

Benefits Consultant's Agreement

This "Agreement," is between **Nassau County Board of County Commissioners**, hereinafter referred to as "**Client**" and (**MFB Financial TPA, Inc.**) herein after referred to as "**Consultant**."

WHEREAS, **Client** desires to obtain the assistance and service of **Consultant** to "assist the Human Resources Department and represent the County in the marketing of an employee health insurance (group benefits) program" and the "acquisition of competitively priced insurance coverage from qualified sources" as well as "certain consultation/advisory services related to the County's health insurance needs."

WHEREAS, the **Consultant** has superior knowledge and experience in providing such Benefits services via the **Consultant** and its principal, Mark F. Bailey's history of efficiency and successful engagement of such business activities in the past and presently, through this and predecessor institutions, including assisting similar employees and public entities by servicing employee benefit plans and;

WHEREAS, the parties MFB Financial T.P.A, Inc. (**Consultant**) and Nassau County Board of County Commissioners (**Client**) desire to stipulate their respective expectations, obligations and duties concerning this agreement;

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby agree as follows:

1. Scope of Services to be Provided by Consultant:

- A. Provide general and technical guidance on employee health benefit issues to include market analysis, trends, contracts and statute interpretation and cost containment methods.
- B. Provide dedicated personnel to be the main contact for managing account relationship. The contact will be readily accessible to the County Human Resources personnel.
- C. In conjunction with the County prepare specifications for a request for proposals to procure health benefits for Nassau County employees.
- D. Respond to questions from potential RFP respondents with assistance from staff (throughout the RFP process). All such communication will be conducted through the County's Human Resources Department and Contracts Management.
- E. Evaluate all proposals and furnish a written report which will include comparative data and the consultants' recommendations on coverage and provider selection.
- F. Assist in the negotiation of the contract with the successful respondent.
- G. Provide qualified representative to attend the County's Health Insurance Committee Meetings, Nassau County Board of County Commissioners meetings and employee meetings as requested or needed.
- H. Assist the County in the implementation of the program which is selected by the Nassau County Board of Commissioners.
- I. Prepare and produce 780 Nassau County customized Employee Benefit Handbooks for Nassau County's Open Enrollment period in conjunction with Nassau County's Human Resources Department.
- J. Review all plan documents for accuracy and compliance with appropriate laws and regulations.
- K. Prepare response to any administrative RFP appeals.
- L. Assist the County Attorney in preparation of defense if any litigation should result from the RFP process.
- M. Testify in court at the request of the County Attorney if litigation should result from the RFP process.
- N. Research the pros and cons of the County implementing an Employee Health Clinic in conjunction with our health insurance plans.

2. Disclosure and Record Keeping

- A. **Full Disclosure.** **Client** has the right to approve any arrangements and/or the utilization of any intermediaries in connection with, or arising out of, or in any way related to **Client's** group employee insurance programs. **Consultant** will discuss in detail specific benefit requests and/or modifications with **Client** prior to the use of any of the above in connection with the **Client's** insurance programs.
- B. **Record Keeping.** **Consultant** will maintain accurate and current files including, but not limited to, insurance policies and correspondence with insurance carriers/vendors in accordance with industry standard record retention practice or as otherwise directed by **Client**.

3. Term & Termination

- A. **Term.** This term of this Agreement shall begin following **Client's** acceptance, commencing on approximately April 1, 2010 and should have a completion date of no later than September 30, 2010. The rfp carrier responses are due for **Client** review on June 24, 2010. Both **Consultant** and **Client** will make every effort to adhere to pre-determined project timeline however, minor modifications may be necessary.

B. Termination & Revision

This Agreement may be terminated by either party only as follows:

- a. Termination will be effective upon thirty (30) days advance written notice to the other party stating that such other party is in breach of any of the provisions of this Agreement, provided such breach (if able to be cured) is not cured within fifteen (15) days after the notice is received;
- b. Termination effective upon sixty (60) days advance written notice to the other party given with or without reason; provided such notice is given after the Initial Term; or
- c. Revision will be effective immediately upon mutual written agreement of the parties.

4. Cost of Services

Consultant professional fees are based upon flat fee structure of \$29,500 as outlined in Exhibit 1. **Client** agrees to pay **Consultant** professional fees within 30 days of project completion, or approximately on or before October 30, 2010.

5. Personnel

Consultant has assigned its personnel according to the needs of **Client** and according to the disciplines required to complete the appointed task in a professional manner. **Consultant** retains the right to substitute personnel with reasonable cause. The Consultant/Advisory Team consists of the following individuals:

Primary Consultants: Donna Fogle
Account Services Coordinator

Carly Saffer
Business Development Coordinator

Additional Key Resources: Deborah Croft,
Operations Officer

Mark F. Bailey,
CLU, President

Debbie Weiner
Account Service Coordinator

Rachael Lando
Account Service Coordinator

6. Client's Responsibilities

Client will make available such reasonable information as required for **Consultant** to conduct its services. Such data will be made available as promptly as possible. It is understood by **Consultant** that the time of **Client's** personnel is limited, and judicious use of that time is a requirement of this Agreement. **Client** will make every effort to provide **Consultant** with information in as timely a manner as possible.

7. Records and Information

Consultant understands and agrees to limit its use and disclosure of protected health information as described in Exhibit 2.

Consultant shall maintain in such **Consultant's** principal administrative office for the duration of the written agreement and for 5 years thereafter adequate books and records of all transactions among such **Consultant**, Insurers, and **Client** persons. Such books and records shall be maintained in accordance with prudent standards of insurance recordkeeping.

The insurers shall retain the right of continuing access to books and records maintained by the **Consultant** sufficient to permit the insurer to fulfill all of its contractual obligations to **Client** persons, subject to any restrictions in the written agreement between the insurer and the **Consultant** on the proprietary rights of the parties in such books and records. 626.884(3), F.S.

The Department of Financial Services shall have access to books and records maintained by the **Consultant** for the purpose of examination, audit, and inspection. Pursuant to Florida Statute 626.884, information contained in such books and records is confidential and exempt from the provisions of Florida Statute 119.07(1) if the disclosure of such information would reveal a trade secret as defined in Florida Statute 688.002. However, the Department may use such information in

any proceeding instituted against the **Consultant**. The exemption provided in Section 626.884(2) is subject to the Open Government Sunset Review Act in accordance with Florida Statute 119.15.

- 8. Independent Contractor.** It is understood and agreed that **Consultant** is engaged by **Client** to perform specific services under this Agreement as an independent contractor. **Consultant** shall use its best efforts to follow written, oral, or electronically transmitted (i.e., sent via facsimile or e-mail) instructions from **Client** as to policy and procedure. This Agreement is non-assignable without prior written notification as outlined.

9. Entire Agreement

- A. Incorporation of Terms.** The terms and conditions of the RFP and **Consultant's** Response are hereby incorporated into this Agreement by reference to the Agreement.
- B. Jurisdiction and Venue.** This Agreement shall be governed by the laws of the State of Florida. The approximate Court of Nassau County, Florida shall be the exclusive venue for any litigation arising out of or relating to this Agreement.
- C. Waiver of Jury Trial.** The parties knowingly and voluntarily waive their right to trial by jury in any action arising out of or relating to this Agreement.
- D. Entire Agreement.** This constitutes the entire Agreement between the parties, and any warranties or agreements are hereby superseded.
- E. Amendments.** Subsequent amendments to this Agreement shall only be in writing signed by all parties.

This constitutes the entire Agreement between the parties, and any other warranties or agreements are hereby superseded.

Subsequent amendments to this Agreement shall only be in writing signed by all parties. Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice either delivered in person, sent by U.S. Certified Mail, U.S. Express Mail, air or ground courier services, or by messenger service, as follows:

COUNTY

Contract Manager
Nassau County Contract Management
96135 Nassau Place, Suite 6
Yulee, Florida 32097

With a copy to the County Attorney at the same address.

CONSULTANT

MFB Financial TPA Inc
1200 Plantation Island Drive, Suite 210
St. Augustine, FL 32080

Notices shall be effective when received at the address specified above. Changes in the respective addresses to which such notice may be directed may be made from time to time by any party by written notice to the other party. Facsimile is acceptable notice effective when received, however, facsimiles received (i.e.; printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Consultant and County.

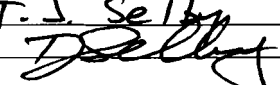
10. Indemnification

- A.** Consultant shall indemnify the County and to the fullest extent permitted by law, protect,

defend, indemnify and hold harmless the County, its agents, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged: a). Bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting from, or any other damage or loss arising out of or resulting, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the Consultant, any sub-consultant, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in the performance of the Work; or b). Violation of law, statute, ordinance, governmental administration order, rule, regulation, or infringement of patent rights by Consultant in the performance of the Work; or c). Liens, claims or actions made by the Consultant or any subconsultants under workers compensation acts; disability benefit acts, other employee benefit acts or any statutory bar. Any cost of expenses, including Attorney's fees, incurred by the County to enforce this agreement shall be borne by the Consultant.

- B. Upon completion of all services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive indefinitely.
- C. The Consultant shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees (including appellate attorney's fees) and costs.
- D. County reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of Consultant under the indemnification agreement. Nothing contained herein is intended nor shall it be construed to waive County's rights and immunities under the common law or Florida Statute 768.28 as amended from time to time.

Nassau County (Client)

Title: Interim County Manager
Name: T. J. Selby
Signature:  Date: 4/27/10

MFB Financial TPA, Inc. (Consultant)

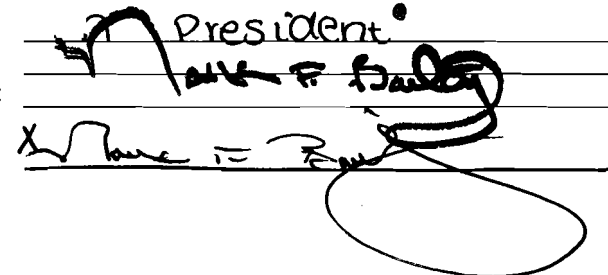
Title: President
Name: Mark R. Selby
Signature:  Date: 5/12/10

Exhibit 1
Benefits Consultant's General Services Fee Structure

General Services \$29,500

1. Provide general and technical guidance on employee health benefit issues to include market analysis, trends, contracts and statute interpretation and cost containment methods.
2. Provide dedicated personnel to be the main contact for managing account relationship. The contact will be readily accessible to the County Human Resources personnel.
3. In conjunction with the County prepare specifications for a request for proposals to procure health benefits for Nassau County employees.
4. Respond to questions from potential RFP respondents with assistance from staff (throughout the RFP process). All such communication will be conducted through the County's Human Resources Department and Contracts Management.
5. Evaluate all proposals and furnish a written report which will include comparative data and the consultants' recommendations on coverage and provider selection.
6. Assist in the negotiation of the contract with the successful respondent.
7. Provide qualified representative to attend the County's Health Insurance Committee Meetings, Nassau County Board of County Commissioners meetings and employee meetings as requested or needed.
8. Assist the County in the implementation of the program which is selected by the Nassau County Board of Commissioners.
9. Prepare and produce 780 Nassau County customized Employee Benefit Handbooks for Nassau County's Open Enrollment period in conjunction with Nassau County's Human Resources Department.
10. Review all plan documents for accuracy and compliance with appropriate laws and regulations.
11. Prepare response to any administrative RFP appeals.
12. Assist the County Attorney in preparation of defense if any litigation should result from the RFP process.
13. Testify in court at the request of the County Attorney if litigation should result from the RFP process.
14. Research the pros and cons of the County implementing an Employee Health Clinic in conjunction with our health insurance plans.

Exhibit 2

Business Associate Contract

This Business Associate Agreement (the "Agreement"), dated _____, 2010, is entered into by and between Nassau County ("Covered Entity") and MFB Financial, Inc., d/b/a *The Bailey Group and/or MFB Financial, TPA* (the "Business Associate") (each a "Party" and collectively the "Parties").

Recitals

WHEREAS, Covered Entity has engaged Business Associate to perform services on its behalf;

WHEREAS, Covered Entity possesses Individually Identifiable Health Information that is protected under HIPAA, the HIPAA Privacy Regulations, the HIPAA Security Regulations and the HITECH Standards and is permitted to use or disclose such information only in accordance with such laws and regulations;

WHEREAS, Business Associate may receive such information from Covered Entity or create and receive such information on behalf of Covered Entity;

WHEREAS, Covered Entity wishes to ensure that Business Associate will appropriately safeguard Individually Identifiable Health Information;

NOW THEREFORE, for good and valuable consideration, the sufficiency of which we hereby acknowledge, the Parties agree as follows:

I. Definitions.

Examples of specific definitions:

- (a) *Breach*. "Breach" shall have the same meaning as the term "breach" in 45 CFR §164.402 45 CFR §164.402.
- (b) *Business Associate*. "Business Associate" shall mean MFB Financial, Inc., d/b/a *The Bailey Group and/or MFB Financial, TPA*.
- (c) *Covered Entity*. "Covered Entity" shall mean Nassau County Board of County Commissioners.
- (d) *Electronic Health Record*. "Electronic Health Record" shall have the same meaning as the term "electronic protected health information" in American Recovery and Reinvestment Act of 2009, §13400(5).
- (e) *Electronic Protected Health Information*. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 CFR §160.103 45 CFR §160.103.
- (f) *Electronic Transactions Rule*. "Electronic Transactions Rule" shall mean the final regulations issued by HHS concerning standard transactions and code sets under 45 CFR Parts 160 45 CFR Parts 160 and 162 162.
- (g) *HHS*. "HHS" shall mean the Department of Health and Human Services.
- (h) *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 45 CFR Parts 160 and 164 164, subparts A and E.
- (i) *Protected Health Information*. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR §160.103 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (j) *Required By Law*. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR §160.103 45 CFR §160.103.
- (k) *Security Incident*. "Security Incident" shall have the same meaning as the term "securing incident" in 45 CFR §160.103 45 CFR §160.103.
- (l) *Security Rule*. "Security Rule" shall mean the Security Standards and Implementation Specifications at 45 CFR Parts 160 45 CFR Parts 160 and 164 164, subpart C.

(m) *Transaction*. “Transaction” shall have the meaning given the term “transaction” in 45 CFR §160.103 45 CFR §160.103.

(n) *Unsecured Protected Health Information*. “Unsecured protected health information” shall have the meaning given the term “unsecured protected health information” in 45 CFR §164.402 45 CFR §164.402.

II. Safeguarding Privacy and Security of Protected Health Information

(a) **Permitted Uses and Disclosures**. Business Associate is permitted to use and disclose Protected Health Information that it creates or receives on Covered Entity’s behalf or receives from Covered Entity (or another business associate of Covered Entity) and to request Protected Health Information on Covered Entity’s behalf (collectively, “Covered Entity’s Protected Health Information”) only:

(i) **Functions and Activities on Covered Entity’s Behalf**. Properly assist with consultative and administrative needs of the benefits program.

(ii) **Business Associate’s Operations**. For Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities, provided that, with respect to disclosure of Covered Entity’s Protected Health Information, either:

(A) The disclosure is Required by Law; or

(B) Business Associate obtains reasonable assurance from any person or entity to which Business Associate will disclose Covered Entity’s Protected Health Information that the person or entity will:

(1) Hold Covered Entity’s Protected Health Information in confidence and use or further disclose Covered Entity’s Protected Health Information only for the purpose for which Business Associate disclosed Covered Entity’s Protected Health Information to the person or entity or as Required by Law; and

(2) Promptly notify Business Associate (who will in turn notify Covered Entity in accordance with the breach notification provisions) of any instance of which the person or entity becomes aware in which the confidentiality of Covered Entity’s Protected Health Information was breached.

(iii) **Minimum Necessary**. Business Associate will, in its performance of the functions, activities, services, and operations specified above, make reasonable efforts to use, to disclose, and to request only the minimum amount of Covered Entity’s Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum-necessary limitation if neither Business Associate nor Covered Entity is required to limit its use, disclosure or request to the minimum necessary. Business Associate and Covered Entity acknowledge that the phrase “minimum necessary” shall be interpreted in accordance with the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”), passed as part of the American Recovery and Reinvestment Act of 2009, and government guidance on the definition.

(b) **Prohibition on Unauthorized Use or Disclosure**. Business Associate will neither use nor disclose Covered Entity’s Protected Health Information, except as permitted or required by this Agreement or in writing by Covered Entity or as Required by Law. This Agreement does not authorize Business Associate to use or disclose Covered Entity’s Protected Health Information in a manner that will violate the Privacy Rule if done by Covered Entity.

(c) **Information Safeguards**.

(i) **Privacy of Covered Entity’s Protected Health Information**. Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Covered Entity’s Protected Health Information. The safeguards must reasonably protect Covered Entity’s Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure

otherwise permitted by this Agreement.

(ii) **Security of Covered Entity's Electronic Protected Health Information.** 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 Protected Health Information that Business Associate creates, receives, maintains, or transmits on Covered Entity's behalf as required by the Security Rule.

(d) **Subcontractors and Agents.** Business Associate will require any of its subcontractors and agents, to which Business Associate is permitted by this Agreement or in writing by Covered Entity to disclose Covered Entity's Protected Health Information and/or Electronic Protected Health Information, to provide reasonable assurance that such subcontractor or agent will comply with the same privacy and security safeguard obligations with respect to Covered Entity's Protected Health Information and/or Electronic Protected Health Information that are applicable to Business Associate under this Agreement.

(e) **Prohibition on Sale of Records.** As of the effective date specified by HHS in final regulations to be issued on this topic, Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual unless the Covered Entity or Business Associate obtained from the individual, in accordance with 45 CFR §164.508 45 CFR §164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that individual, except as otherwise allowed under the HITECH Act.

(f) **Penalties For Noncompliance.** Business Associate acknowledges that it is subject to civil and criminal enforcement for failure to comply with the privacy rule and security rule, as amended by the HITECH Act.

III. Compliance with Electronic Transactions Rule. If Business Associate conducts in whole or part electronic Transactions on behalf of Covered Entity for which HHS has established standards, Business Associate will comply, and will require any subcontractor or agent it involves with the conduct of such Transactions to comply, with each applicable requirement of the Electronic Transactions Rule. Business Associate shall also comply with the National Provider Identifier requirements, if and to the extent applicable.

IV. Individual Rights.

(a) **Access.** Business Associate will, within 28 calendar days following Covered Entity's request, make available to Covered Entity or, at Covered Entity's direction, to an individual (or the individual's personal representative) for inspection and obtaining copies Covered Entity's Protected Health Information about the individual that is in Business Associate's custody or control, so that Covered Entity may meet its access obligations under 45 CFR §164.524 45 CFR §164.524. Effective as of the date specified by HHS, if the Protected Health Information is held in an Electronic Health Record, then the individual shall have a right to obtain from Business Associate a copy of such information in an electronic format. Business Associate shall provide such a copy to Covered Entity or, alternatively, to the individual directly, if such alternative choice is clearly, conspicuously, and specifically made by the individual or Covered Entity.

(b) **Amendment.** Business Associate will, upon receipt of written notice from Covered Entity, promptly amend or permit Covered Entity access to amend any portion of Covered Entity's Protected Health Information, so that Covered Entity may meet its amendment obligations under 45 CFR §164.526 45 CFR §164.526.

(c) **Disclosure Accounting.** To allow Covered Entity to meet its disclosure accounting obligations under 45 CFR §164.528 45 CFR §164.528:

(i) **Disclosures Subject to Accounting.** Business Associate will record the information specified below (“Disclosure Information”) for each disclosure of Covered Entity’s Protected Health Information, not excepted from disclosure accounting as specified below, that Business Associate makes to Covered Entity or to a third party.

(ii) **Disclosures Not Subject to Accounting.** Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of Covered Entity’s Protected Health Information if Covered Entity need not account for such disclosures.

(iii) **Disclosure Information.** With respect to any disclosure by Business Associate of Covered Entity’s Protected Health Information that is not excepted from disclosure accounting, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

(A) **Disclosure Information Generally.** Except for repetitive disclosures of Covered Entity’s Protected Health Information as specified below, the Disclosure Information that Business Associate must record for each accountable disclosure is (i) the disclosure date, (ii) the name and (if known) address of the entity to which Business Associate made the disclosure, (iii) a brief description of Covered Entity’s Protected Health Information disclosed, and (iv) a brief statement of the purpose of the disclosure.

(B) **Disclosure Information for Repetitive Disclosures.** For repetitive disclosures of Covered Entity’s Protected Health Information that Business Associate makes for a single purpose to the same person or entity (including Covered Entity), the Disclosure Information that Business Associate must record is either the Disclosure Information specified above for each accountable disclosure, or (i) the Disclosure Information specified above for the first of the repetitive accountable disclosures; (ii) the frequency, periodicity, or number of the repetitive accountable disclosures; and (iii) the date of the last of the repetitive accountable disclosures.

(iv) **Availability of Disclosure Information.** Business Associate will maintain the Disclosure Information for at least 6 years following the date of the accountable disclosure to which the Disclosure Information relates (3 years for disclosures related to an Electronic Health Record, starting with the date specified by HHS). Business Associate will make the Disclosure Information available to Covered Entity within 45 calendar days following Covered Entity’s request for such Disclosure Information to comply with an individual’s request for disclosure accounting. Effective as of the date specified by HHS, with respect to disclosures related to an Electronic Health Record, Business Associate shall provide the accounting directly to an individual making such a disclosure request, if a direct response is requested by the individual.

(d) **Restriction Agreements and Confidential Communications.** Business Associate will comply with any agreement that Covered Entity makes that either (i) restricts use or disclosure of Covered Entity’s Protected Health Information pursuant to 45 CFR §164.522(a) 45 CFR §164.522(a), or (ii) requires confidential communication about Covered Entity’s Protected Health Information pursuant to 45 CFR §164.522(b) 45 CFR §164.522(b), provided that Covered Entity notifies Business Associate in writing of the restriction or confidential communication obligations that Business Associate must follow. Covered Entity will promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Covered Entity’s Protected Health Information will remain subject to the terms of the restriction agreement. Effective February 17, 2010 (or such other date specified as the effective date by HHS), Business Associate will comply with any restriction request if: (i) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (ii) the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out-of-pocket in full.

V. Breaches and Security Incidents.

(a) Reporting.

(i) **Privacy or Security Breach.** Business Associate will report to Covered Entity any use or disclosure of Covered Entity’s Protected Health Information not permitted by this Agreement along with any Breach of Covered Entity’s Unsecured Protected Health Information. Business Associate will treat the Breach as being discovered in accordance

with 45 CFR §164.410 45 CFR §164.410. Business Associate will make the report to Covered Entity's Privacy Official not more than 45 calendar days after Business Associate learns of such non-permitted use or disclosure. If a delay is requested by a law-enforcement official in accordance with 45 CFR §164.412 45 CFR §164.412, Business Associate may delay notifying Covered Entity for the applicable time period. Business Associate's report will at least:

- (A) Identify the nature of the Breach or other non-permitted use or disclosure, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of any Breach;
- (B) Identify Covered Entity's Protected Health Information that was subject to the non-permitted use or disclosure or Breach (such as whether full name, social security number, date of birth, home address, account number or other information were involved) on an individual basis;
- (C) Identify who made the non-permitted use or disclosure and who received the non-permitted disclosure;
- (D) Identify what corrective or investigational action Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate harmful effects and to protect against any further Breaches;
- (E) Identify what steps the individuals who were subject to a Breach should take to protect themselves;
- (F) Provide such other information, including a written report, as Covered Entity may reasonably request.

(ii) **Security Incidents.** Business Associate will report to Covered Entity any attempted or successful (A) unauthorized access, use, disclosure, modification, or destruction of Covered Entity's Electronic Protected Health Information or (B) interference with Business Associate's system operations in Business Associate's information systems, of which Business Associate becomes aware. Business Associate will make this report annually, except if any such security incident resulted in a disclosure not permitted by this Agreement or Breach of Covered Entity's Unsecured Protected Health Information, Business Associate will make the report in accordance with the provisions set forth in the paragraph above.

VI. Term and Termination.

(a) **Term.** The term of this Agreement shall be effective as of February 17, 2010, and shall terminate when all Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this section.

(b) **Right to Terminate for Cause.** Covered Entity may terminate Agreement if it determines, in its sole discretion, that Business Associate has breached any provision of this Agreement, and upon written notice to Business Associate of the breach, Business Associate fails to cure the breach within 30 calendar days after receipt of the notice. Any such termination will be effective immediately or at such other date specified in Covered Entity's notice of termination.

(i) **Return or Destruction of Covered Entity's Protected Health Information as Feasible.** Upon termination or other conclusion of Agreement, Business Associate will, if feasible, return to Covered Entity or destroy all of Covered Entity's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. Further, Business Associate shall require any such subcontractor or agent to certify to Business Associate that it returned to Business Associate (so that Business Associate may return it to the Covered Entity) or destroyed all such information which could be returned or destroyed. Business Associate

will complete these obligations as promptly as possible, but not later than 90 calendar days following the effective date of the termination or other conclusion of Agreement.

(ii) **Procedure When Return or Destruction Is Not Feasible.** Business Associate will identify any of Covered Entity's Protected Health Information, including any that Business Associate has disclosed to subcontractors or agents as permitted under this Agreement, that cannot feasibly be returned to Covered Entity or destroyed and explain why return or destruction is infeasible. Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than 90 calendar days following the effective date of the termination or other conclusion of Agreement.

(iii) **Continuing Privacy and Security Obligation.** Business Associate's obligation to protect the privacy and safeguard the security of Covered Entity's Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of this Agreement.

VII. General Provisions.

- (a) **Definitions.** All terms that are used but not otherwise defined in this Agreement shall have the meaning specified under HIPAA, including its statute, regulations and other official government guidance.
- (b) **Inspection of Internal Practices, Books, and Records.** Business Associate will make its internal practices, books, and records relating to its use and disclosure of Covered Entity's Protected Health Information available to Covered Entity and to HHS to determine compliance with the Privacy Rule.
- (c) **Amendment to Agreement.** Upon the compliance date of any final regulation or amendment to final regulation promulgated by HHS that affects Business Associate or Covered Entity's obligations under this Agreement, this Agreement will automatically amend such that the obligations imposed on Business Associate or Covered Entity remain in compliance with the final regulation or amendment to final regulation.
- (d) **No Third-Party Beneficiaries.** Nothing in this Agreement shall be construed as creating any rights or benefits to any third parties.
- (e) **Interpretation.** Any ambiguity in the Agreement shall be resolved to permit Covered Entity and Business Associate to comply with the applicable requirements under HIPAA.

X Mark F. Bailey
Signed: Mark F. Bailey Date 5/12/10
Mark F. Bailey
Mark F. Bailey, CLU
Delby Date 4/27/10
Group Representative

CONTRACT APPROVAL FORM

(Contract Management Use only)

CONTRACT TRACKING NO.

CM1599

CONTRACTOR INFORMATION

Name: MFB Financial, Inc. dba The Bailey Group

Address: 1200 Plantation Island Dr., St. Augustine, Florida 32080

City: _____ State: _____ Zip: _____

Contractor's Administrator Name: Mark Bailey Title: President

Tel#: 904-461-1800 Fax#: 904-461-1775 Email: dfogle@mbaileygroup.com

CONTRACT INFORMATION

Contract Name: Benefit's Consultant Agreement Contract Value: \$29,500

Brief Description: Consulting to place County's Health Insurance to Bid and bring back recommendations.

Contract Dates : From 4/1/210 to 9/30/10 Status: XX New ___ Renew ___ Amend# ___ WA/Task Order

How Procured: ___ Sole Source ___ Single Source ___ ITB ___ RFP XX RFQ ___ Coop. ___ Other ___

If Processing an Amendment:

Contract #: _____ Increase Amount of Existing Contract: _____ No Increase ___

New Contract Dates: _____ to _____ TOTAL OR AMENDMENT AMOUNT: _____

APPROVALS PURSUANT TO NASSAU COUNTY PURCHASING POLICY, SECTION 6

- | | | | |
|----|--|------------------------|---|
| 1. | <u>Chile A Pope</u>
Department Head Signature | <u>5/13/10</u>
Date | <u>01122513-531000</u>
Funding Source/Acct # |
| 2. | <u>Charlotte Young</u>
Contract Management | <u>5/14/10</u>
Date | |
| 3. | <u>[Signature]</u>
County Attorney (approved as to form only) | <u>5/17/10</u>
Date | |
| 4. | <u>[Signature]</u>
Office of Management & Budget | <u>5/18/10</u>
Date | |

RECEIVED CONTRACT MANAGEMENT 210 MAY 14 AM 10:59

Comments: _____

INTERIM COUNTY MANAGER - FINAL SIGNATURE APPROVAL

[Signature] 5/18/10
Ted Selby Date

RETURN ORIGINAL(S) TO CONTRACT MANAGEMENT FOR DISTRIBUTION AS FOLLOWS:

- Original: Clerk's Services; Contractor (original or certified copy)
- Copy: Department
- Office of Management & Budget
- Contract Management
- Clerk Finance