- S. "Insurer" – Any insurance company issuing an insurance contract for coverage provided to an Employee or a Dependent by a Component Plan.
- T. "Limited Purpose Flexible Spending Account" – A separate and segregated portion of the Account of the Participant established for the purpose of accounting for contributions allocated to Limited Purpose Flexible Spending Account Benefits paid for such Participant, as a result of the Elections made pursuant to Article IX and as permitted under sections 105, 125, and 213 of the Code.
- U. "Marketplace" – A state or federal health insurance exchange as outlined in Section 2311 of the Patient Protection and Affordable Care Act.
- V. "Medical Care Reimbursement Spending Account" or "Medical Flexible Spending Account" – A separate and segregated portion of the Account of the Participant established for the purpose of accounting for contributions allocated to Medical Flexible Spending Account Benefits paid for such Participant, as a result of the Elections made pursuant to Article VIII and as permitted under sections 105, 125 and 213 of the Code.
- W. "Non-Elective Contributions" – Contributions to the Plan made by the Employer which are not pursuant to a Salary Reduction Agreement. Such contributions shall include:
 - a. Contributions necessary to provide the Core Benefits;
 - b. Additional contributions determined prior to the close of each Plan Year, which shall be allocated uniformly to all similarly situated Employees;
 - c. For a Participant who affirms evidence of alternative medical coverage satisfactory to the Employer and completes the Employer's annual wellness requirements, an amount that shall be not greater than the contributions necessary to purchase the maximum Optional Benefits for which the Participant is eligible; and
 - d. For a Participant who satisfactorily completes the Employer's annual wellness requirements, the employer may allocate an amount, established by the Plan and communicated to Participants in writing, which shall be contributed to the Optional Benefit for which the Participant is eligible.

- X. "Non-Taxable Benefit" – Core Benefits purchased with Non-Elective Contributions and Optional Benefits purchased with Elective or Non-Elective Contributions.
- Y. "Optional Benefit" – The Taxable Benefits or Non-Taxable Benefits provided under Component Plans which are not Core Benefits, and for which Employees and/or their Dependents are eligible as determined under the terms of the applicable Component Plans. The cost of such "Optional Benefits" shall be paid as specified during Employee's enrollment:
- a. With Elective Contributions;
 - b. With Non-Elective Contributions;
 - c. With the Participant's Compensation, on an after-tax basis.
- Z. "Participant" – An Employee who participates in the Plan in accordance with the eligibility requirements as set forth in Article III.
- AA. "Plan" – The Orange County, Florida WFL Plan as set forth herein, together with any and all amendments and supplements thereto which may from time to time be in effect.
- BB. "Plan Year" – The period commencing on January 1, 1991 and ending on December 31, 1991 of the initial year and for each calendar year thereafter, commencing on January 1, and ending on December 31 of each year.
- CC. "Qualified Reservist Distribution" - The portion of the Medical Flexible Spending Account and/or the Limited Purpose Flexible Spending Account a Participant may receive if the Participant is a member of a reserve component ordered or called to active duty.
- DD. "Run-Out Period" - A period of 90 calendar days after the end of the Grace Period in which the Participant may submit claims for expenses for the Medical Flexible Spending Account, Dependent Care Flexible Spending Account and Limited Purpose Flexible Spending Account incurred during the prior Plan Year and Grace Period. For Participants who are no longer eligible to participate, a period of 90 calendar days after cessation of participation.
- EE. "Salary Reduction Agreement" – The agreement between a Participant and the Employer whereby the Participant directs the Employer to reduce the Participant's taxable Compensation to obtain the Non-Taxable Benefit under the Plan.
- FF. "Severance" – A Participant's voluntary or involuntary termination of employment with the Employer for any reason which prevents the Participant from continuing employment with the Employer, including resignation, discharge, retirement, death, or disability.
- GG. "Spouse" – An individual who is legally married to the Employee as defined under federal law and as modified by Revenue Ruling 2013-17.

- HH. “Taxable Benefit” – Optional Benefits purchased with Compensation on an after-tax basis.
- II. “Third Party Administrator” - A firm employed to provide administrative services to the Employer in connection with the operation of the Plan including the approval and processing of claims for payment and the performance of other Plan-connected services in compliance with applicable state and federal laws.

ARTICLE III PARTICIPATION

3.01 Notice of Participation. Employees shall be notified when they become eligible to become a Participant, and at such time shall be furnished with a summary of the Plan and an Election form.

3.02 Commencement of Participation. Each Employee who is eligible for Employee and/or Dependent coverage under a Component Plan shall be eligible to participate in the Plan. An Employee who has met such eligibility requirements shall become a Participant on the later of:

- A. The Effective Date of this document; or
- B. For an Employee who is hired thereafter, the first day of the pay period following 60 calendar days of employment.
- C. For an Employee returning from a leave whose coverage has lapsed, the date they return to work, or the first day of the pay period within 30 days of return from leave, pursuant to IRS family status change rules.
- D. Core life & disability begin on the date of hire.

3.03 Provisions of Plan Binding on Participants. Upon becoming a Participant, a Participant shall be bound then and thereafter by the terms of the Plan, including all amendments thereto.

3.04 Cessation of Participation. A Participant shall cease to be a Participant as of the earliest of:

- A. The date on which the Plan terminates;
- B. The end of the pay period in which Participant ceases to be an Employee eligible to participate in the Plan (except in the case of the Medical Flexible Spending Account and the Limited Purpose Flexible Spending Account which terminate on the date the Participant ceases to be an Employee); or
- C. The end of the pay period in which the Employee receives Severance and cessation of Compensation (except in the case of the Medical Flexible Spending Account and the Limited Purpose Flexible Spending Account which terminate on the date the Participant ceases to be an Employee).

When an Employee ceases to be a Participant, Elective and Non-Elective Contributions on the Employee's behalf to the Plan shall be discontinued, but the Employee may continue to receive benefits under one or more of the Component Plans in accordance with the terms and conditions thereof or as provided in Articles VI, VII, VIII and IX.

3.05 Reinstatement of Former Participant. A former Participant shall become a Participant again if and when the eligibility requirements of Section 3.02 are met.

ARTICLE IV BENEFITS

4.01 Employer Contributions. The Employer, in its sole discretion, may determine in advance of each Plan Year, to make a Non-Elective Contribution to the Plan for each Participant. Such Non-Elective Contribution shall be a defined monetary amount specified in writing by the Employer for each group of similarly situated Employees. Non-Elective Contributions shall be determined for each Plan Year in a uniform and non-discriminatory manner based solely on the Employer's decision of the amount of funds available for such Non-Elective Contributions for each applicable group of similarly situated Employees. Each Participant shall be eligible to receive the same maximum annual Non-Elective Contribution as the amount contributed on behalf of each other member of the group of similarly situated Employees to which the Participant belongs unless such Participant commences or terminates employment during the Plan Year, and such other circumstances occur that affect such Participant's eligibility for the maximum annual Non-Elective Contribution.

Non-Elective Contributions in excess of the cost of Core Benefits may be applied, at the Participant's Election, to purchase Optional Benefits. Any unused Non-Elective Contributions not applied to purchase Optional Benefits shall not be paid as additional Compensation to the Participant.

The maximum annual Employer contribution to the Plan for the Plan Year on behalf of each Participant consisting of both Elective Contribution and Non-Elective Contributions shall be the amount specified in writing by the Employer in advance of the beginning of the Plan Year and equal to the sum of:

- A. The maximum amount, which may be contributed on behalf of a Participant to a Health Savings Account, Dependent Care Flexible Spending Account, a Medical Flexible Spending Account or a Limited Purpose Flexible Spending Account permitted by law and, as provided in Articles VI, VII, VIII or IX respectively;
- B. The premium costs for any Plan Year of the most expensive Component Plan options available to the Participant hereunder (including the portion of such costs payable with Non-Elective Contributions, if any); and
- C. Any administrative fees payable which are attributable to a Participant's Plan participation, with such sum as aforementioned in A, B and C adjusted, as required, due to increases or decreases in the costs of Component Plans.

4.02 Description of Non-Taxable Benefit. The Election to receive Optional Benefits as Non-Taxable Benefits shall be made pursuant to the terms of the Plan for the purpose of obtaining Employee and/or Dependent coverage on a tax-favored basis, but the Optional Benefits shall be provided not by the Plan but by the terms of the applicable Component Plan. The type and amount of benefit, the requirements for participants in such option, and the other terms and conditions of coverage and benefits under such option are as set forth from time to time in the applicable Component Plan document(s).

If there is any conflict between the provisions of the Plan and the Component Plan (or any insurance contracts that constitute or are incorporated into the Component Plan), the provisions of the Component Plan shall control.

4.03 Election of Taxable Benefits or Non-Taxable Benefits. A Participant may elect to receive Optional Benefits as either Taxable Benefits or as Non-Taxable Benefits. If a Participant shall elect Non-Taxable Benefits, the Participant's Compensation shall be reduced, and an amount equal to the reduction shall be contributed by the Employer to cover the Participant's share of the cost of Optional Benefits. If a Participant shall elect Taxable-Benefits, the cost of Optional Benefits shall be paid by the Participant with after-tax contributions.

4.04 Change in Component Plan Costs. If the cost of coverage under a Component Plan is increased or decreased during the Plan Year, the Participant's Elective Contributions or after-tax contributions shall be increased or decreased automatically by an equivalent amount.

Alternatively, at the sole discretion of the Administrator, if the Participant's share of the cost of Employee and/or Dependent coverage under a Component Plan for medical care increases substantially or if the coverage provided by an independent third-party provider is significantly curtailed during the Plan Year, each affected Participant may be permitted to revoke their Election form for the balance of a Plan Year. Such revocation shall be permitted only if the Participant may enroll prospectively for comparable coverage under another Component Plan for medical care sponsored by the Employer.

4.05 Non-Discrimination Standards. The Plan shall be operated in a non-discriminatory manner in compliance with requirements of the Code. As provided in Section 5.05, the Administrator may modify or reject any Salary Reduction Agreement to the extent the Administrator, in its discretion, deems necessary, to ensure that this Section 4.05 is not violated.

4.06 No Refund or Carryover. Neither a Participant nor any beneficiary of the Participant shall be entitled to a refund of any amounts contributed to the Plan. Furthermore, amounts contributed to the Plan for one Plan Year may not be carried forward to purchase or provide benefits in subsequent Plan Years, except as permitted during the Grace Period. Benefits accrued or incurred during a Plan Year, however, may be paid during the subsequent Plan Year. Benefits shall be treated as accrued or incurred when the Component Plans coverage is provided, and not when the Participant is formally billed or charged for the expense or submits a claim for benefits.

4.07 Forfeitures. If any Non-Taxable Benefits are forfeitable at the end of the Plan Year and the applicable Grace Period because the Participant is not entitled to a refund or carryover of contributions to the Plan, such unallocated amounts shall revert to the Employer.

ARTICLE V ELECTION PROCEDURE

5.01 Annual Election Procedure. Prior to the commencement of each Plan Year, the Administrator shall notify each Participant, and other Employees who are eligible to become a Participant at the beginning of the Plan Year, concerning the right to revoke or change their Election. Election revocations or changes must be made prior to the commencement of each Plan Year and shall not be later than the beginning of the first pay period for which the Participant's Salary Reduction Agreement, if any, shall apply. An Election form must be completed and returned to the Administrator on or before such date as the Administrator shall specify.

5.02 New Participants. For Employees who become eligible to participate in the Plan after the Effective Date or after the beginning of a succeeding Plan Year, as soon as practicable after an Employee becomes eligible to participate in the Plan, the Administrator shall provide the Employee with an Election form. The Election form must be completed and returned to the Administrator on or before such date as the Administrator shall specify, which date shall not be later than the beginning of the first pay period for which the Participant's Salary Reduction Agreement, if any, shall apply.

5.03 Failure to Elect. In order to participate in the Plan, Participants must complete an Election form and a new Election form prior to each subsequent Plan Year in which they are eligible to participate. A Participant who fails to return a completed Election form to the Administrator on or before the specified due date in advance of the Plan Year shall be deemed to have elected either:

- A. Coverage for Core Benefits only
- B. The same coverage as that specified on the Participant's most current Election form for the preceding Plan Year (with the exception of the Medical Flexible Spending Account, Limited Purpose Flexible Spending Account and the Dependent Care Flexible Spending Account, which require a new election annually).

5.04 Irrevocability of Election by the Participant During the Plan Year. Elections made under the Plan (or deemed to be made under Section 5.03) shall be irrevocable by the Participant during the Plan Year, subject to status change events in accordance with IRC Reg. Sec. 1.125-4. A Participant may revoke an Election for the balance of a Plan Year and, may file a new Election form only if both the revocation and the new Election are consistent with the status change. An Election change satisfies the consistency rule only if the Election change corresponds with a change in status that affects eligibility for coverage under the Plan. A midyear election change is permitted if one of the following status changes occurs. This list is not exhaustive

- A. A change in legal marital status. Events that change a Participant's legal marital status, including the following: marriage, death of Spouse, divorce, legal separation, and annulment.

- B. A change in number of Dependents. Events that change a Participant's number of Dependents, including the following: birth, death, adoption, foster care and placement for adoption.
- C. A change in employment status of the Employee, Spouse or other Dependent that affects eligibility of group coverage. Events that change the employment status of the Participant, the Participant's Spouse, or the Participant's Dependent include the following: a termination or commencement of employment, a strike or lockout, a commencement of or return from an unpaid leave of absence, a change in worksite and, the extent permitted in Treas. Reg. 1.125-4 and Section 3.03, change in employment status resulting in gaining or losing eligibility under the Plan.
- D. A Dependent (as determined by a Core Benefit or Optional Benefit) satisfies or ceases to satisfy eligibility requirements. Events that cause a Participant's Dependent to satisfy or cease to satisfy eligibility requirements for coverage may include: age, student status, marital status, or any similar circumstance.
- E. A change in the place of residence of the Employee or Dependent, if change of residence materially changes health plan availability.
- F. The commencement or termination of an adoption proceeding.
- G. An Employee's Spouse or Dependent makes a new election under a group medical plan that corresponds with the special enrollment rights provided by HIPAA, including those authorized under the provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA)
- H. Involuntary loss of eligibility under another group plan (other than Medicare or Medicaid programs)
- I. An Employee is required to provide coverage for the Employee's Dependent child due to a judgment, decree, or court order resulting from a divorce, legal separation, annulment, or change in legal custody, including a qualified medical child support order.
- J. An Employee's Dependent, who is enrolled in a group medical plan, becomes entitled to health coverage under Medicare or Medicaid. Conversely, if an Employee or Dependent who has been covered under Medicare or Medicaid loses coverage, the Employee may elect to commence or increase coverage under the Plan.
- K. An Employee taking or returning from Family and Medical Leave as may be provided for under the FMLA.
- L. An Employee's Dependent experiences a significant cost increase or decrease under the Dependent's group health plan during the Plan Year. (Does not apply to a Medical Flexible Spending Account, Limited Purpose Flexible Spending Account or Dependent Care Flexible Spending Account.)
- M. An Employee's Dependent experiences a significant curtailment of coverage or significant improvement in coverage under the Dependent's group health plan during the Plan Year.

- N. An Employee's Dependent plan year or annual enrollment for group benefits differs from the Employee's Plan Year.
- O. An Employee may prospectively revoke an election of coverage under the group health plan that is not a Medical Flexible Spending Account if the Employee is eligible to enroll in a qualified health plan through a Marketplace pursuant to guidance issued by the Department of Health and Human Services and any other applicable guidance either through a special enrollment period or through a Marketplace annual open enrollment period as long as the Employee and/or Spouse/Dependents under the existing plan enroll in Marketplace coverage that is effective no later than the day immediately following the last day of coverage under the original plan.
- P. Entitlement to Medicare or Medicaid. A Participant may modify an Election for benefits attributable to a County-sponsored accident or health plan if the Participant, Spouse, or Dependent becomes entitled to coverage under Medicare or Medicaid (other than coverage consisting solely of benefits under the program for distribution of pediatric vaccines). The Participant may make a prospective Election change to cancel or reduce coverage of that Participant, Spouse, or Dependent under the accident or health plan. Corresponding rights to commence or increase benefits under the accident or health plan shall be granted in the case of loss of coverage under Medicare or Medicaid.
- Q. Such other events that the Administrator determines shall permit a revocation of a Salary Reduction Agreement during a Plan Year in compliance with applicable regulations and rulings of the Internal Revenue Service.
- R. Employees who are found to have ineligible Dependents on the medical plan may cease to be eligible to participate in the medical plan for a period of one year. Additional disciplinary action may be taken.

Unless otherwise noted above, if a Participant desires to change their Election due to a qualifying status change event, the Participant must contact the Administrator within 60 calendar days of the change.

A Participant who has selected Taxable Benefits will be subject to the Election eligibility rules of the Component Plan.

Any new Election under this Section 5.04 shall be effective upon approval by the Administrator, but not earlier than the first pay period beginning after the new Election form is completed and returned to the Administrator. This shall not preclude any eligibility rights provided under applicable federal law (e.g., birth or adoption of child) or termination of participation rules under Section 3.04 of this plan document.

5.05 Unilateral Changes by Administrator. If the Administrator shall determine, before or during any Plan Year, that the Plan may fail to satisfy for such Plan Year any nondiscrimination requirement imposed by the Code, the Administrator shall take such action as the Administrator deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirements or limitations. Such action may

include, without limitation, a modification or rejection of the Election of any Employee, with or without the consent of such Employee.

5.06 Automatic Termination of Election. Elections made under the Plan shall automatically terminate on the date on which the Participant ceases to be a Participant, although coverage or benefits under the Component Plans or as provided by Articles VI, VII, VIII or IX may continue if and to the extent provided by such Component Plans or Articles VI, VII, VIII or IX or by applicable law.

ARTICLE VI
HEALTH SAVINGS ACCOUNT (HSA)

6.01 Special Definitions. Whenever used in this Article VI, the following words or phrases shall have the designated meanings set forth below, notwithstanding other meanings assigned elsewhere in the Plan and when the defined meaning is intended within this Article VI; the initial letter of each word of the term is capitalized.

A. “Qualified HSA Medical Expenses”- Expenses incurred by the HSA owner, his or her Spouse and Dependents that

1. would qualify under Code Section 213 (d), which includes
2. would qualify as health insurance premiums for HSA owners who are age 65 or over, COBRA beneficiaries, or individuals receiving unemployment compensation, or
3. would qualify as long-term care premiums.

6.02 Establishment of Health Savings Accounts (HSA). Employees will be provided forms necessary to establish an HSA. Employees will be responsible for establishing and managing their HSA, including choosing how HSA funds are invested and following the rules that the HSA bank and IRS impose. Once the Employer’s eligible contributions have been deposited into an HSA, Employees will have a nonforfeitable interest in the funds and the Employees will be free to request a distribution of the funds or to move them to another HSA provider, to the extent allowed by law.

6.03 Eligibility for Health Savings Accounts. Employees may open an HSA if they meet the following requirements:

1. Employee is covered by a qualified single or family High Deductible Health Plan (HDHP)
2. Employee is not covered by any other non-HDHP plan that provides any benefits already covered under the Employer’s HDHP
3. Employee is not currently receiving Medicare or Veteran’s Affairs (VA) benefits for a non-service connected disability
4. Employee cannot be claimed as a Dependent on another person’s tax return
5. Employee cannot also be enrolled in a Medical Flexible Spending Account (they, however, can have a Limited Purpose Flexible Spending Account)

6.04 Employer Contribution. The Employer shall contribute to the Health Savings Account for participation in any approved Employer sponsored health management program or programs related to the HDHP, which may be established each year by the Employer and communicated to Participants and eligible Employees in writing.

6.05 Maximum HSA Contribution. The maximum amount which the Participant shall contribute to the Health Savings Account, inclusive of any Employer contribution, pursuant to such Participant’s Salary Reduction Agreement and applicable law.

6.06 Crediting of Health Savings Accounts. As of each date on which Compensation is paid to a Participant in the applicable Plan Year, there shall be credited to the Health Savings Account of the Participant an amount that included the reduction in their Compensation attributable to their Election to voluntarily participate in a Health Savings Account in accordance

with their Salary Reduction Agreement. All amounts credited to the Health Savings Account of the Participant shall be the property of the Employee.

ARTICLE VII
DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT

7.01 Special Definitions. Whenever used in this Article VII, the following words or phrases shall have the designated meanings set forth below, notwithstanding other meanings assigned elsewhere in the Plan and when the defined meaning is intended within this Article VII; the initial letter of each word of the term is capitalized.

- A. "Dependent" – A person who is either:
1. A dependent of a Participant who is under the age of thirteen (13) with respect to whom the Participant is entitled to an exemption under Section 151(c) of the Code; or
 2. A dependent or Spouse of the Participant who is physically or mentally incapable of caring for their self in the meaning of Code Section 21(b).
 3. In the case of the separation or divorce of a Dependent child's parents, the child shall be considered a Dependent of the Participant if:
 - a. The Participant is the custodial parent of the child [within the meaning of Code Section 152(e) (1)];
 - b. Code Section 152(e) (2) or 152(e) (4) applies to the child of the Participant; and
 - c. Such child is under the age of thirteen (13) or is physically or mentally incapable of self-care.
- B. "Dependent Care Flexible Spending Account Benefit" – The payment made from the Participant's Dependent Care Flexible Spending Account to or on behalf of the Participant in the form of reimbursement of the Participant for Dependent Care Expenses as permitted by Code Section 129.
- C. "Earned Income:" – All income derived from wages, salaries, tips, self employment and other Employee compensation as provided in Code section 32(c)(2) but excluding amounts received under the Plan or under any other plan providing dependent care assistance. In the case of a Spouse of a Participant who is a Student or who is physically or mentally incapable of caring for their self, such Spouse shall be deemed to have Earned Income of not less than two hundred and fifty dollars (\$250) per month if the Participant has one Dependent and five hundred dollars (\$500) per month if the Participant has two or more Dependents.
- D. "Dependent Care Expense" – Any expense incurred by a Participant, which is:
1. Paid or incurred for the care of a Dependent or for related household services;
 2. Paid or incurred to a Provider; and
 3. Incurred to enable a Participant to be gainfully employed for any period for which there are one or more Dependents with respect to the Participant.

A Dependent Care Expense shall be deemed to be incurred at the time the services to which the Dependent Care Expense relates is rendered.

- E. "Provider" – A person or entity which shall provide care or other services for which a Dependent Care Expense may be incurred as provided in Section 7.01(E) but not including:
1. A dependent care center, as provided in Code section 21(b)(2)(D) unless the requirements of Code section 21(b)(2)(C) have been satisfied; or
 2. A related individual for whom a deduction is allowable under Code section 151 (c) to the Employee or their Spouse or who is a child of the Employee under the age of 19 at the close of the Plan Year, as provided in Code section 129(c).
- F. "Student" – An individual who, during each of five calendar months during a Plan Year, is a full time student at an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils in attendance at the place where its educational activities are regularly carried out.

7.02 Establishment of Dependent Care Flexible Spending Accounts. The Administrator shall establish and maintain a Dependent Care Flexible Spending Account with respect to each Participant who has elected to receive Dependent Care Flexible Spending Account Benefits for each Plan Year during which the Employer permits contributions to the Dependent Care Flexible Spending Accounts of Participants. Prior to the beginning of each Plan Year, the Employer shall notify Employees if contributions may be made to Dependent Care Flexible Spending Accounts for such Plan Year.

The Employee's Election to receive Dependent Care Flexible Spending Account Benefit shall be made pursuant to the terms of the Plan and this Article VII for the purpose of obtaining reimbursement for Dependent Care Expenses on a tax-favored basis.

7.03 Cessation of Participation (Dependent Care Spend Down). The Plan allows Employees that cease to be Participants in the Plan to spend down unused Dependent Care Flexible Spending Account balances. Employees that cease to participate in the Plan (due to termination or any other reason) may be reimbursed for unused benefits through the end of the Grace Period for the Plan Year in which the termination of participation occurs to the extent the claims do not exceed the balance of the Dependent Care Flexible Spending Account.

7.04 Maximum Employer Contribution. The maximum amount which the Employer shall contribute to the Dependent Care Flexible Spending Account of any Participant pursuant to such Participant's Salary Reduction Agreement shall be the least of:

- A. The Participant's Earned Income for the Plan Year;
- B. The actual or deemed Earned Income of the Participant's Spouse for the Plan Year; or
- C. Five thousand dollars (\$5,000). (This amount shall be reduced to two thousand five hundred dollars (\$2,500) if a separate income tax return is filed for the Plan Year for a married Participant.)

The Dependent Care Flexible Spending Account of a Participant may be funded with Non-Elective Contributions in addition to any amount allocated to the Dependent Care Flexible Spending Account pursuant to the Participant's Salary Reduction Agreement.

7.05 Crediting of Dependent Care Flexible Spending Accounts. As of each date on which Compensation is paid to a Participant in the applicable Plan Year, there shall be credited to the Dependent Care Flexible Spending Account of the Participant an amount equal to the reduction in their Compensation attributable to their Election to receive Dependent Care Flexible Spending Account Benefits in accordance with their Salary Reduction Agreement. All amounts credited to the Dependent Care Flexible Spending Account of the Participant shall be the property of the Employer until distributed, as provided in Section 7.06.

7.06 Debiting of Dependent Care Flexible Spending Accounts. A Participant's Dependent Care Flexible Spending Account shall be debited periodically in the amount of any payment as provided in Section 7.08 to or for the benefit of the Participant for Dependent Care Expenses incurred during the Plan Year. Amounts debited from the Dependent Care Flexible Spending Account shall be the amounts first credited to the Dependent Care Flexible Spending Account, which have not yet been distributed.

7.07 Claims for Reimbursement. A Participant with a Dependent Care Flexible Spending Account may apply to the Administrator for reimbursement of Dependent Care Expenses incurred by the Participant during the Plan Year or within the Grace Period by submitting an application in writing to the Administrator, in such form as the Administrator may prescribe, setting forth:

- A. The amount, date and nature of the Dependent Care Expenses with respect to which a benefit is requested accompanied by bills, invoices, receipts, or other statements showing the amount of such Dependent Care Expenses;
- B. The name and federal tax identification number of the person, organization or entity to which the Dependent Care Expense was or is to be paid; and
- C. Such other information as the Administrator, from time to time, shall request.

7.08 Reimbursement or Payment of Dependent Care Expenses. The Administrator shall reimburse the Participant from the Participant's Dependent Care Flexible Spending Account for Dependent Care Expenses incurred during the Plan Year or Grace Period for which the Participant submits documentation in accordance with Section 7.07. The Participant has a Run-Out Period (90 calendar days after the end of the Grace Period) to submit claims for Dependent Care Expenses incurred during the Plan Year and Grace Period. No reimbursement of Dependent Care Expenses shall exceed the balance of the Participant's Dependent Care Flexible Spending Account at the time the request for reimbursement is submitted to the Administrator. Any such Dependent Care Expenses which exceed the balance of the Participant's Dependent Care Flexible Spending Account shall be carried over and reimbursed or paid only if and when the balance in such Dependent Care Flexible Spending Account permits such reimbursement or payment; provided, however, that no Dependent Care Expenses may be carried over from one Plan Year to the next, with the exception of the Grace Period.

7.09 Report to Participants. On or before January 31 of each year, the Administrator shall furnish to each Participant with a Dependent Care Flexible Spending Account for the preceding Plan Year a written statement showing the amount of Dependent Care Flexible Spending Account Benefits paid by the Employer during such Plan Year with respect to the Participant.

ARTICLE VIII
MEDICAL CARE REMBURSEMENT SPENDING ACCOUNT
(Medical Flexible Spending Account)

8.01 Special Definitions. Whenever used in this Article VIII, the following words or phrases shall have the designated meanings set forth below, notwithstanding other meanings assigned elsewhere in the Plan and when the defined meaning is intended within this Article VIII, the initial letter of each word of the term is capitalized.

- A. "Medical Flexible Spending Account Benefit" - The payment made from the Participant's Medical Flexible Spending Account to or on behalf of the Participant in the form of reimbursement of the Participant for Qualifying Medical Expenses.
- B. "Qualifying Medical Expense" - An expense incurred by a Participant, or by the Spouse or Dependent of such Participant for medical care as defined in Code Section 213; provided, however, that a premium payment for accident and health insurance shall not constitute a Qualifying Medical Expense. An expense shall be considered a Qualifying Medical Expense only to the extent that the Participant (or their Spouse or Dependent, if applicable) is not reimbursed for the expense and the expense is not reimbursable through insurance or otherwise (except as provided by the Plan).

8.02 Establishment of Medical Flexible Spending Accounts. The Administrator shall establish and maintain a Medical Flexible Spending Account for each Plan Year with respect to each Participant who is not eligible for contributions into an HSA and has elected to receive Medical Flexible Spending Account Benefit. The Election to receive Medical Flexible Spending Account Benefits shall be made pursuant to the terms of the Plan and this Article VIII for the purpose of obtaining reimbursement for Qualifying Medical Expenses on a tax-favored basis.

8.03 Cessation of Participation. When an Employee ceases to be a Participant, contributions on their behalf to the Medical Flexible Spending Account shall be discontinued, but the Employee may receive Medical Flexible Spending Account Benefits for Qualifying Medical Expenses incurred on or before the date on which their participation terminates. Claims must be submitted for reimbursement within 90 calendar days after the Employee's date of termination.

8.04 Irrevocability of Medical Flexible Spending Account Election. An Election by a Participant directing Elective Contributions to the Medical Flexible Spending Account shall be irrevocable by the Participant during the Plan Year to which it applies, subject to certain status change events. A Participant may revoke the Election form for the balance of a Plan Year and, if they choose, file a new Election form only if both the revocation and the new Election are on account of and consistent with certain status changes and the amount of the new Election is for a lesser amount. Qualified status changes for the purpose of this Article shall include:

- A. A change in legal marital status;
- B. A change in the number of Dependents;
- C. A change in the employment status of the Employee or Dependent;
- D. Such other events that the Administrator determines shall permit a revocation of a Salary Reduction Agreement during a Plan Year in compliance with applicable regulations and rulings of the Internal Revenue Service.

8.05 Maximum Employer Contribution. The maximum Employer contribution into a Medical Flexible Spending Account includes Non-Elective Contributions made by the Employer and Elective Contributions on behalf of a Participant pursuant to a Salary Reduction Agreement. The Elective Contributions through the Participant's Salary Reduction Agreement shall be limited to \$2,550 (indexed for inflation) under Internal Revenue Code 125(i) and communicated to the Participants in writing..

8.06 Crediting of Medical Flexible Spending Accounts. As of each date on which Compensation is paid to a Participant in the applicable Plan Year, there shall be credited to the Medical Flexible Spending Account of the Participant an amount equal to the reduction in Compensation attributable to the Participant's Election to receive Medical Flexible Spending Account Benefits in accordance with the Salary Reduction Agreement. All amounts credited to the Medical Flexible Spending Account of the Participant shall be the property of the Employer until distributed, as provided in Section 8.07.

8.07 Debiting of Medical Flexible Spending Accounts. A Participant's Medical Flexible Spending Account shall be debited periodically in the amount of any payment as provided in Section 8.10 to or for the benefit of the Participant for Qualifying Medical Expenses incurred after the Employee becomes a Participant and during the Plan Year.

8.08 Change to type of Flexible Spending Account offered to former Low Deductible Plan Participants. Employees enrolled in a Medical Flexible Spending Account and who chose to enroll in the High Deductible Plan with a Health Savings Account the subsequent plan year will have their Medical Flexible Spending Account converted into a Limited Purpose Flexible Spending Account during the Medical Flexible Spending Account's Grace Period and 90 day Run-Out Period.

8.09 Election for COBRA Continuation. An Employee who ceases to be a Participant due to their Severance (other than by reason of gross misconduct) or other "qualifying event" as such term is defined by COBRA, may elect to continue participation in their Medical Flexible

Spending Account on an after-tax basis. The amount of any continued contributions shall be credited to the Medical Flexible Spending Account of the Employee, as long as the minimum contribution is made on a monthly basis as determined by the Employer. The Administrator may, at its sole discretion, impose an administrative charge of up to two percent (2 %) of the amount of continued contributions, which the Employee shall remit to the Administrator together with the continued contributions.

If the Employee shall fail to remit continued contributions for the Medical Flexible Spending Account and administrative charges to the Administrator in a timely manner, as provided by COBRA, the Employer shall reduce any reimbursement for Qualifying Medical Expenses remaining to be paid to the Employee by the amount of unremitted contributions to the Medical Flexible Spending Account scheduled but not paid for the remainder of the Plan Year.

8.10 Claims for Reimbursement. A Participant who has elected Non-Taxable Benefits for a Plan Year may apply to the Administrator for reimbursement of Qualifying Medical Expenses incurred by the Participant during the Plan Year or within the Grace Period by submitting an application in writing to the Administrator, in such form as the Administrator may prescribe, setting forth:

- A. The amount of the Qualifying Medical Expenses with respect to which a benefit is requested accompanied by bills, invoices, receipts, or other proof that the Qualifying Medical Expenses have been incurred;
- B. A statement from the Employee specifying that the Qualifying Medical Expenses have not been reimbursed under the Plan or any other plan that covers the Employee or a Dependent; and
- C. Such other information as the Administrator, from time to time, shall request.

8.11 Reimbursement or Payment of Qualifying Medical Expenses. The Administrator shall reimburse the Participant from the Participant's Medical Flexible Spending Account for Qualifying Medical Expenses incurred during the Plan Year or within the Grace Period for which the Participant submits documentation in accordance with Section 8.09. . The Participant has a Run-Out Period (90 calendar days after the end of the Grace Period) to submit claims for Qualifying Medical Expenses incurred during the Plan Year and Grace Period The Administrator may, at its option, pay any such Qualifying Medical Expenses directly to the person providing or supplying medical care in lieu of reimbursing the Participant. Distributions from a Participant's Medical Flexible Spending Account shall be made when requested at least monthly or, if later, when the total amount requested is at least twenty-five dollars (\$25).

No reimbursement or payment of Qualifying Medical Expenses incurred during a Plan Year or within the Grace Period shall at any time exceed the total amount of the Participant's Salary Reduction Agreement (properly reduced for prior reimbursements for the same Plan Year). However, reimbursement of the total amount of the Participant's Salary Reduction Agreement for the applicable Plan Year (reduced by any prior reimbursements attributable to such Plan Year) shall be available for distribution at all times during the Plan Year regardless of the balance in the Medical Flexible Spending Account of the Participant at the time a distribution is requested.

8.12 Qualified Reservist Distributions. A Participant may receive a distribution of the portion of his Medical Flexible Spending Account provided that such amount was in existence on or after June 18, 2008. The distribution will only be made if: (i) such Participant was a member of a reserve component ordered or called to active duty for a period in excess of 179 days or for an indefinite period and (ii) such distribution is made during the period beginning on the date of such order or call and ending on the last date that reimbursements could otherwise be made under the Plan for the Plan Year which includes the date of such order or call. A Participant ordered or called to active duty before June 18, 2008 is eligible for a Qualified Reservist Distribution if the Participant's period of active duty continues after June 18, 2008 and meets the duration requirements of IRS Notice 2008-82. A Qualified Reservist Distribution may not be made based on an order or call to active duty of any individual other than the Participant, including the Spouse of the Participant.

The Plan shall permit a Participant to submit Medical Flexible Spending Account claims for Qualifying Medical Expenses incurred before the date a Qualified Reservist Distribution is requested. The Participant shall not have the right to submit claims for Qualifying Medical Expenses incurred after the date such Qualified Reservist Distribution is requested. The County shall pay the Qualified Reservist Distribution to the Participant within a reasonable time, but not more than sixty days after the request for a Qualified Reservist Distribution has been made.

The amount available as a Qualified Reservist Distribution will be the amount contributed to the Medical Flexible Spending Account as of the date of the Qualified Reservist Distribution request minus Medical Flexible Spending Account reimbursements received as of the date of the Qualified Reservist Distribution request.

ARTICLE IX
LIMITED PURPOSE FLEXIBLE SPENDING ACCOUNT

9.01 Special Definitions. Whenever used in this Article IX, the following words or phrases shall have the designated meanings set forth below, notwithstanding other meanings assigned elsewhere in the Plan and when the defined meaning is intended within this Article IX, the initial letter of each word of the term is capitalized.

- A. "Limited Purpose Flexible Spending Account Benefit" – The payment made from the Participant's Limited Purpose Flexible Spending Account to or on behalf of the Participant in the form of reimbursement of the Participant for Qualifying Expenses.
- B. "Qualifying Expense" - An expense incurred by a Participant, or by the Spouse or Dependent of such Participant for dental and/or vision care as defined in Code Section 213 and/or preventive care as defined in Code Notice 2004-23 and Notice 2004-50. A qualifying expense shall be considered a Qualifying Expense only to the extent that the Participant (or their Spouse or Dependent, if applicable) is not reimbursed for the expense and the expense is not reimbursable through insurance or otherwise (except as provided by the Plan).

9.02 Establishment of Limited Purpose Flexible Spending Accounts. The Administrator shall establish and maintain a Limited Purpose Flexible Spending Account with respect to each Participant who has elected to receive Limited Purpose Flexible Spending Account Benefits to the extent permitted by law. The Election to receive Limited Purpose Flexible Spending Account Benefits shall be made pursuant to the terms of the Plan and this Article IX for the purpose of obtaining reimbursement for Qualifying Expenses on a tax-favored basis.

9.03 Cessation of Participation. When an Employee ceases to be a Participant, contributions on their behalf to the Limited Purpose Flexible Spending Account shall be discontinued, but the Employee may receive Limited Purpose Flexible Spending Account Benefits for Qualifying Expenses incurred on or before the date on which their participation terminates. Claims must be submitted for reimbursement within 90 calendar days after the Employee's date of termination.

9.04 Irrevocability of Limited Purpose Flexible Spending Account Election. An Election by a Participant directing Elective Contributions to the Limited Purpose Flexible Spending Account shall be irrevocable by the Participant during the Plan Year to which it applies, subject to certain status change events. A Participant may revoke the Election form for the balance of a Plan Year and, if they choose, file a new Election form only if both the revocation and the new Election are on account of and consistent with certain status changes and the amount of the new Election is for a lesser amount. Qualified status changes for the purpose of this Article shall include:

- A. A change in legal marital status;
- B. A change in the number of Dependents;

- C. A change in the employment status of the Employee or Dependent;
- D. Such other events that the Administrator determines shall permit a revocation of a Salary Reduction Agreement during a Plan Year in compliance with applicable regulations and rulings of the Internal Revenue Service.

9.05 Maximum Employer Contribution. The maximum Employer contribution into a Limited Purpose Flexible Spending Account includes Non-Elective Contributions made by the Employer and Elective Contributions on behalf of a Participant pursuant to a Salary Reduction Agreement. The Elective Contributions through the Participant's Salary Reduction Agreement shall be limited to \$2,550 (indexed for inflation) under Internal Revenue Code 125(i) and communicated to the Participants in writing..

9.06 Crediting of Limited Purpose Flexible Spending Accounts. As of each date on which Compensation is paid to a Participant in the applicable Plan Year, there shall be credited to the Limited Purpose Flexible Spending Account of the Participant an amount equal to the reduction in Compensation attributable to the Participant's Election to receive Limited Purpose Flexible Spending Account Benefits in accordance with the Salary Reduction Agreement. All amounts credited to the Limited Purpose Flexible Spending Account of the Participant shall be the property of the Employer until distributed, as provided in Section 9.07.

9.07 Debiting of Limited Purpose Flexible Spending Accounts. A Participant's Limited Purpose Flexible Spending Account shall be debited periodically in the amount of any payment as provided in Section 9.10 to or for the benefit of the Participant for Qualifying Expenses incurred after the Employee becomes a Participant and during the Plan Year.

9.08 Election for COBRA Continuation. An Employee who ceases to be a Participant due to their Severance (other than by reason of gross misconduct) or other "qualifying event" as such term is defined by COBRA, may elect to continue participation in their Limited Purpose Flexible Spending Account on an after-tax basis. The amount of any continued contributions shall be credited to the Limited Purpose Flexible Spending Account of the Employee, as long as the minimum contribution is made on a monthly basis as determined by the Employer. The Administrator may, at its sole discretion, impose an administrative charge of up to two percent (2 %) of the amount of continued contributions, which the Employee shall remit to the Administrator together with the continued contributions.

If the Employee shall fail to remit continued contributions for the Limited Purpose Flexible Spending Account and administrative charges to the Administrator in a timely manner, as provided by COBRA, the Employer shall reduce any reimbursement for Qualifying Expenses remaining to be paid to the Employee by the amount of unremitted contributions to the Limited Purpose Flexible Spending Account scheduled but not paid for the remainder of the Plan Year.

9.09 Claims for Reimbursement. A Participant who has elected Non-Taxable Benefits for a Plan Year may apply to the Administrator for reimbursement of Qualifying Expenses incurred by the Participant during the Plan Year or within the Grace Period by submitting an application in writing to the Administrator, in such form as the Administrator may prescribe, setting forth:

- A. The amount of the Qualifying Expenses with respect to which a benefit is requested accompanied by bills, invoices, receipts, or other proof that the Qualifying Expenses have been incurred;
- B. A statement from the Employee specifying that the Qualifying Expenses have not been reimbursed under the Plan or any other plan that covers the Employee or a Dependent; and
- C. Such other information as the Administrator, from time to time, shall request.

9.10 Reimbursement or Payment of Qualifying Expenses. The Administrator shall reimburse the Participant from the Participant's Limited Purpose Flexible Spending Account for Qualifying Expenses incurred during the Plan Year or within the Grace Period for which the Participant submits documentation in accordance with Section 9.09. The Participant has a Run-Out Period (90 calendar days after the end of the Grace Period) to submit claims for Qualifying Expenses incurred during the Plan Year and Grace Period. The Administrator may, at its option, pay any such Qualifying Expenses directly to the person providing or supplying care in lieu of reimbursing the Participant. Distributions from a Participant's Limited Purpose Flexible Spending Account shall be made when requested at least monthly or, if later, when the total amount requested is at least twenty-five dollars (\$25).

No reimbursement or payment of Qualifying Expenses incurred during a Plan Year or within the Grace Period shall at any time exceed the total amount of the Participant's Salary Reduction Agreement (properly reduced for prior reimbursements for the same Plan Year). However, reimbursement of the total amount of the Participant's Salary Reduction Agreement for the applicable Plan Year (reduced by any prior reimbursements attributable to such Plan Year) shall be available for distribution at all times during the Plan Year regardless of the balance in the Limited Purpose Flexible Spending Account of the Participant at the time a distribution is requested.

9.11 Qualified Reservist Distributions. A Participant may receive a distribution of the portion of his Limited Purpose Flexible Spending Account provided that such amount was in existence on or after June 18, 2008. The distribution will only be made if: (i) such Participant was a member of a reserve component ordered or called to active duty for a period in excess of 179 days or for an indefinite period and (ii) such distribution is made during the period beginning on the date of such order or call and ending on the last date that reimbursements could otherwise be made under the Plan for the Plan Year which includes the date of such order or call. A Participant ordered or called to active duty before June 18, 2008 is eligible for a Qualified Reservist Distribution if the Participant's period of active duty continues after June 18, 2008 and meets the duration requirements of IRS Notice 2008-82. A Qualified Reservist Distribution may not be made based on an order or call to active duty of any individual other than the Participant, including the Spouse of the Participant.

The Plan shall permit a Participant to submit Limited Purpose Flexible Spending Account claims for Qualifying Expenses incurred before the date a Qualified Reservist Distribution is requested. The Participant shall not have the right to submit claims for Qualifying Expenses incurred after the date such Qualified Reservist Distribution is requested. The County shall pay the Qualified

Reservist Distribution to the Participant within a reasonable time, but not more than sixty days after the request for a Qualified Reservist Distribution has been made.

The amount available as a Qualified Reservist Distribution will be the amount contributed to the Limited Purpose Flexible Spending Account as of the date of the Qualified Reservist Distribution request minus Limited Purpose Flexible Spending Account reimbursements received as of the date of the Qualified Reservist Distribution request.

ARTICLE X
EMPLOYEE BENEFIT CLAIMS PROCEDURE

10.01 Submission of Claim. In the event that Participants believe that they are due a benefit, entitlement or right under the Plan, which has been curtailed or denied, Participants may deliver a written request to the Administrator for a review of their claim. Upon receipt of such request, the Administrator may require the Participant to complete such other forms and provide such additional information as may be necessary or helpful to establish the Participant's claim under the Plan.

10.02 Refunds/Indemnification. If the Administrator determines that any Participant has directly or indirectly received excess payments/reimbursements or has received payments/reimbursements that are taxable to the Participant, the Administrator shall notify the Participant and the Participant shall repay such excess amount (or at the option of the Administrator, the Participant shall repay the amount that should have been withheld or paid as payroll or withholding taxes) as soon as possible, but in no event later than 30 days after the date of notification. A Participant shall indemnify and reimburse the Employer for any liability the Employer may incur for making such payments including, but not limited to, failure to withhold or pay payroll or withholding taxes from such payments or reimbursements. If the Participant fails to timely repay an excess amount and/or make sufficient indemnification, the Administrator may: (i) to the extent permitted by applicable law, offset the Participant's salary or wages, and/or (ii) offset other benefits payable hereunder.

10.03 Debit, Credit or Other Stored Value Cards. To the extent provided in the Plan, the Employer may enter into an agreement with a financial institution and/or Third Party Administrator to provide a Participant with a debit, credit or other stored value card to provide immediate payment of reimbursements available provided that the use of such card complies with IRS Notice 2006-69 and IRS Revenue Ruling 2003-43 (to the extent not superseded by IRS Notice 2006-69). A Participant may obtain benefits without the use of the card.

10.04 Death. If a Participant dies, his beneficiaries or his estate may submit claims for expenses or benefits for the portion of the Plan Year preceding the date of the Participant's death. A Participant may designate a specific beneficiary for this purpose. If no such beneficiary is specified, the Administrator may pay any amount due hereunder to the Participant's Spouse, one or more of his or her Dependents or a representative of the Participant's estate. Such payment shall fully discharge the Administrator and the County from further liability on account thereof.

10.05 Notice of Claim Denial by Administrator. In the event that a claim is wholly or partially denied, the Administrator shall notify the Participant of the denial of the claim. Such notice of denial:

- A. Shall be in writing;
- B. Shall be written in a manner calculated to be understood by the Participant; and
- C. Shall contain:

1. The specific reason or reasons for denial of the claim;
2. A specific reference to the pertinent Plan provisions upon which the denial is based;
3. A description of any additional material or information necessary to perfect the claim, along with an explanation of why such material or information is necessary; and
4. An explanation of the claim review procedure.

Such notice shall be delivered to the Participant within 30 days after receipt of the claim. If the Administrator requires additional time to process the claim, the initial period may be extended for an additional 30 days by giving written notice to the Participant before the end of the initial 30 day period stating the circumstances requiring the extension and the date by which a final decision is expected. Failure to provide a notice of decision within the time specified shall constitute a denial of the claim.

10.06 Request for Review of Claim Denial. The Participant whose claim has been denied, or the Participant's duly authorized representative, may by written request seek a review of the denied claim and the Participant, or the Participant's duly authorized representative, may review the pertinent Plan documents and may submit issues and comments in writing to that end. The written request shall be made by the Participant, or the Participant's duly authorized representative, within 30 days after the earlier of:

- A. Receipt by the Participant of written notice of the denial of the Participant's claim;
or
- B. The expiration of the claims process period, including an extension, if applicable.

10.07 Decision on Review of Claim Denial. The decision to review the denial of any claim hereunder shall be made by the Administrator who may, at its discretion, hold a hearing to assist in the review of the denied claim. The decision shall be made no later than 60 days after the receipt by the Administrator of the request to review. If special circumstances require more than 60 days to process the claim, this period may be extended for up to an additional 60 days by giving written notice to the Participant by the end of the initial 60 day period stating the special circumstances (including the need to hold a hearing) and the date by which a final decision is expected. If the review results in the denial of the claim being upheld, such decision shall:

- A. Be written in a manner calculated to be understood by the Participant;
- B. Include the specific reason or reasons for the decision; and
- C. Contain a specific reference to the pertinent Plan provisions upon which the decision is based.

10.08 Claims Procedure for Non-Taxable Benefits Provided by Insurer. When Plan benefits are to be provided in whole or in part under an insurance contract issued by an Insurer, the initial decision and notice of decision regarding a claim for benefits under an insurance contract shall be made by the Insurer issuing the insurance contract in accordance with the

provisions of the insurance contract. The Insurer shall have the sole responsibility for review of any denied claims, and the appeal of such denied claims and the final decision with respect thereto shall be as specified in the insurance contract. The Employer shall have no liability to any Participant whose claim for benefits is denied in whole or in part by the Insurer.

10.09 Additional Internal and External Claims Review Procedures. The Employer has entered into agreements with the applicable Third Party Administrators to provide Participants with an internal and external claims review process. The internal and external claims review process includes an adverse benefit determination, full and fair review and required notices as determined under Department of Labor (DOL) Reg. 2590.715-2719 and any superseding guidance. This section has been included to comply with DOL Technical Releases including Technical Release No. 2011-02.

**ARTICLE XI
ADMINISTRATION OF PLAN**

11.01 Plan Administrator. The administration of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out in accordance with its terms, for the exclusive benefit of the Participants without discrimination among them. The Administrator shall have full power to manage, operate and administer the Plan in all of its details, subject to applicable requirements of law. For this purpose, in addition to all other powers provided by the Plan, the Administrator's powers shall include, but shall not be limited to, the following:

- A. To formulate, adopt, issue and enforce such rules and regulations as it deems necessary or proper for the efficient operation and administration of the Plan, including the establishment of any claims procedures that may be required by applicable provisions of law, and to amend or rescind such rules, regulations and procedures, from time to time;
- B. To interpret the Plan, and to interpret all questions of law or fact arising under it, such interpretation thereof in good faith to be final and conclusive on all persons claiming benefits under the Plan;
- C. To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;
- D. To adopt and prescribe the use of necessary forms;
- E. To maintain records of Plan Participants;
- F. To appoint such agents, counsel (who may be counsel to the Employer), accountants, consultants and other persons as may be required to assist in the administration of the Plan;
- G. To allocate and delegate its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan, any such allocation, delegation or designation to be in writing; and
- H. To act as designated agent for service of legal process.

Notwithstanding the foregoing, any claim, which arises under any of the Component Plans, shall not be subject to review under the Plan, and the Administrator's authority shall not extend to any matter under any of the Component Plans. All matters and claims under any of the Component Plans shall be determined by the administrator of the Component Plan and any determination made under the Plan shall not reflect upon, influence or determine any matters, issues or claims arising under the Component Plans.

11.02 Examination of Records. The Administrator shall make available to each Participant the Plan records which pertain to such Participant, for examination at reasonable times during normal business hours.

11.03 Reliance on Information. In administering the Plan, the Administrator shall be entitled to the extent permitted by law to rely conclusively on all tables, valuations, certificates, opinions and reports which are furnished by, or in accordance with, the instructions of the administrators of the Component Plans, or by accountants, counselor other experts employed or engaged by the Administrator.

11.04 Nondiscriminatory Exercise of Authority. Whenever, in the administration of the Plan, any discretionary action by the Administrator is required, the Administrator shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated shall receive substantially the same treatment.

11.05 Indemnification of Administrator. In the event and to the extent not insured against by any insurance company pursuant to provisions of any applicable insurance policy, the Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who formerly served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorney's fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith. No Administrator shall be liable for the acts or omissions of the Component Plans administrator(s), any Insurer thereunder, or any other person or persons connected with the administration of the Component Plans.

11.06 No Guarantee of Non-Taxability. The Plan is designed and is intended to be a "cafeteria plan" under Code Section 125. Nonetheless, neither the Employer nor the Administrator shall in any way be liable for any taxes or other liability incurred by a Participant, or anyone claiming through the Participant, by virtue of participation in the Plan. The Plan does not prohibit, and indeed, contemplates providing Taxable Benefits under certain of the Component Plans.

11.07 Compensation and Expenses. The Administrator shall serve without compensation for the Administrator's services hereunder. All expenses of the Administrator shall be paid by the Employer and the Employer shall furnish the Administrator with such clerical and other assistance as is necessary for the performance of the Administrator's duties.

Notwithstanding the foregoing, the Administrator may contract with a Third Party Administrator and/or financial institution to provide services to the Plan and the expenses of such services may, at the sole discretion of the Employer, be paid either by the Employer or from the Plan.

11.08 Health Insurance Portability and Accountability Act (HIPAA) Privacy Rules

Application. This Section 11.08 shall only apply in the event that this Plan constitutes a group health plan as defined in section 2791(a)(2) of the Public Health Service Act.

- A. Privacy Policy. The Plan shall adopt a HIPAA privacy policy, the terms of which are incorporated herein by reference.
- B. Business Associate Agreement. The Plan will enter into a business associate agreement with any persons as may be required by applicable law as determined by the Administrator.
- C. Notice of Privacy Practices. The Plan will provide each Participant with a notice of privacy practices to the extent required by applicable law.
- D. Disclosure to the County.
 1. In General. This subsection permits the Plan to disclose protected health information ("PHI"), as defined in the HIPAA privacy rules, to the County to the extent that such PHI is necessary for the County to carry out its administrative functions related to the Plan.
 2. Permitted Disclosure. The Plan may disclose the PHI to the County that is necessary for the County to carry out the following administrative functions related to the Plan: eligibility determinations, enrollment and dis-enrollment activities, and Plan amendments or termination. The County may use and disclose the PHI provided to it from the Plan only for the administrative purposes described in this subsection.
 3. Limitations. The County agrees to the following limitations and requirements related to its use and disclosure of PHI received from the Plan:
 - a. Use and Further Disclosure. The County shall not use or further disclose PHI other than as permitted or required by the Plan document or as required by all applicable law including, but not limited to, the HIPAA privacy rules. When using or disclosing PHI or when requesting PHI from the Plan, the County shall make reasonable efforts to limit the PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure or request.
 - b. Agents and Subcontractors. The County shall require any agents, including subcontractors, to whom it provides PHI received from the Plan to agree to the same restrictions and conditions that apply to the County with respect to such information
 - c. Employment-Related Actions. Except as permitted by the HIPAA privacy rules and other applicable federal and state privacy laws, the County shall not use PHI for employment-related actions and decisions, or in connection with any other Employee benefit plan of the County.
 - d. Reporting of Improper Use or Disclosure. The County shall promptly report to the Plan any improper use or disclosure of PHI of which it becomes aware.
 - e. Adequate Protection. The County shall provide adequate protection of PHI and separation between the Plan and the County by: (i) ensuring

that only those Employees who work in the human resources department of the County and those Employees who work in the Comptroller's Office payroll department who manage or execute the Plan on issues related to the healthcare components of the Plan will have access to the minimum necessary PHI provided by the Plan; (ii) restricting access to and use of PHI to only the Employees identified in clause (i) above and only for the administrative functions performed by the County on behalf of the Plan that are described herein; (iii) requiring any agents of the Plan who receive PHI to abide by the Plan's privacy rules; and (iv) using the County's established disciplinary procedures to resolve issues of noncompliance by the Employees identified in clause (i) above.

- f. Return or Destruction of PHI. If feasible, the County shall return or destroy all PHI received from the Plan that the County maintains in any form, and retain no copies of such information when no longer needed for the purpose for which disclosure was made. If such return or destruction is not feasible, the County shall limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
 - g. Participant Rights. The County shall provide Participants with the following rights: (i) the right to access to their PHI in accordance with 45 C.F.R. §164.524; (ii) the right to amend their PHI upon request (or the County will explain to the Participant in writing why the requested amendment was denied) and incorporate any such amendment into a Participant's PHI in accordance with 45 C.F.R. §164.526; and (iii) the right to an accounting of all disclosures of their PHI in accordance with 45 C.F.R. §164.528.
 - h. Cooperation with the United States Department of Health and Human Services (HHS) or appropriate federal agencies. The County shall make its books, records, and internal practices relating to the use and disclosure of PHI received from the Plan available to HHS for verification of the Plan's compliance with the HIPAA privacy rules.
4. Certification. The County hereby certifies that the Plan documents have been amended in accordance with 45 C.F.R. §164.504(f), and that the County shall protect the PHI as described in subsection 3 herein.
5. Security Standards Requirement. To comply with the security standards regulations that were published on February 21, 2003, the County must:
- a. implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic PHI that it creates, receives, maintains or transmits on behalf of the Plan;
 - b. ensure that the adequate separation required by 45 C.F.R. 164.504(f)(2)(iii) is supported by reasonable and appropriate security measures;

- c. ensure that any agent, including a subcontractor, to whom it provides this information agrees to implement reasonable and appropriate security measures to protect the information; and
 - d. report to the Plan any security incident of which it becomes aware.
- 6. HITECH Act Requirement. To comply with the requirements of sections 13401 and 13404 of the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, the County agrees to incorporate all requirements of the HITECH Act into the County’s business associate agreements.
- 7. Amendment. Notwithstanding any other provision of the Plan, this section may be amended in any way and at any time by the County.
- 8. Effective Dates. Subsections (1) – (4) and subsection (6) apply to the Plan no later than April 14, 2003, or such other date that the HIPAA Privacy Regulations apply to the Plan. Section (5) applies to the Plan no later than April 20, 2005, or such other date that the HIPAA Security Regulations apply to the Plan.

ARTICLE XII
AMENDMENT AND TERMINATION OF PLAN

12.01 Amendment and Termination. The Employer expects the Plan to be permanent and continue indefinitely, but since future conditions affecting the Employer cannot be anticipated or foreseen, the Employer must necessarily and does hereby reserve the right to amend, modify, supplement, or terminate the Plan at any time. The Employer may make any modifications or amendments to the Plan that are necessary or appropriate to qualify or maintain the Plan as a Plan meeting the requirements of Code sections including but not limited to 79, 105, 106, 125, 129, 152 213, and 223 as now in effect or hereafter adopted or the Regulations issued thereunder. Such amendments shall be as set forth in an instrument in writing executed by the Employer.

Any amendment may be current, retroactive or prospective, in each case as provided therein; provided, however, that no amendment shall create or effect any discrimination prohibited by the Code.

12.02 Exclusive Benefit. The Plan is adopted for the exclusive benefit of the Employees of the Employer. No amendment to the Plan or action by the Employer or Administrator shall cause the Plan to be operated other than for the exclusive benefit of Employees and Participants.

12.03 Accrued Benefits Upon Termination or Amendment of Plan. The amendment or termination of the Plan shall not cause the loss or forfeiture of any benefits accrued or owing to the Participants prior to the date of the amendment or termination.

**ARTICLE XIII
MISCELLANEOUS PROVISIONS**

13.01 Number. Any term herein in the singular may also include the plural.

13.02 Gender. Whenever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply.

13.03 Information to be Furnished. Participants shall provide the Employer and Administrator with such information and evidence, and shall sign such documents as may reasonably be requested from time to time for the purpose of administration of the Plan and to avoid payment of benefits for which the Plan, a Component Plan or an Insurer is not primarily liable.

13.04 Limitation of Employee's Rights. Neither the establishment of the Plan nor any amendment hereof, nor the payment of any benefits, shall be construed as giving to any Participant or to any other person any legal or equitable right against the Employer, or any officer or Employee thereof, the Administrator, or any other person, except as herein provided. Participation in the Component Plans by Employees and their Dependents shall be governed by the terms and provisions of the Component Plans and nothing in the Plan shall be construed as giving to any Participant or to any other person any rights under the Component Plans except as provided under such Component Plans.

13.05 Indemnification by Participants. If any Participant receives a reimbursement from a Medical Flexible Spending Account, Limited Purpose Flexible Spending Account or a Dependent Care Flexible Spending Account for expenses which are not Qualifying Medical Expenses, Qualifying Expenses or Dependent Care Expenses, respectively, the Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to pay or withhold federal income or employment taxes from such payment or reimbursement. However, such indemnification and reimbursement shall not exceed the amount of additional federal income taxes which the Participant would have owed if the payments or reimbursements had been made to the Participant as additional Compensation in the form of Taxable Benefits together with the Participant's share of any employment taxes that would have been paid on such Compensation reduced by any such additional income and employment taxes actually paid by the Participant.

13.06 Flexible Spending Account Assets or Funds. The Account of each Participant shall not represent actual Participant deposits into any fund. No assets or funds shall be invested in any separate trust. Until distributed, the Participant's Election of Non-Taxable Benefits pursuant to a Salary Reduction Agreement shall remain as part of the Employer's general assets. No Participant or any other party shall have any claim against, right to, or security or other interest in, any fund, Account or asset of the Employer from which any payment under the Plan may be made.

13.07 Employment Rights. The establishment and maintenance of the Plan shall not be construed as conferring any legal rights upon any Employee or other person for a continuation

of employment, nor shall it interfere with the rights of the Employer to discharge any Employee and to treat Employee without regard to the effect which such treatment might have upon Employee as a Participant in the Plan.

13.08 Application of COBRA. In the event a Participant (or the Participant's beneficiary) sustains a qualifying event, as defined in Code section 4980B, the Participant (or their beneficiary, if applicable), shall be entitled to continuation of coverage through this Plan and Component Plans to the extent prescribed by Code section 4980B, notwithstanding the provisions of Section 3.02. Any Participant rights under COBRA shall not be deemed to extend any additional rights under the Plan that are not expressly provided herein to Employees or Participants.

13.09 Spendthrift Clause. The interests of Participants in the Plan shall not be subject to assignment or alienation by operation of law or legal process, nor shall such interests be assignable, alienable, or transferable in any way.

13.10 Governing Law. The Plan shall be construed, administered and enforced according to the laws of the State of Florida, to the extent not preempted by applicable Federal law; provided, however, that the governing law with respect to any Component Plan shall be as provided in the Component Plan.

13.11 Tax Effect. The Plan does not represent or guarantee that any particular federal, state or local income, payroll, personal property or other tax consequences will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation.

13.12 Severability. If any provision of the Plan shall be invalid or unenforceable, the remaining provisions hereof shall continue to be fully effective.

13.13 Headings. Paragraph headings used in the Plan are inserted for convenience of reference only, and any conflict among the headings and the text shall be resolved in favor of the text.

13.14 Counterparts. The Plan may be adopted in an original and any number of counterparts, each of which shall be deemed to be an original of one and the same instrument.

IN WITNESS WHEREOF, the Employer has caused the Plan to be executed in its name and on its behalf on the ____ day of ~~October~~, 2012, and to become effective the 1st day of January, 2011. **OCT 20 2015**

BY: *[Signature]*
Orange County, FL

Date: 10.20.15



THE ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

EXHIBIT A

Administrator

The Administrator of the Orange County, Florida WFL Plan shall be the Director of Human Resources.

EXHIBIT B

The Orange County, Florida Medical Plans

The Orange County, Florida Life and Accidental Death and Dismemberment Plan

The Orange County, Florida Disability Plans

The Orange County, Florida Dental Plans

The Orange County, Florida Vision Plan

The Orange County, Florida TRICARE Supplement Plan

ORANGE COUNTY, FLORIDA

WELLNESS FOR LIFE PLAN
Section 125 Cafeteria Plan

ORIGINAL EFFECTIVE DATE: JANUARY 1, 1991

EFFECTIVE DATE OF THIS RESTATEMENT: January 1, ~~2011~~2015

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ARTICLE I
ESTABLISHMENT OF PLAN

1.01 Establishment of Plan. The Orange County, Florida Wellness For Life Plan (WFL) was adopted by Orange County on behalf of its eligible Employees to be effective January 1, 1991 and amended effective January 1, 1993 ~~and~~ January 1, 2009 and January 1, 2011. This document amends and restates the Orange County, Florida WFL Plan in its entirety to be effective January 1, ~~2011~~2015.

1.02 Purpose of Plan; Intent of Employer. The Orange County, Florida WFL Plan is intended to qualify under Section 125 of the Internal Revenue Code of 1986 as a “cafeteria plan” with participating Employees permitted to elect taxable or non-taxable benefits hereunder. The Orange County, Florida WFL Plan should be read and construed in a manner which is consistent with the terms of Internal Revenue Code Section 125, other applicable sections of the Internal Revenue Code and Department of Treasury Regulations promulgated thereunder.

ARTICLE II DEFINITIONS

2.01 Definitions. Unless expressly provided to the contrary, whenever used in the Plan, the following words or phrases shall have the designated meanings set forth below, when the initial letter of each word of the term is capitalized.

- A. "Account" – The individual account established on the Employer's records and maintained in the name of each Participant for the purpose of accounting for contributions allocated to and benefits paid or acquired for such Participant, as a result of the Elections made pursuant to the Plan and as permitted under Section 125 of the Code.
- B. "Administrator" – The Employer or such other person or committee as may be appointed from time to time by the Employer to supervise the administration of the Plan, as provided in Article XI and Exhibit A.
- C. "COBRA" – The Consolidated Omnibus Budget Reconciliation Act of 1985 and regulations promulgated thereunder.
- D. "Code" – The Internal Revenue Code of 1986, as amended from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation, which amends, supplements or replaces such section or subsection and includes applicable final, temporary, or proposed regulations issued by the Department of the Treasury.
- E. "Compensation" – The regular basic salary paid by the Employer to an Employee, determined prior to any Election to reduce such salary by contributions to the Plan pursuant to a Salary Reduction Agreement; provided, however, Compensation shall not include bonuses, overtime, shift premium, or other forms of additional remuneration.
- F. "Component Plan" – The Employee welfare benefit plans sponsored by Orange County, Florida on behalf of its Employees, the Employees of other state or local governments and the Employees which are intended to be included in the Plan and which are listed in the attached Exhibit "B," as they may be amended from time to time and as described in the plan document for each such Component Plan each of which is incorporated herein by reference.
- G. "Core Benefits" – The Non-Taxable Benefits provided under Component Plans to Employees and/or Dependents who are eligible for such benefits as determined by the terms of the applicable Component Plans. The Non-Taxable Benefits, which are to be considered "Core Benefits", shall be determined annually by the Employer in advance of each Plan Year under rules uniformly applicable to all Employees similarly situated and the costs of which shall be paid by Employer Non-Elective Contributions and/or Employee contributions.

- H. "County" – Orange County, Florida, a political subdivision and charter county existing under the Constitution and laws of the State of Florida and Orange County Charter.
- I. "Dependent" – With respect to any Employee, any such Employee's legally married spouse, child, or other family member subject to further limitations provided by each Component Plan and IRS Code 152 sections (c)(1) and (d)(1) and The Patient Protection and Affordable Care Act and Health Care and Education Reconciliation Act of 2010 as it refers to the dependent age. ~~The Affordable Care Act, as applicable.~~
- J. "Dependent Care Flexible Spending Account" – A separate and segregated portion of the Account of the Participant established for the purpose of accounting for contributions allocated to Dependent Care Flexible Spending Account Benefits paid for such Participant, as a result of the Elections made pursuant to Article VII and as permitted under section 129 of the Code.
- K. "Effective Date" – January 1, 2011.
- L. "Election" – The Employee's decision, per their enrollment form, which specifies the Participant's election for the ensuing Plan Year with respect to the Plan and which shall include:
 - a. The Participant's selection of Employee and/or Dependent coverage, for each applicable Component Plan;
 - b. The Participant's selection of Optional Benefits;
 - c. The Participant's selection to receive Optional Benefits as either Taxable Benefits or Non-Taxable Benefits; and
 - d. A Salary Reduction Agreement, which shall specify either, the amount of the Participant's Elective Contributions or the Optional Benefits to be purchased with Elective Contributions.
- M. "Elective Contributions" – Amounts contributed to the Plan on behalf of a Participant pursuant to a Salary Reduction Agreement whereby a Participant's Compensation is reduced by an amount equal to the cost of Optional Benefits provided as Non-Taxable Benefits elected by the Participant.
- N. "Employee" – Any individual employed by the Employer as an administrative (appointed) or regular full time or part time employee.
- O. "Employer" – Orange County, Florida Board of County Commissioners
- P. "Grace Period" – A period of two and one half months immediately following the end of the Plan Year, as determined by the Employer. Expenses from Medical Flexible Spending Accounts, Dependent Care Flexible Spending Accounts and Limited Purpose Flexible Spending Accounts incurred during the Grace Period qualify for reimbursement from contributions remaining unused at the end of the immediately preceding Plan Year. To the extent any Participant's unused contributions from the immediately preceding Plan Year exceed the eligible expenses for the Medical Flexible Spending Account, Dependent Care Flexible Spending Account and Limited

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Purpose Flexible Spending Account incurred during the Plan Year and Grace Period, the remaining unused contributions may not be carried forward to any subsequent Plan Year. Participants are not entitled to a refund of any contributions made to the Plan.

- Q. "Health Savings Account (HSA)" – A special banking account that an individual can only establish with a qualified HSA trustee or custodian bank if the individual has health plan coverage under a High Deductible Health Plan. An HSA allows eligible individuals to pay for Qualified HSA Medical Expenses on a tax-free basis as defined by Code 213 and 223.
- R. "High Deductible Health Plan (HDHP)" – A health plan which has a minimum annual deductible and maximum out of pocket expenses as defined by the IRS under Code 223(c) (2) (A) and restated annually by the designated federal agency.
- S. "Insurer" – Any insurance company issuing an insurance contract for coverage provided to an Employee or a Dependent by a Component Plan.
- T. "Limited Purpose Flexible Spending Account" – A separate and segregated portion of the Account of the Participant established for the purpose of accounting for contributions allocated to Limited Purpose Flexible Spending Account Benefits paid for such Participant, as a result of the Elections made pursuant to Article IX and as permitted under sections 105, 125, and 213 of the Code.
- U. "Marketplace" – A state or federal health insurance exchange as outlined in Section 2311 of the Patient Protection and Affordable Care Act.
- V. "Medical Care Reimbursement Spending Account" or "Medical Flexible Spending Account" – A separate and segregated portion of the Account of the Participant established for the purpose of accounting for contributions allocated to Medical Flexible Spending Account Benefits paid for such Participant, as a result of the Elections made pursuant to Article VIII and as permitted under sections 105, 125 and 213 of the Code.
- V.W. "Non-Elective Contributions" – Contributions to the Plan made by the Employer which are not pursuant to a Salary Reduction Agreement. Such contributions shall include:
- a. Contributions necessary to provide the Core Benefits;
 - b. Additional contributions determined prior to the close of each Plan Year, which shall be allocated uniformly to all similarly situated Employees;
 - c. For a Participant who affirms evidence of alternative medical coverage satisfactory to the Employer and completes the Employer's annual wellness requirements, an amount that shall be not greater than the contributions necessary to purchase the maximum Optional Benefits for which the Participant is eligible; and
 - d. For a Participant who satisfactorily completes the Employer's annual wellness requirements, the employer may allocate an amount, established by

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the Plan and communicated to Participants in writing, which shall be contributed to the Optional Benefit for which the Participant is eligible.

W.X. "Non-Taxable Benefit" – Core Benefits purchased with Non-Elective Contributions and Optional Benefits purchased with Elective or Non-Elective Contributions.

X.Y. "Optional Benefit" – The Taxable Benefits or Non-Taxable Benefits provided under Component Plans which are not Core Benefits, and for which Employees and/or their Dependents are eligible as determined under the terms of the applicable Component Plans. The cost of such "Optional Benefits" shall be paid as specified during Employee's enrollment:

- a. With Elective Contributions;
- b. With Non-Elective Contributions;
- c. With the Participant's Compensation, on an after-tax basis.

Y.Z. "Participant" – An Employee who participates in the Plan in accordance with the eligibility requirements as set forth in Article III.

Z.A.A. "Plan" – The Orange County, Florida WFL Plan as set forth herein, together with any and all amendments and supplements thereto which may from time to time be in effect.

AA.BB. "Plan Year" – The period commencing on January 1, 1991 and ending on December 31, 1991 of the initial year and for each calendar year thereafter, commencing on January 1, and ending on December 31 of each year.

BB.CC. "Qualified Reservist Distribution" - The portion of the Medical Flexible Spending Account and/or the Limited Purpose Flexible Spending Account a Participant may receive if the Participant is a member of a reserve component ordered or called to active duty.

CC.DD. "Run-Out Period" - A period of 90 calendar days after the end of the Grace Period in which the Participant may submit claims for expenses for the Medical Flexible Spending Account, Dependent Care Flexible Spending Account and Limited Purpose Flexible Spending Account incurred during the prior Plan Year and Grace Period. For Participants who are no longer eligible to participate, a period of 90 calendar days after cessation of participation.

DD.EE. "Salary Reduction Agreement" – The agreement between a Participant and the Employer whereby the Participant directs the Employer to reduce the Participant's taxable Compensation to obtain the Non-Taxable Benefit under the Plan.

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EE. "Severance" – A Participant's voluntary or involuntary termination of employment with the Employer for any reason which prevents the Participant from continuing employment with the Employer, including resignation, discharge, retirement, death, or disability.

FF.CC. “Spouse” – An individual who is legally married to the Employee as defined under federal law and as modified by Revenue Ruling 2013-17.

FF.HH. **“Taxable Benefit” – Optional Benefits purchased with Compensation on an after-tax basis.**

GG.II. **“Third Party Administrator” - A firm employed to provide administrative services to the Employer in connection with the operation of the Plan including the approval and processing of claims for payment and the performance of other Plan-connected services in compliance with applicable state and federal laws.**

**ARTICLE III
PARTICIPATION**

3.01 Notice of Participation. Employees shall be notified when they become eligible to become a Participant, and at such time shall be furnished with a summary of the Plan and an Election form.

3.02 Commencement of Participation. Each Employee who is eligible for Employee and/or Dependent coverage under a Component Plan shall be eligible to participate in the Plan. An Employee who has met such eligibility requirements shall become a Participant on the later of:

- A. The Effective Date of this document; or
- B. For an Employee who is hired thereafter, the first day of the pay period following 60 calendar days of employment.
- C. For an Employee returning from a leave whose coverage has lapsed, the date they return to work, or the first day of the pay period within 30 days of return from leave, pursuant to IRS family status change rules.
- D. Core life & disability begin on the date of hire.

3.03 Provisions of Plan Binding on Participants. Upon becoming a Participant, a Participant shall be bound then and thereafter by the terms of the Plan, including all amendments thereto.

3.04 Cessation of Participation. A Participant shall cease to be a Participant as of the earliest of:

- A. The date on which the Plan terminates;
- B. The end of the pay period in which Participant ceases to be an Employee eligible to participate in the Plan (except in the case of the Medical Flexible Spending Account and the Limited Purpose Flexible Spending Account which terminate on the date the Participant ceases to be an Employee); or
- C. The end of the pay period in which the Employee receives Severance and cessation of Compensation (except in the case of the Medical Flexible Spending Account and the Limited Purpose Flexible Spending Account which terminate on the date the Participant ceases to be an Employee).

When an Employee ceases to be a Participant, Elective and Non-Elective Contributions on the Employee's behalf to the Plan shall be discontinued, but the Employee may continue to receive benefits under one or more of the Component Plans in accordance with the terms and conditions thereof or as provided in Articles VI, VII, VIII and IX.

3.05 Reinstatement of Former Participant. A former Participant shall become a Participant again if and when the eligibility requirements of Section 3.02 are met.

**ARTICLE IV
BENEFITS**

4.01 Employer Contributions. The Employer, in its sole discretion, may determine in advance of each Plan Year, to make a Non-Elective Contribution to the Plan for each Participant. Such Non-Elective Contribution shall be a defined monetary amount specified in writing by the Employer for each group of similarly situated Employees. Non-Elective Contributions shall be determined for each Plan Year in a uniform and non-discriminatory manner based solely on the Employer's decision of the amount of funds available for such Non-Elective Contributions for each applicable group of similarly situated Employees. Each Participant shall be eligible to receive the same maximum annual Non-Elective Contribution as the amount contributed on behalf of each other member of the group of similarly situated Employees to which the Participant belongs unless such Participant commences or terminates employment during the Plan Year, and such other circumstances occur that affect such Participant's eligibility for the maximum annual Non-Elective Contribution.

Non-Elective Contributions in excess of the cost of Core Benefits may be applied, at the Participant's Election, to purchase Optional Benefits. Any unused Non-Elective Contributions not applied to purchase Optional Benefits shall not be paid as additional Compensation to the Participant.

The maximum annual Employer contribution to the Plan for the Plan Year on behalf of each Participant consisting of both Elective Contribution and Non-Elective Contributions shall be the amount specified in writing by the Employer in advance of the beginning of the Plan Year and equal to the sum of:

- A. The maximum amount, which may be contributed on behalf of a Participant to a Health Savings Account, Dependent Care Flexible Spending Account, a Medical Flexible Spending Account or a Limited Purpose Flexible Spending Account permitted by law and, as provided in Articles VI, VII, VIII or IX respectively;
- B. The premium costs for any Plan Year of the most expensive Component Plan options available to the Participant hereunder (including the portion of such costs payable with Non-Elective Contributions, if any); and
- C. Any administrative fees payable which are attributable to a Participant's Plan participation, with such sum as aforementioned in A, B and C adjusted, as required, due to increases or decreases in the costs of Component Plans.

4.02 Description of Non-Taxable Benefit. The Election to receive Optional Benefits as Non-Taxable Benefits shall be made pursuant to the terms of the Plan for the purpose of obtaining Employee and/or Dependent coverage on a tax-favored basis, but the Optional Benefits shall be provided not by the Plan but by the terms of the applicable Component Plan. The type and amount of benefit, the requirements for participants in such option, and the other terms and conditions of coverage and benefits under such option are as set forth from time to time in the applicable Component Plan document(s).

If there is any conflict between the provisions of the Plan and the Component Plan (or any insurance contracts that constitute or are incorporated into the Component Plan), the provisions of the Component Plan shall control.

4.03 Election of Taxable Benefits or Non-Taxable Benefits. A Participant may elect to receive Optional Benefits as either Taxable Benefits or as Non-Taxable Benefits. If a Participant shall elect Non-Taxable Benefits, the Participant's Compensation shall be reduced, and an amount equal to the reduction shall be contributed by the Employer to cover the Participant's share of the cost of Optional Benefits. If a Participant shall elect Taxable-Benefits, the cost of Optional Benefits shall be paid by the Participant with after-tax contributions.

4.04 Change in Component Plan Costs. If the cost of coverage under a Component Plan is increased or decreased during the Plan Year, the Participant's Elective Contributions or after-tax contributions shall be increased or decreased automatically by an equivalent amount.

Alternatively, at the sole discretion of the Administrator, if the Participant's share of the cost of Employee and/or Dependent coverage under a Component Plan for medical care increases substantially or if the coverage provided by an independent third-party provider is significantly curtailed during the Plan Year, each affected Participant may be permitted to revoke their Election form for the balance of a Plan Year. Such revocation shall be permitted only if the Participant may enroll prospectively for comparable coverage under another Component Plan for medical care sponsored by the Employer.

4.05 Non-Discrimination Standards. The Plan shall be operated in a non-discriminatory manner in compliance with requirements of the Code. As provided in Section 5.05, the Administrator may modify or reject any Salary Reduction Agreement to the extent the Administrator, in its discretion, deems necessary, to ensure that this Section 4.05 is not violated.

4.06 No Refund or Carryover. Neither a Participant nor any beneficiary of the Participant shall be entitled to a refund of any amounts contributed to the Plan. Furthermore, amounts contributed to the Plan for one Plan Year may not be carried forward to purchase or provide benefits in subsequent Plan Years, except as permitted during the Grace Period. Benefits accrued or incurred during a Plan Year, however, may be paid during the subsequent Plan Year. Benefits shall be treated as accrued or incurred when the Component Plans coverage is provided, and not when the Participant is formally billed or charged for the expense or submits a claim for benefits.

4.07 Forfeitures. If any Non-Taxable Benefits are forfeitable at the end of the Plan Year and the applicable Grace Period because the Participant is not entitled to a refund or carryover of contributions to the Plan, such unallocated amounts shall revert to the Employer.

ARTICLE V
ELECTION PROCEDURE

5.01 Annual Election Procedure. Prior to the commencement of each Plan Year, the Administrator shall notify each Participant, and other Employees who are eligible to become a Participant at the beginning of the Plan Year, concerning the right to revoke or change their Election. Election revocations or changes must be made prior to the commencement of each Plan Year and shall not be later than the beginning of the first pay period for which the Participant's Salary Reduction Agreement, if any, shall apply. An Election form must be completed and returned to the Administrator on or before such date as the Administrator shall specify.

5.02 New Participants. For Employees who become eligible to participate in the Plan after the Effective Date or after the beginning of a succeeding Plan Year, as soon as practicable after an Employee becomes eligible to participate in the Plan, the Administrator shall provide the Employee with an Election form. The Election form must be completed and returned to the Administrator on or before such date as the Administrator shall specify, which date shall not be later than the beginning of the first pay period for which the Participant's Salary Reduction Agreement, if any, shall apply.

5.03 Failure to Elect. In order to participate in the Plan, Participants must complete an Election form and a new Election form prior to each subsequent Plan Year in which they are eligible to participate. A Participant who fails to return a completed Election form to the Administrator on or before the specified due date in advance of the Plan Year shall be deemed to have elected either:

- A. Coverage for Core Benefits only
- B. The same coverage as that specified on the Participant's most current Election form for the preceding Plan Year (with the exception of the Medical Flexible Spending Account, Limited Purpose Flexible Spending Account and the Dependent Care Flexible Spending Account, which require a new election annually).

5.04 Irrevocability of Election by the Participant During the Plan Year. Elections made under the Plan (or deemed to be made under Section 5.03) shall be irrevocable by the Participant during the Plan Year, subject to status change events in accordance with IRC Reg. Sec. 1.125-4. A Participant may revoke an Election for the balance of a Plan Year and, may file a new Election form only if both the revocation and the new Election are consistent with the status change. An Election change satisfies the consistency rule only if the Election change corresponds with a change in status that affects eligibility for coverage under the Plan. A midyear election change is permitted if one of the following status changes occurs. This list is not exhaustive

- A. A change in legal marital status. Events that change a Participant's legal marital status, including the following: marriage, death of Spouse, divorce, legal separation, and annulment.

- B. A change in number of Dependents. Events that change a Participant's number of Dependents, including the following: birth, death, adoption, foster care and placement for adoption.
- C. A change in employment status of the Employee, Spouse or other Dependent that affects eligibility of group coverage. Events that change the employment status of the Participant, the Participant's Spouse, or the Participant's Dependent include the following: a termination or commencement of employment, a strike or lockout, a commencement of or return from an unpaid leave of absence, a change in worksite and, the extent permitted in Treas. Reg. 1.125-4 and Section 3.03, change in employment status resulting in gaining or losing eligibility under the Plan.
- D. A Dependent (as determined by a Core Benefit or Optional Benefit) satisfies or ceases to satisfy eligibility requirements. Events that cause a Participant's Dependent to satisfy or cease to satisfy eligibility requirements for coverage may include: age, student status, marital status, or any similar circumstance.
- E. A change in the place of residence of the Employee or Dependent, if change of residence materially changes health plan availability.
- F. The commencement or termination of an adoption proceeding.
- G. An Employee's Spouse or Dependent makes a new election under a group medical plan that corresponds with the special enrollment rights provided by HIPAA, including those authorized under the provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA)
- H. Involuntary loss of eligibility under another group plan (other than Medicare or Medicaid programs)
- I. An Employee is required to provide coverage for the Employee's Dependent child due to a judgment, decree, or court order resulting from a divorce, legal separation, annulment, or change in legal custody, including a qualified medical child support order.
- J. An Employee's Dependent, who is enrolled in a group medical plan, becomes entitled to health coverage under Medicare or Medicaid. Conversely, if an Employee or Dependent who has been covered under Medicare or Medicaid loses coverage, the Employee may elect to commence or increase coverage under the Plan.
- K. An Employee taking or returning from Family and Medical Leave as may be provided for under the FMLA.
- L. An Employee's Dependent experiences a significant cost increase or decrease under the Dependent's group health plan during the Plan Year. (Does not apply to a Medical Flexible Spending Account, Limited Purpose Flexible Spending Account or Dependent Care Flexible Spending Account.)
- M. An Employee's Dependent experiences a significant curtailment of coverage or significant improvement in coverage under the Dependent's group health plan during the Plan Year.

N. An Employee's Dependent plan year or annual enrollment for group benefits differs from the Employee's Plan Year.

O. An Employee may prospectively revoke an election of coverage under the group health plan that is not a Medical health Flexible Spending Account if the Employee is eligible to enroll in a qQualified hHealth pPlan through a Marketplace pursuant to guidance issued by the Department of Health and Human Services and any other applicable guidance either through a sSpecial eEnrollment pPeriod or through a Marketplace annual open enrollment period as long as the Employee and/or Spouse/Dependents under the existing plan enroll in Marketplace coverage that is effective no later than the day immediately following the last day of coverage under the original plan.

N.P. Entitlement to Medicare or Medicaid. A Participant may modify an Election for benefits attributable to a County-sponsored accident or health plan if the Participant, sSpouse, or Dependent becomes entitled to coverage under Medicare or Medicaid (other than coverage consisting solely of benefits under the program for distribution of pediatric vaccines). The Participant may make a prospective Election change to cancel or reduce coverage of that Participant, Spouse, or Dependent under the accident or health plan. Corresponding rights to commence or increase benefits under the accident or health plan shall be granted in the case of loss of coverage under Medicare or Medicaid.

O.Q. Such other events that the Administrator determines shall permit a revocation of a Salary Reduction Agreement during a Plan Year in compliance with applicable regulations and rulings of the Internal Revenue Service.

P.R. Employees who are found to have ineligible Dependents on the medical plan may cease to be eligible to participate in the medical plan for a period of one year. Additional disciplinary action may be taken.

Unless otherwise noted above, if a Participant desires to change their Election due to a qualifying status change event, the Participant must contact the Administrator within 60 calendar days of the change.

A Participant who has selected Taxable Benefits will be subject to the Election eligibility rules of the Component Plan.:

Any new Election under this Section 5.04 shall be effective upon approval by the Administrator, but not earlier than the first pay period beginning after the new Election form is completed and returned to the Administrator. This shall not preclude any eligibility rights provided under applicable federal law (e.g., birth or adoption of child) or termination of participation rules under Section 3.04 of this plan document.

5.05 Unilateral Changes by Administrator. If the Administrator shall determine, before or during any Plan Year, that the Plan may fail to satisfy for such Plan Year any nondiscrimination requirement imposed by the Code, the Administrator shall take such action as the Administrator deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirements or limitations. Such action may

include, without limitation, a modification or rejection of the Election of any Employee, with or without the consent of such Employee.

5.06 Automatic Termination of Election. Elections made under the Plan shall automatically terminate on the date on which the Participant ceases to be a Participant, although coverage or benefits under the Component Plans or as provided by Articles VI, VII, VIII or IX may continue if and to the extent provided by such Component Plans or Articles VI, VII, VIII or IX or by applicable law.

**ARTICLE VI
HEALTH SAVINGS ACCOUNT (HSA)**

6.01 Special Definitions. Whenever used in this Article VI, the following words or phrases shall have the designated meanings set forth below, notwithstanding other meanings assigned elsewhere in the Plan and when the defined meaning is intended within this Article VI; the initial letter of each word of the term is capitalized.

A. "Qualified HSA Medical Expenses"- Expenses incurred by the HSA owner, his or her Spouse and Dependents that

1. would qualify under Code Section 213 (d), which includes
2. would qualify as health insurance premiums for HSA owners who are age 65 or over, COBRA beneficiaries, or individuals receiving unemployment compensation, or
3. would qualify as long-term care premiums.

6.02 Establishment of Health Savings Accounts (HSA). Employees will be provided forms necessary to establish an HSA. Employees will be responsible for establishing and managing their HSA, including choosing how HSA funds are invested and following the rules that the HSA bank and IRS impose. Once the Employer's eligible contributions have been deposited into an HSA, Employees will have a nonforfeitable interest in the funds and the Employees will be free to request a distribution of the funds or to move them to another HSA provider, to the extent allowed by law.

6.03 Eligibility for Health Savings Accounts. Employees may open an HSA if they meet the following requirements:

1. Employee is covered by a qualified single or family High Deductible Health Plan (HDHP)
2. Employee is not covered by any other non-HDHP plan that provides any benefits already covered under the Employer's HDHP
3. Employee is not currently receiving Medicare or Veteran's Affairs (VA) benefits for a non-service connected disability
4. Employee cannot be claimed as a Dependent on another person's tax return
5. Employee cannot also be enrolled in a Medical Flexible Spending Account (they, however, can have a Limited Purpose Flexible Spending Account)

6.04 Employer Contribution. The Employer shall contribute to the Health Savings Account for participation in any approved Employer sponsored health management program or programs related to the HDHP, which may be established each year by the Employer and communicated to Participants and eligible Employees in writing.

6.05 Maximum HSA Contribution. The maximum amount which the Participant shall contribute to the Health Savings Account, inclusive of any Employer contribution, pursuant to such Participant's Salary Reduction Agreement and applicable law.

6.06 Crediting of Health Savings Accounts. As of each date on which Compensation is paid to a Participant in the applicable Plan Year, there shall be credited to the Health Savings Account of the Participant an amount that included the reduction in their Compensation attributable to their Election to voluntarily participate in a Health Savings Account in accordance

with their Salary Reduction Agreement. All amounts credited to the Health Savings Account of the Participant shall be the property of the Employee.

ARTICLE VII
DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT

7.01 Special Definitions. Whenever used in this Article VII, the following words or phrases shall have the designated meanings set forth below, notwithstanding other meanings assigned elsewhere in the Plan and when the defined meaning is intended within this Article VII; the initial letter of each word of the term is capitalized.

- A. "Dependent" – A person who is either:
1. A dependent of a Participant who is under the age of thirteen (13) with respect to whom the Participant is entitled to an exemption under Section 151(c) of the Code; or
 2. A dependent or Sspouse of the Participant who is physically or mentally incapable of caring for their self in the meaning of Code Section 21(b).
 3. In the case of the separation or divorce of a Dependent child's parents, the child shall be considered a Dependent of the Participant if:
 - a. The Participant is the custodial parent of the child [within the meaning of Code Section 152(e) (1)];
 - b. Code Section 152(e) (2) or 152(e) (4) applies to the child of the Participant; and
 - c. Such child is under the age of thirteen (13) or is physically or mentally incapable of self-care.
- B. "Dependent Care Flexible Spending Account Benefit" – The payment made from the Participant's Dependent Care Flexible Spending Account to or on behalf of the Participant in the form of reimbursement of the Participant for Dependent Care Expenses as permitted by Code Section 129.
- C. "Earned Income:" – All income derived from wages, salaries, tips, self employment and other Employee compensation as provided in Code section 32(c)(2) but excluding amounts received under the Plan or under any other plan providing dependent care assistance. In the case of a Sspouse of a Participant who is a Student or who is physically or mentally incapable of caring for their self, such Sspouse shall be deemed to have Earned Income of not less than two hundred and fifty dollars (\$250) per month if the Participant has one Dependent and five hundred dollars (\$500) per month if the Participant has two or more Dependents.
- D. "Dependent Care Expense" – Any expense incurred by a Participant, which is:
1. Paid or incurred for the care of a Dependent or for related household services;
 2. Paid or incurred to a Provider; and
 3. Incurred to enable a Participant to be gainfully employed for any period for which there are one or more Dependents with respect to the Participant.

A Dependent Care Expense shall be deemed to be incurred at the time the services to which the Dependent Care Expense relates is rendered.

- E. "Provider" – A person or entity which shall provide care or other services for which a Dependent Care Expense may be incurred as provided in Section 7.01(E) but not including:
1. A dependent care center, as provided in Code section 21(b)(2)(D) unless the requirements of Code section 21(b)(2)(C) have been satisfied; or
 2. A related individual for whom a deduction is allowable under Code section 151 (c) to the Employee or their sSpouse or who is a child of the Employee under the age of 19 at the close of the Plan Year, as provided in Code section 129(c).
- F. "Student" – An individual who, during each of five calendar months during a Plan Year, is a full time student at an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils in attendance at the place where its educational activities are regularly carried out.

7.02 Establishment of Dependent Care Flexible Spending Accounts. The Administrator shall establish and maintain a Dependent Care Flexible Spending Account with respect to each Participant who has elected to receive Dependent Care Flexible Spending Account Benefits for each Plan Year during which the Employer permits contributions to the Dependent Care Flexible Spending Accounts of Participants. Prior to the beginning of each Plan Year, the Employer shall notify Employees if contributions may be made to Dependent Care Flexible Spending Accounts for such Plan Year.

The Employee's Election to receive Dependent Care Flexible Spending Account Benefit shall be made pursuant to the terms of the Plan and this Article VII for the purpose of obtaining reimbursement for Dependent Care Expenses on a tax-favored basis.

7.03 Cessation of Participation (Dependent Care Spend Down). The Plan allows Employees that cease to be Participants in the Plan to spend down unused Dependent Care Flexible Spending Account balances. Employees that cease to participate in the Plan (due to termination or any other reason) may be reimbursed for unused benefits through the end of the Grace Period for the Plan Year in which the termination of participation occurs to the extent the claims do not exceed the balance of the Dependent Care Flexible Spending Account.

7.04 Maximum Employer Contribution. The maximum amount which the Employer shall contribute to the Dependent Care Flexible Spending Account of any Participant pursuant to such Participant's Salary Reduction Agreement shall be the least of:

- A. The Participant's Earned Income for the Plan Year;
 - B. The actual or deemed Earned Income of the Participant's sSpouse for the Plan Year;
- or

- C. Five thousand dollars (\$5,000). (This amount shall be reduced to two thousand five hundred dollars (\$2,500) if a separate income tax return is filed for the Plan Year for a married Participant.)

The Dependent Care Flexible Spending Account of a Participant may be funded with Non-Elective Contributions in addition to any amount allocated to the Dependent Care Flexible Spending Account pursuant to the Participant's Salary Reduction Agreement.

7.05 Crediting of Dependent Care Flexible Spending Accounts. As of each date on which Compensation is paid to a Participant in the applicable Plan Year, there shall be credited to the Dependent Care Flexible Spending Account of the Participant an amount equal to the reduction in their Compensation attributable to their Election to receive Dependent Care Flexible Spending Account Benefits in accordance with their Salary Reduction Agreement. All amounts credited to the Dependent Care Flexible Spending Account of the Participant shall be the property of the Employer until distributed, as provided in Section 7.06.

7.06 Debiting of Dependent Care Flexible Spending Accounts. A Participant's Dependent Care Flexible Spending Account shall be debited periodically in the amount of any payment as provided in Section 7.08 to or for the benefit of the Participant for Dependent Care Expenses incurred during the Plan Year. Amounts debited from the Dependent Care Flexible Spending Account shall be the amounts first credited to the Dependent Care Flexible Spending Account, which have not yet been distributed.

7.07 Claims for Reimbursement. A Participant with a Dependent Care Flexible Spending Account may apply to the Administrator for reimbursement of Dependent Care Expenses incurred by the Participant during the Plan Year or within the Grace Period by submitting an application in writing to the Administrator, in such form as the Administrator may prescribe, setting forth:

- A. The amount, date and nature of the Dependent Care Expenses with respect to which a benefit is requested accompanied by bills, invoices, receipts, or other statements showing the amount of such Dependent Care Expenses;
- B. The name and federal tax identification number of the person, organization or entity to which the Dependent Care Expense was or is to be paid; and
- C. Such other information as the Administrator, from time to time, shall request.

7.08 Reimbursement or Payment of Dependent Care Expenses. The Administrator shall reimburse the Participant from the Participant's Dependent Care Flexible Spending Account for Dependent Care Expenses incurred during the Plan Year or Grace Period for which the Participant submits documentation in accordance with Section 7.07. The Participant has a Run-Out Period (90 calendar days after the end of the Grace Period) to submit claims for Dependent Care Expenses incurred during the Plan Year and Grace Period. No reimbursement of Dependent Care Expenses shall exceed the balance of the Participant's Dependent Care Flexible Spending Account at the time the request for reimbursement is submitted to the Administrator. Any such Dependent Care Expenses which exceed the balance of the Participant's Dependent Care Flexible Spending Account shall be carried over and reimbursed

or paid only if and when the balance in such Dependent Care Flexible Spending Account permits such reimbursement or payment; provided, however, that no Dependent Care Expenses may be carried over from one Plan Year to the next, with the exception of the Grace Period.

7.09 Report to Participants. On or before January 31 of each year, the Administrator shall furnish to each Participant with a Dependent Care Flexible Spending Account for the preceding Plan Year a written statement showing the amount of Dependent Care Flexible Spending Account Benefits paid by the Employer during such Plan Year with respect to the Participant.

ARTICLE VIII
MEDICAL CARE REMBURSEMENT SPENDING ACCOUNT
(Medical Flexible Spending Account)

8.01 Special Definitions. Whenever used in this Article VIII, the following words or phrases shall have the designated meanings set forth below, notwithstanding other meanings assigned elsewhere in the Plan and when the defined meaning is intended within this Article VIII, the initial letter of each word of the term is capitalized.

- A. "Medical Flexible Spending Account Benefit" - The payment made from the Participant's Medical Flexible Spending Account to or on behalf of the Participant in the form of reimbursement of the Participant for Qualifying Medical Expenses.
- B. "Qualifying Medical Expense" - An expense incurred by a Participant, or by the Spouse or Dependent of such Participant for medical care as defined in Code Section 213; provided, however, that a premium payment for accident and health insurance shall not constitute a Qualifying Medical Expense. An expense shall be considered a Qualifying Medical Expense only to the extent that the Participant (or their Spouse or Dependent, if applicable) is not reimbursed for the expense and the expense is not reimbursable through insurance or otherwise (except as provided by the Plan).

8.02 Establishment of Medical Flexible Spending Accounts. The Administrator shall establish and maintain a Medical Flexible Spending Account for each Plan Year with respect to each Participant who is not eligible for contributions into an HSA and has elected to receive Medical Flexible Spending Account Benefit. The Election to receive Medical Flexible Spending Account Benefits shall be made pursuant to the terms of the Plan and this Article VIII for the purpose of obtaining reimbursement for Qualifying Medical Expenses on a tax-favored basis.

8.03 Cessation of Participation. When an Employee ceases to be a Participant, contributions on their behalf to the Medical Flexible Spending Account shall be discontinued, but the Employee may receive Medical Flexible Spending Account Benefits for Qualifying Medical Expenses incurred on or before the date on which their participation terminates. Claims must be submitted for reimbursement within 90 calendar days after the Employee's date of termination.

8.04 Irrevocability of Medical Flexible Spending Account Election. An Election by a Participant directing Elective Contributions to the Medical Flexible Spending Account shall be irrevocable by the Participant during the Plan Year to which it applies, subject to certain status change events. A Participant may revoke the Election form for the balance of a Plan Year and, if they choose, file a new Election form only if both the revocation and the new Election are on account of and consistent with certain status changes and the amount of the new Election is for a lesser amount. Qualified status changes for the purpose of this Article shall include:

- A. A change in legal marital status;
- B. A change in the number of Dependents;
- C. A change in the employment status of the Employee or Dependent;
- D. Such other events that the Administrator determines shall permit a revocation of a Salary Reduction Agreement during a Plan Year in compliance with applicable regulations and rulings of the Internal Revenue Service.

8.05 Maximum Employer Contribution. ~~The maximum Employer contribution into a Medical Flexible Spending Account includes Non-Elective Contributions made by the Employer and Elective Contributions on behalf of a Participant pursuant to a Salary Reduction Agreement. The Elective Contributions through the Participant's Salary Reduction Agreement, shall be limited to \$2,550 (indexed for inflation) under Internal Revenue Code 125(i) and communicated to the Participants in writing, amount which the Employer shall contribute to the Medical Flexible Spending Account on behalf of any Participant shall be established each year by the Employer and communicated to Participants in writing. The maximum amount shall be inclusive of Employer contributions related to participation in any approved Employer sponsored health management programs and the Participant's Election through the Participant's Salary Reduction Agreement.~~

8.06 Crediting of Medical Flexible Spending Accounts. As of each date on which Compensation is paid to a Participant in the applicable Plan Year, there shall be credited to the Medical Flexible Spending Account of the Participant an amount equal to the reduction in Compensation attributable to the Participant's Election to receive Medical Flexible Spending Account Benefits in accordance with the Salary Reduction Agreement. All amounts credited to the Medical Flexible Spending Account of the Participant shall be the property of the Employer until distributed, as provided in Section 8.07.

8.07 Debiting of Medical Flexible Spending Accounts. A Participant's Medical Flexible Spending Account shall be debited periodically in the amount of any payment as provided in Section 8.10 to or for the benefit of the Participant for Qualifying Medical Expenses incurred after the Employee becomes a Participant and during the Plan Year.

8.08 Change to type of Medical Flexible Spending Account offered to former Low Deductible Plan Participants. Employees enrolled in a Medical Flexible Spending Account and who chose to enroll in the High Deductible Plan with a Health Savings Account the

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subsequent plan year will have their Medical Flexible Spending Account converted into a Limited Purpose Flexible Spending Account during the Medical Flexible Spending Account's Grace Period and 90 day Run-Out Period.

8.098 Election for COBRA Continuation. An Employee who ceases to be a Participant due to their Severance (other than by reason of gross misconduct) or other "qualifying event" as such term is defined by COBRA, may elect to continue participation in their Medical Flexible Spending Account on an after-tax basis. The amount of any continued contributions shall be credited to the Medical Flexible Spending Account of the Employee, as long as the minimum contribution is made on a monthly basis as determined by the Employer. The Administrator may, at its sole discretion, impose an administrative charge of up to two percent (2 %) of the amount of continued contributions, which the Employee shall remit to the Administrator together with the continued contributions.

If the Employee shall fail to remit continued contributions for the Medical Flexible Spending Account and administrative charges to the Administrator in a timely manner, as provided by COBRA, the Employer shall reduce any reimbursement for Qualifying Medical Expenses remaining to be paid to the Employee by the amount of unremitted contributions to the Medical Flexible Spending Account scheduled but not paid for the remainder of the Plan Year.

8.1009 Claims for Reimbursement. A Participant who has elected Non-Taxable Benefits for a Plan Year may apply to the Administrator for reimbursement of Qualifying Medical Expenses incurred by the Participant during the Plan Year or within the Grace Period by submitting an application in writing to the Administrator, in such form as the Administrator may prescribe, setting forth:

- A. The amount of the Qualifying Medical Expenses with respect to which a benefit is requested accompanied by bills, invoices, receipts, or other proof that the Qualifying Medical Expenses have been incurred;
- B. A statement from the Employee specifying that the Qualifying Medical Expenses have not been reimbursed under the Plan or any other plan that covers the Employee or a Dependent; and
- C. Such other information as the Administrator, from time to time, shall request.

8.110 Reimbursement or Payment of Qualifying Medical Expenses. The Administrator shall reimburse the Participant from the Participant's Medical Flexible Spending Account for Qualifying Medical Expenses incurred during the Plan Year or within the Grace Period for which the Participant submits documentation in accordance with Section 8.09. . The Participant has a Run-Out Period (90 calendar days after the end of the Grace Period) to submit claims for Qualifying Medical Expenses incurred during the Plan Year and Grace Period The Administrator may, at its option, pay any such Qualifying Medical Expenses directly to the person providing or supplying medical care in lieu of reimbursing the Participant. Distributions from a Participant's Medical Flexible Spending Account shall be made when requested at least monthly or, if later, when the total amount requested is at least twenty-five dollars (\$25).

No reimbursement or payment of Qualifying Medical Expenses incurred during a Plan Year or within the Grace Period shall at any time exceed the total amount of the Participant's Salary

Reduction Agreement (properly reduced for prior reimbursements for the same Plan Year). However, reimbursement of the total amount of the Participant's Salary Reduction Agreement for the applicable Plan Year (reduced by any prior reimbursements attributable to such Plan Year) shall be available for distribution at all times during the Plan Year regardless of the balance in the Medical Flexible Spending Account of the Participant at the time a distribution is requested.

8.121 Qualified Reservist Distributions. A Participant may receive a distribution of the portion of his Medical Flexible Spending Account provided that such amount was in existence on or after June 18, 2008. The distribution will only be made if: (i) such Participant was a member of a reserve component ordered or called to active duty for a period in excess of 179 days or for an indefinite period and (ii) such distribution is made during the period beginning on the date of such order or call and ending on the last date that reimbursements could otherwise be made under the Plan for the Plan Year which includes the date of such order or call. A Participant ordered or called to active duty before June 18, 2008 is eligible for a Qualified Reservist Distribution if the Participant's period of active duty continues after June 18, 2008 and meets the duration requirements of IRS Notice 2008-82. A Qualified Reservist Distribution may not be made based on an order or call to active duty of any individual other than the Participant, including the sspouse of the Participant.

The Plan shall permit a Participant to submit Medical Flexible Spending Account claims for Qualifying Medical Expenses incurred before the date a Qualified Reservist Distribution is requested. The Participant shall not have the right to submit claims for Qualifying Medical Expenses incurred after the date such Qualified Reservist Distribution is requested. The County shall pay the Qualified Reservist Distribution to the Participant within a reasonable time, but not more than sixty days after the request for a Qualified Reservist Distribution has been made.

The amount available as a Qualified Reservist Distribution will be the amount contributed to the Medical Flexible Spending Account as of the date of the Qualified Reservist Distribution request minus Medical Flexible Spending Account reimbursements received as of the date of the Qualified Reservist Distribution request.

**ARTICLE IX
LIMITED PURPOSE FLEXIBLE SPENDING ACCOUNT**

9.01 Special Definitions. Whenever used in this Article IX, the following words or phrases shall have the designated meanings set forth below, notwithstanding other meanings assigned elsewhere in the Plan and when the defined meaning is intended within this Article IX, the initial letter of each word of the term is capitalized.

- A. "Limited Purpose Flexible Spending Account Benefit" – The payment made from the Participant's Limited Purpose Flexible Spending Account to or on behalf of the Participant in the form of reimbursement of the Participant for Qualifying Expenses.
- B. "Qualifying Expense" - An expense incurred by a Participant, or by the Spouse or Dependent of such Participant for dental and/or vision care as defined in Code Section 213 and/or preventive care as defined in Code Notice 2004-23 and Notice 2004-50. A qualifying expense shall be considered a Qualifying Expense only to the extent that the Participant (or their Spouse or Dependent, if applicable) is not reimbursed for the expense and the expense is not reimbursable through insurance or otherwise (except as provided by the Plan).

9.02 Establishment of Limited Purpose Flexible Spending Accounts. The Administrator shall establish and maintain a Limited Purpose Flexible Spending Account with respect to each Participant who has elected to receive Limited Purpose Flexible Spending Account Benefits to the extent permitted by law. The Election to receive Limited Purpose Flexible Spending Account Benefits shall be made pursuant to the terms of the Plan and this Article IX for the purpose of obtaining reimbursement for Qualifying Expenses on a tax-favored basis.

9.03 Cessation of Participation. When an Employee ceases to be a Participant, contributions on their behalf to the Limited Purpose Flexible Spending Account shall be discontinued, but the Employee may receive Limited Purpose Flexible Spending Account Benefits for Qualifying Expenses incurred on or before the date on which their participation terminates. Claims must be submitted for reimbursement within 90 calendar days after the Employee's date of termination.

9.04 Irrevocability of Limited Purpose Flexible Spending Account Election. An Election by a Participant directing Elective Contributions to the Limited Purpose Flexible Spending Account shall be irrevocable by the Participant during the Plan Year to which it applies, subject to certain status change events. A Participant may revoke the Election form for the balance of a Plan Year and, if they choose, file a new Election form only if both the revocation and the new Election are on account of and consistent with certain status changes and the amount of the new Election is for a lesser amount. Qualified status changes for the purpose of this Article shall include:

- A. A change in legal marital status;
- B. A change in the number of Dependents;

- C. A change in the employment status of the Employee or Dependent;
- D. Such other events that the Administrator determines shall permit a revocation of a Salary Reduction Agreement during a Plan Year in compliance with applicable regulations and rulings of the Internal Revenue Service.

9.05 Maximum Employer Contribution. The maximum Employer contribution into a Limited Purpose Flexible Spending Account includes Non-Elective Contributions made by the Employer and Elective Contributions on behalf of a Participant pursuant to a Salary Reduction Agreement. The Elective Contributions through the Participant's Salary Reduction Agreement, shall be limited to \$2,550 (indexed for inflation) under Internal Revenue Code 125(i) and communicated to the Participants in writing, amount which the Employer shall contribute to the Limited Purpose Flexible Spending Account on behalf of any Participant shall be established each year by the Employer and communicated to Participants in writing. The maximum amount shall be inclusive of Employer contributions related to participation in any approved Employer sponsored health management programs and the Participant's Election through the Participant's Salary Reduction Agreement.

9.06 Crediting of Limited Purpose Flexible Spending Accounts. As of each date on which Compensation is paid to a Participant in the applicable Plan Year, there shall be credited to the Limited Purpose Flexible Spending Account of the Participant an amount equal to the reduction in Compensation attributable to the Participant's Election to receive Limited Purpose Flexible Spending Account Benefits in accordance with the Salary Reduction Agreement. All amounts credited to the Limited Purpose Flexible Spending Account of the Participant shall be the property of the Employer until distributed, as provided in Section 9.07.

9.07 Debiting of Limited Purpose Flexible Spending Accounts. A Participant's Limited Purpose Flexible Spending Account shall be debited periodically in the amount of any payment as provided in Section 9.10 to or for the benefit of the Participant for Qualifying Expenses incurred after the Employee becomes a Participant and during the Plan Year.

9.08 Election for COBRA Continuation. An Employee who ceases to be a Participant due to their Severance (other than by reason of gross misconduct) or other "qualifying event" as such term is defined by COBRA, may elect to continue participation in their Limited Purpose Flexible Spending Account on an after-tax basis. The amount of any continued contributions shall be credited to the Limited Purpose Flexible Spending Account of the Employee, as long as the minimum contribution is made on a monthly basis as determined by the Employer. The Administrator may, at its sole discretion, impose an administrative charge of up to two percent (2 %) of the amount of continued contributions, which the Employee shall remit to the Administrator together with the continued contributions.

If the Employee shall fail to remit continued contributions for the Limited Purpose Flexible Spending Account and administrative charges to the Administrator in a timely manner, as provided by COBRA, the Employer shall reduce any reimbursement for Qualifying Expenses remaining to be paid to the Employee by the amount of unremitted contributions to the Limited Purpose Flexible Spending Account scheduled but not paid for the remainder of the Plan Year.

9.09 Claims for Reimbursement. A Participant who has elected Non-Taxable Benefits for a Plan Year may apply to the Administrator for reimbursement of Qualifying Expenses incurred by the Participant during the Plan Year or within the Grace Period by submitting an application in writing to the Administrator, in such form as the Administrator may prescribe, setting forth:

- A. The amount of the Qualifying Expenses with respect to which a benefit is requested accompanied by bills, invoices, receipts, or other proof that the Qualifying Expenses have been incurred;
- B. A statement from the Employee specifying that the Qualifying Expenses have not been reimbursed under the Plan or any other plan that covers the Employee or a Dependent; and
- C. Such other information as the Administrator, from time to time, shall request.

9.10 Reimbursement or Payment of Qualifying Expenses. The Administrator shall reimburse the Participant from the Participant's Limited Purpose Flexible Spending Account for Qualifying Expenses incurred during the Plan Year or within the Grace Period for which the Participant submits documentation in accordance with Section 9.09. The Participant has a Run-Out Period (90 calendar days after the end of the Grace Period) to submit claims for Qualifying Expenses incurred during the Plan Year and Grace Period. The Administrator may, at its option, pay any such Qualifying Expenses directly to the person providing or supplying care in lieu of reimbursing the Participant. Distributions from a Participant's Limited Purpose Flexible Spending Account shall be made when requested at least monthly or, if later, when the total amount requested is at least twenty-five dollars (\$25).

No reimbursement or payment of Qualifying Expenses incurred during a Plan Year or within the Grace Period shall at any time exceed the total amount of the Participant's Salary Reduction Agreement (properly reduced for prior reimbursements for the same Plan Year). However, reimbursement of the total amount of the Participant's Salary Reduction Agreement for the applicable Plan Year (reduced by any prior reimbursements attributable to such Plan Year) shall be available for distribution at all times during the Plan Year regardless of the balance in the Limited Purpose Flexible Spending Account of the Participant at the time a distribution is requested.

9.11 Qualified Reservist Distributions. A Participant may receive a distribution of the portion of his Limited Purpose Flexible Spending Account provided that such amount was in existence on or after June 18, 2008. The distribution will only be made if: (i) such Participant was a member of a reserve component ordered or called to active duty for a period in excess of 179 days or for an indefinite period and (ii) such distribution is made during the period beginning on the date of such order or call and ending on the last date that reimbursements could otherwise be made under the Plan for the Plan Year which includes the date of such order or call. A Participant ordered or called to active duty before June 18, 2008 is eligible for a Qualified Reservist Distribution if the Participant's period of active duty continues after June 18, 2008 and meets the duration requirements of IRS Notice 2008-82. A Qualified Reservist Distribution may not be made based on an order or call to active duty of any individual other than the Participant, including the sSpouse of the Participant.

The Plan shall permit a Participant to submit Limited Purpose Flexible Spending Account claims for Qualifying Expenses incurred before the date a Qualified Reservist Distribution is requested. The Participant shall not have the right to submit claims for Qualifying Expenses incurred after the date such Qualified Reservist Distribution is requested. The County shall pay the Qualified Reservist Distribution to the Participant within a reasonable time, but not more than sixty days after the request for a Qualified Reservist Distribution has been made.

The amount available as a Qualified Reservist Distribution will be the amount contributed to the Limited Purpose Flexible Spending Account as of the date of the Qualified Reservist Distribution request minus Limited Purpose Flexible Spending Account reimbursements received as of the date of the Qualified Reservist Distribution request.

ARTICLE X
EMPLOYEE BENEFIT CLAIMS PROCEDURE

10.01 Submission of Claim. In the event that Participants believe that they are due a benefit, entitlement or right under the Plan, which has been curtailed or denied, Participants may deliver a written request to the Administrator for a review of their claim. Upon receipt of such request, the Administrator may require the Participant to complete such other forms and provide such additional information as may be necessary or helpful to establish the Participant's claim under the Plan.

10.02 Refunds/Indemnification. If the Administrator determines that any Participant has directly or indirectly received excess payments/reimbursements or has received payments/reimbursements that are taxable to the Participant, the Administrator shall notify the Participant and the Participant shall repay such excess amount (or at the option of the Administrator, the Participant shall repay the amount that should have been withheld or paid as payroll or withholding taxes) as soon as possible, but in no event later than 30 days after the date of notification. A Participant shall indemnify and reimburse the Employer for any liability the Employer may incur for making such payments including, but not limited to, failure to withhold or pay payroll or withholding taxes from such payments or reimbursements. If the Participant fails to timely repay an excess amount and/or make sufficient indemnification, the Administrator may: (i) to the extent permitted by applicable law, offset the Participant's salary or wages, and/or (ii) offset other benefits payable hereunder.

10.03 Debit, Credit or Other Stored Value Cards. To the extent provided in the Plan, the Employer may enter into an agreement with a financial institution and/or Third Party Administrator to provide a Participant with a debit, credit or other stored value card to provide immediate payment of reimbursements available provided that the use of such card complies with IRS Notice 2006-69 and IRS Revenue Ruling 2003-43 (to the extent not superseded by IRS Notice 2006-69). A Participant may obtain benefits without the use of the card.

10.04 Death. If a Participant dies, his beneficiaries or his estate may submit claims for expenses or benefits for the portion of the Plan Year preceding the date of the Participant's death. A Participant may designate a specific beneficiary for this purpose. If no such beneficiary is specified, the Administrator may pay any amount due hereunder to the Participant's Spouse, one or more of his or her Dependents or a representative of the Participant's estate. Such payment shall fully discharge the Administrator and the County from further liability on account thereof.

10.05 Notice of Claim Denial by Administrator. In the event that a claim is wholly or partially denied, the Administrator shall notify the Participant of the denial of the claim. Such notice of denial:

- A. Shall be in writing;
- B. Shall be written in a manner calculated to be understood by the Participant; and
- C. Shall contain:

1. The specific reason or reasons for denial of the claim;
2. A specific reference to the pertinent Plan provisions upon which the denial is based;
3. A description of any additional material or information necessary to perfect the claim, along with an explanation of why such material or information is necessary; and
4. An explanation of the claim review procedure.

Such notice shall be delivered to the Participant within 30 days after receipt of the claim. If the Administrator requires additional time to process the claim, the initial period may be extended for an additional 30 days by giving written notice to the Participant before the end of the initial 30 day period stating the circumstances requiring the extension and the date by which a final decision is expected. Failure to provide a notice of decision within the time specified shall constitute a denial of the claim.

10.06 Request for Review of Claim Denial. The Participant whose claim has been denied, or the Participant's duly authorized representative, may by written request seek a review of the denied claim and the Participant, or the Participant's duly authorized representative, may review the pertinent Plan documents and may submit issues and comments in writing to that end. The written request shall be made by the Participant, or the Participant's duly authorized representative, within 30 days after the earlier of:

- A. Receipt by the Participant of written notice of the denial of the Participant's claim;
or
- B. The expiration of the claims process period, including an extension, if applicable.

10.07 Decision on Review of Claim Denial. The decision to review the denial of any claim hereunder shall be made by the Administrator who may, at its discretion, hold a hearing to assist in the review of the denied claim. The decision shall be made no later than 60 days after the receipt by the Administrator of the request to review. If special circumstances require more than 60 days to process the claim, this period may be extended for up to an additional 60 days by giving written notice to the Participant by the end of the initial 60 day period stating the special circumstances (including the need to hold a hearing) and the date by which a final decision is expected. If the review results in the denial of the claim being upheld, such decision shall:

- A. Be written in a manner calculated to be understood by the Participant;
- B. Include the specific reason or reasons for the decision; and
- C. Contain a specific reference to the pertinent Plan provisions upon which the decision is based.

10.08 Claims Procedure for Non-Taxable Benefits Provided by Insurer. When Plan benefits are to be provided in whole or in part under an insurance contract issued by an Insurer, the initial decision and notice of decision regarding a claim for benefits under an insurance contract shall be made by the Insurer issuing the insurance contract in accordance with the

provisions of the insurance contract. The Insurer shall have the sole responsibility for review of any denied claims, and the appeal of such denied claims and the final decision with respect thereto shall be as specified in the insurance contract. The Employer shall have no liability to any Participant whose claim for benefits is denied in whole or in part by the Insurer.

10.09 Additional Internal and External Claims Review Procedures. The Employer has entered into agreements with the applicable Third Party Administrators to provide Participants with an internal and external claims review process. The internal and external claims review process includes an adverse benefit determination, full and fair review and required notices as determined under Department of Labor (DOL) Reg. 2590.715-2719 and any superseding guidance. This section has been included to comply with DOL Technical Releases including Technical Release No. 2011-02.

**ARTICLE XI
ADMINISTRATION OF PLAN**

11.01 Plan Administrator. The administration of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out in accordance with its terms, for the exclusive benefit of the Participants without discrimination among them. The Administrator shall have full power to manage, operate and administer the Plan in all of its details, subject to applicable requirements of law. For this purpose, in addition to all other powers provided by the Plan, the Administrator's powers shall include, but shall not be limited to, the following:

- A. To formulate, adopt, issue and enforce such rules and regulations as it deems necessary or proper for the efficient operation and administration of the Plan, including the establishment of any claims procedures that may be required by applicable provisions of law, and to amend or rescind such rules, regulations and procedures, from time to time;
- B. To interpret the Plan, and to interpret all questions of law or fact arising under it, such interpretation thereof in good faith to be final and conclusive on all persons claiming benefits under the Plan;
- C. To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;
- D. To adopt and prescribe the use of necessary forms;
- E. To maintain records of Plan Participants;
- F. To appoint such agents, counsel (who may be counsel to the Employer), accountants, consultants and other persons as may be required to assist in the administration of the Plan;
- G. To allocate and delegate its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan, any such allocation, delegation or designation to be in writing; and
- H. To act as designated agent for service of legal process.

Notwithstanding the foregoing, any claim, which arises under any of the Component Plans, shall not be subject to review under the Plan, and the Administrator's authority shall not extend to any matter under any of the Component Plans. All matters and claims under any of the Component Plans shall be determined by the administrator of the Component Plan and any determination made under the Plan shall not reflect upon, influence or determine any matters, issues or claims arising under the Component Plans.

11.02 Examination of Records. The Administrator shall make available to each Participant the Plan records which pertain to such Participant, for examination at reasonable times during normal business hours.

11.03 Reliance on Information. In administering the Plan, the Administrator shall be entitled to the extent permitted by law to rely conclusively on all tables, valuations, certificates, opinions and reports which are furnished by, or in accordance with, the instructions of the administrators of the Component Plans, or by accountants, counselor other experts employed or engaged by the Administrator.

11.04 Nondiscriminatory Exercise of Authority. Whenever, in the administration of the Plan, any discretionary action by the Administrator is required, the Administrator shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated shall receive substantially the same treatment.

11.05 Indemnification of Administrator. In the event and to the extent not insured against by any insurance company pursuant to provisions of any applicable insurance policy, the Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who formerly served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorney's fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith. No Administrator shall be liable for the acts or omissions of the Component Plans administrator(s), any Insurer thereunder, or any other person or persons connected with the administration of the Component Plans.

11.06 No Guarantee of Non-Taxability. The Plan is designed and is intended to be a "cafeteria plan" under Code Section 125. Nonetheless, neither the Employer nor the Administrator shall in any way be liable for any taxes or other liability incurred by a Participant, or anyone claiming through the Participant, by virtue of participation in the Plan. The Plan does not prohibit, and indeed, contemplates providing Taxable Benefits under certain of the Component Plans.

11.07 Compensation and Expenses. The Administrator shall serve without compensation for the Administrator's services hereunder. All expenses of the Administrator shall be paid by the Employer and the Employer shall furnish the Administrator with such clerical and other assistance as is necessary for the performance of the Administrator's duties.

Notwithstanding the foregoing, the Administrator may contract with a Third Party Administrator and/or financial institution to provide services to the Plan and the expenses of such services may, at the sole discretion of the Employer, be paid either by the Employer or from the Plan.

11.08 Health Insurance Portability and Accountability Act (HIPAA) Privacy Rules

Application. This Section 11.08 shall only apply in the event that this Plan constitutes a group health plan as defined in section 2791(a)(2) of the Public Health Service Act.

- A. Privacy Policy. The Plan shall adopt a HIPAA privacy policy, the terms of which are incorporated herein by reference.
- B. Business Associate Agreement. The Plan will enter into a business associate agreement with any persons as may be required by applicable law as determined by the Administrator.
- C. Notice of Privacy Practices. The Plan will provide each Participant with a notice of privacy practices to the extent required by applicable law.
- D. Disclosure to the County.
 1. In General. This subsection permits the Plan to disclose protected health information ("PHI"), as defined in the HIPAA privacy rules, to the County to the extent that such PHI is necessary for the County to carry out its administrative functions related to the Plan.
 2. Permitted Disclosure. The Plan may disclose the PHI to the County that is necessary for the County to carry out the following administrative functions related to the Plan: eligibility determinations, enrollment and dis-enrollment activities, and Plan amendments or termination. The County may use and disclose the PHI provided to it from the Plan only for the administrative purposes described in this subsection.
 3. Limitations. The County agrees to the following limitations and requirements related to its use and disclosure of PHI received from the Plan:
 - a. Use and Further Disclosure. The County shall not use or further disclose PHI other than as permitted or required by the Plan document or as required by all applicable law including, but not limited to, the HIPAA privacy rules. When using or disclosing PHI or when requesting PHI from the Plan, the County shall make reasonable efforts to limit the PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure or request.
 - b. Agents and Subcontractors. The County shall require any agents, including subcontractors, to whom it provides PHI received from the Plan to agree to the same restrictions and conditions that apply to the County with respect to such information
 - c. Employment-Related Actions. Except as permitted by the HIPAA privacy rules and other applicable federal and state privacy laws, the County shall not use PHI for employment-related actions and decisions, or in connection with any other Employee benefit plan of the County.
 - d. Reporting of Improper Use or Disclosure. The County shall promptly report to the Plan any improper use or disclosure of PHI of which it becomes aware.
 - e. Adequate Protection. The County shall provide adequate protection of PHI and separation between the Plan and the County by: (i) ensuring

that only those Employees who work in the human resources department of the County and those Employees who work in the Comptroller's Office payroll department who manage or execute the Plan on issues related to the healthcare components of the Plan will have access to the minimum necessary PHI provided by the Plan; (ii) restricting access to and use of PHI to only the Employees identified in clause (i) above and only for the administrative functions performed by the County on behalf of the Plan that are described herein; (iii) requiring any agents of the Plan who receive PHI to abide by the Plan's privacy rules; and (iv) using the County's established disciplinary procedures to resolve issues of noncompliance by the Employees identified in clause (i) above.

- f. Return or Destruction of PHI. If feasible, the County shall return or destroy all PHI received from the Plan that the County maintains in any form, and retain no copies of such information when no longer needed for the purpose for which disclosure was made. If such return or destruction is not feasible, the County shall limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
 - g. Participant Rights. The County shall provide Participants with the following rights: (i) the right to access to their PHI in accordance with 45 C.F.R. §164.524; (ii) the right to amend their PHI upon request (or the County will explain to the Participant in writing why the requested amendment was denied) and incorporate any such amendment into a Participant's PHI in accordance with 45 C.F.R. §164.526; and (iii) the right to an accounting of all disclosures of their PHI in accordance with 45 C.F.R. §164.528.
 - h. Cooperation with the United States Department of Health and Human Services (HHS) or appropriate federal agencies. The County shall make its books, records, and internal practices relating to the use and disclosure of PHI received from the Plan available to HHS for verification of the Plan's compliance with the HIPAA privacy rules.
4. Certification. The County hereby certifies that the Plan documents have been amended in accordance with 45 C.F.R. §164.504(f), and that the County shall protect the PHI as described in subsection 3 herein.
5. Security Standards Requirement. To comply with the security standards regulations that were published on February 21, 2003, the County must:
- a. implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic PHI that it creates, receives, maintains or transmits on behalf of the Plan;
 - b. ensure that the adequate separation required by 45 C.F.R. 164.504(f)(2)(iii) is supported by reasonable and appropriate security measures;

- c. ensure that any agent, including a subcontractor, to whom it provides this information agrees to implement reasonable and appropriate security measures to protect the information; and
 - d. report to the Plan any security incident of which it becomes aware.
6. HITECH Act Requirement. To comply with the requirements of sections 13401 and 13404 of the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, the County agrees to incorporate all requirements of the HITECH Act into the County’s business associate agreements.
 7. Amendment. Notwithstanding any other provision of the Plan, this section may be amended in any way and at any time by the County.
 8. Effective Dates. Subsections (1) – (4) and subsection (6) apply to the Plan no later than April 14, 2003, or such other date that the HIPAA Privacy Regulations apply to the Plan. Section (5) applies to the Plan no later than April 20, 2005, or such other date that the HIPAA Security Regulations apply to the Plan.

**ARTICLE XII
AMENDMENT AND TERMINATION OF PLAN**

12.01 Amendment and Termination. The Employer expects the Plan to be permanent and continue indefinitely, but since future conditions affecting the Employer cannot be anticipated or foreseen, the Employer must necessarily and does hereby reserve the right to amend, modify, supplement, or terminate the Plan at any time. The Employer may make any modifications or amendments to the Plan that are necessary or appropriate to qualify or maintain the Plan as a Plan meeting the requirements of Code sections including but not limited to 79, 105, 106, 125, 129, 152 213, and 223 as now in effect or hereafter adopted or the Regulations issued thereunder. Such amendments shall be as set forth in an instrument in writing executed by the Employer.

Any amendment may be current, retroactive or prospective, in each case as provided therein; provided, however, that no amendment shall create or effect any discrimination prohibited by the Code.

12.02 Exclusive Benefit. The Plan is adopted for the exclusive benefit of the Employees of the Employer. No amendment to the Plan or action by the Employer or Administrator shall cause the Plan to be operated other than for the exclusive benefit of Employees and Participants.

12.03 Accrued Benefits Upon Termination or Amendment of Plan. The amendment or termination of the Plan shall not cause the loss or forfeiture of any benefits accrued or owing to the Participants prior to the date of the amendment or termination.

ARTICLE XIII
MISCELLANEOUS PROVISIONS

13.01 Number. Any term herein in the singular may also include the plural.

13.02 Gender. Whenever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply.

13.03 Information to be Furnished. Participants shall provide the Employer and Administrator with such information and evidence, and shall sign such documents as may reasonably be requested from time to time for the purpose of administration of the Plan and to avoid payment of benefits for which the Plan, a Component Plan or an Insurer is not primarily liable.

13.04 Limitation of Employee's Rights. Neither the establishment of the Plan nor any amendment hereof, nor the payment of any benefits, shall be construed as giving to any Participant or to any other person any legal or equitable right against the Employer, or any officer or Employee thereof, the Administrator, or any other person, except as herein provided. Participation in the Component Plans by Employees and their Dependents shall be governed by the terms and provisions of the Component Plans and nothing in the Plan shall be construed as giving to any Participant or to any other person any rights under the Component Plans except as provided under such Component Plans.

13.05 Indemnification by Participants. If any Participant receives a reimbursement from a Medical Flexible Spending Account, Limited Purpose Flexible Spending Account or a Dependent Care Flexible Spending Account for expenses which are not Qualifying Medical Expenses, Qualifying Expenses or Dependent Care Expenses, respectively, the Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to pay or withhold federal income or employment taxes from such payment or reimbursement. However, such indemnification and reimbursement shall not exceed the amount of additional federal income taxes which the Participant would have owed if the payments or reimbursements had been made to the Participant as additional Compensation in the form of Taxable Benefits together with the Participant's share of any employment taxes that would have been paid on such Compensation reduced by any such additional income and employment taxes actually paid by the Participant.

13.06 Flexible Spending Account Assets or Funds. The Account of each Participant shall not represent actual Participant deposits into any fund. No assets or funds shall be invested in any separate trust. Until distributed, the Participant's Election of Non-Taxable Benefits pursuant to a Salary Reduction Agreement shall remain as part of the Employer's general assets. No Participant or any other party shall have any claim against, right to, or security or other interest in, any fund, Account or asset of the Employer from which any payment under the Plan may be made.

13.07 Employment Rights. The establishment and maintenance of the Plan shall not be construed as conferring any legal rights upon any Employee or other person for a continuation

of employment, nor shall it interfere with the rights of the Employer to discharge any Employee and to treat Employee without regard to the effect which such treatment might have upon Employee as a Participant in the Plan.

13.08 Application of COBRA. In the event a Participant (or the Participant's beneficiary) sustains a qualifying event, as defined in Code section 4980B, the Participant (or their beneficiary, if applicable), shall be entitled to continuation of coverage through this Plan and Component Plans to the extent prescribed by Code section 4980B, notwithstanding the provisions of Section 3.02. Any Participant rights under COBRA shall not be deemed to extend any additional rights under the Plan that are not expressly provided herein to Employees or Participants.

13.09 Spendthrift Clause. The interests of Participants in the Plan shall not be subject to assignment or alienation by operation of law or legal process, nor shall such interests be assignable, alienable, or transferable in any way.

13.10 Governing Law. The Plan shall be construed, administered and enforced according to the laws of the State of Florida, to the extent not preempted by applicable Federal law; provided, however, that the governing law with respect to any Component Plan shall be as provided in the Component Plan.

13.11 Tax Effect. The Plan does not represent or guarantee that any particular federal, state or local income, payroll, personal property or other tax consequences will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation.

13.12 Severability. If any provision of the Plan shall be invalid or unenforceable, the remaining provisions hereof shall continue to be fully effective.

13.13 Headings. Paragraph headings used in the Plan are inserted for convenience of reference only, and any conflict among the headings and the text shall be resolved in favor of the text.

13.14 Counterparts. The Plan may be adopted in an original and any number of counterparts, each of which shall be deemed to be an original of one and the same instrument.

IN WITNESS WHEREOF, the Employer has caused the Plan to be executed in its name and on its behalf on the ____ day of _____, 2012, and to become effective the 1st day of January, 2011.

BY: _____
Orange County, FL

Date: _____

THE ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

EXHIBIT A

Administrator

The Administrator of the Orange County, Florida WFL Plan shall be the Director of Human Resources.

EXHIBIT B

The Orange County, Florida Medical Plans

The Orange County, Florida Life and Accidental Death and Dismemberment Plan

The Orange County, Florida Disability Plans

The Orange County, Florida Dental Plans

The Orange County, Florida Vision Plan

The Orange County, Florida TRICARE Supplement Plan