SEGAL

THE SEGAL COMPANY
2018 Powers Ferry Road Suite 850 Atlanta, GA 30339-5003
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CONTRACT

By and Between

SHELBY COUNTY GOVERNMENT

and

THE SEGAL COMPANY

This contract (the "Contract") entered into this 9th day of October, 2008, and between SHELBY COUNTY GOVERNMENT, hereinafter referred to as "COUNTY", and THE SEGAL COMPANY, its subsidiaries and affiliates, hereinafter referred to as "CONTRACTOR" or "PROVIDER".

WITNESSETH

WHEREAS, it is necessary for the COUNTY to obtain services in the form of design, implementation, and maintenance of Healthcare Programs; and

WHEREAS, A Request for Proposal Number 08-004-75 was issued by the COUNTY and responses were due on Monday, May 15, 2008; and

WHEREAS, the CONTRACTOR has the knowledge and expertise to provide such services and has submitted the best bid; and

WHEREAS, the parties are desirous of entering into a contract setting forth the terms and conditions under which the CONTRACTOR will provide said services.

NOW THEREFORE, for and in consideration of mutual promises and covenants herein contained, the parties hereto agree as follows:

I. SCOPE OF WORK

1. The CONTRACTOR shall provide professional services in the form of design, implementation, and maintenance of Healthcare Programs as outlined within the Request for Proposal number 08-004-75 which is attached hereto as Exhibit "A" and incorporated herein by reference as if stated verbatim and proposed by the Provider in the Response to said Proposal which is attached hereto as Exhibit "B" and incorporated herein by reference as if stated verbatim (the "Services"). Services shall include but not be limited to the following:

- Provide on-going general healthcare advice on the operations of the County's healthcare program and any activities associated with the Services

- Review existing programs and identify/make recommendations for changes to make them more cost efficient, plan provisions, alternative delivery systems, contribution strategies, or other areas.
- Provide assistance in the development of RFP documents, analyzing proposals, summarizing results, assist with interviews and necessary duties in the exploratory process.
- Assisting in negotiations of healthcare/pharmacy contracts and review of draft contracts.
- Pricing of healthcare program on an annual basis.
- Perform annual GASB-45 evaluations.
- Provide other necessary technical and legal advice.
- Provide unbiased and candid assessments.
- Voluntary Program Assistance.
- Development of On-Line Benefits Administration System.

II. TERM AND COMPENSATION

1. The term of this Contract (the "Initial Term") will commence upon the execution of this Contract and continue through June 30, 2011. This Contract may be renewed for two (2) additional one (1) year periods from July 1, 2011 through June 30, 2012 and July 1, 2012 through June 30, 2013 upon mutual written agreement of the parties and with the same terms and conditions and satisfactory performance.

2. The COUNTY agrees to compensate the CONTRACTOR for the provision of the Services the sum total not to exceed TWO HUNDRED TWENTY FOUR THOUSAND FIVE HUNDRED AND TWENTY AND 00/100DOLLARS ($224,520.00) (the "Fee") during the Initial Term of this Contract which shall include all reimbursable expenses. All invoices will be based on specific projects that have been priced and agreed upon in writing prior to the work being performed and paid from project specific purchase orders.

3. The CONTRACTOR shall submit invoices to the COUNTY on a monthly basis for Services performed during the preceding month. Invoices shall be submitted in duplicate to each department to the attention of each department's contact named and set forth herein. The COUNTY shall pay such invoices within thirty (30) days of its receipt and approval of said invoices. The COUNTY is not obligated to pay, and will withhold from payment, any amounts the COUNTY has in dispute with the CONTRACTOR based on CONTRACTOR'S non-performance or negligent performance of any of the Services under this Contract.

III. GENERAL PROVISIONS

1. Control. All services by the Provider will be performed in a manner satisfactory to the County, and in accordance with the generally accepted business practices and procedures of the County.

2. Provider's Personnel. The Provider certifies that it presently has adequate qualified personnel to perform all services required under this Contract. All work under this Contract will be supervised by the provider. The Provider further certifies that all of its employees assigned to serve the County have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Consultant who, in the opinion of the County, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with services under this Contract.

3. Independent Status.

(a) Nothing in this Contract shall be deemed to represent that the provider, or any of the provider's employees or agents, are the agents, representatives, or employees of the County. The Provider will be an independent consultant over the details and means for performing its obligations under this Contract. Anything in this Contract which may appear to give County the right to direct the Provider as to the details of the performance of its obligations under this Contract or to exercise a measure of control over the Provider is solely for purposes of compliance with local, state and federal regulations and means that the Consultant will follow the desires of the County only as to the intended results of the scope of this Contract.

(b) It is further expressly agreed and understood by Provider that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the County; that the provider has been retained by the County to perform the services specified herein (not hired) and that the remuneration specified herein is considered fees for services performed (not wages) and that invoices submitted to the County by the Provider for services performed shall be on the Consultant's letterhead.

4. Termination Or Abandonment.

(a) It shall be cause for the immediate termination of this Contract if, after its execution, the County determines that either:

(i) the Provider or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendre, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting.

(ii) The Provider has subcontracted, assigned, delegated, or transferred its rights, obligations or interests under this Contract without the County's consent or approval.

(iii) The Provider has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of Provider's assets.

(b) The County may terminate the Contract upon five (5) business days written notice by the County or its authorized agent to the Provider (the "Notice Period") for Provider's failure to provide the services specified under this Contract. Termination pursuant to this paragraph 4.(b) shall only take effect if the Provider has not remedied to the satisfaction of the County or its duly authorized representative the alleged failure to provide services prior to the expiration of the Notice Period. The County's determination of satisfaction shall be at the discretion of the Agent for the County and deemed the final decision on this matter.

(c) This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination. In the event of such termination, the Provider shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date; however, the Provider shall not be reimbursed for any anticipatory profits that have not been earned as of the date of termination.

(d) All completed and/or unfinished Deliverables (as defined in paragraph 25 below) prepared by Provider prior to the date of such termination shall be recorded and tangible work

documents shall be transferred to and become the sole property of the County, subject to the provisions of paragraph 25 below..

(e) Notwithstanding the above, the Provider shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Provider and the County may withhold any payments to Consultant for the purpose of setoff until such time as the exact amount of damages due the County from the Provider is determined.

5. Subcontracting, Assignment Or Transfer. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the Provider from performance of its duties under this contract. The County shall not be responsible for the fulfillment of the Provider's obligations to its transferors or sub-providers. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the assignment.

6. Conflict Of Interest. The Provider covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of its services. The Provider warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the County as wages, compensation, or gifts in exchange for acting as officer, agent, employee, sub-provider to the Provider in connection with any work contemplated or performed relative to this Contract.

7. Covenant Against Contingent Fees. The Provider warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Provider, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Provider any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the County will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

8. Employment Of County Workers. The Provider will not engage, on a full or part-time, or other basis during the period of the Contract, any professional or technical personnel who are or have been at any time during the period of the Contract in the employ of the County.

9. Arbitration. Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the Consultant and the County will be referred to the Shelby County Contract Administrator or his/her duly authorized representative, whose decision regarding same will be final.

10. General Compliance With Laws.

(a) If required, the Provider shall certify that it is qualified and duly licensed to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

(b) The Provider is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work. The preceding shall include, but is not limited to,

compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, the Americans with Disabilities Act (ADA), Title XI and all state and local laws, rules and regulations pertaining to electrical requirements of residential construction and renovation.

(c) This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this contract the Provider agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

11. Nondiscrimination. The Provider hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Provider on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Provider shall upon request show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

12. Entire Agreement. This Contract contains the entire Contract of the parties and there are no other promises or conditions in any other Contract whether oral or written. This Contract supersedes any prior written or oral Contracts between the parties.

13. Amendment. This Contract may be modified or amended, only if the amendment is made in writing and is signed by both parties.

14. Severability. If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a provision as similar in terms to such unlawful, invalid or unenforceable provision as may be possible, and be legal, valid and enforceable.

15. No Waiver Of Contractual Right. No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

16. Matters To Be Disregarded. The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

17. Subject To Funding. This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the term hereof, then this Contract will be terminated. In the event of such termination, the consultant shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date.

18. Travel Expenses. All travel expenses payable under this Contract shall be in accordance with the County Travel Policy and Procedures. This includes advance written travel authorization, submission of travel claims, documentation requirements, and reimbursement rates. No travel advances will be made by the County.

19. Incorporation Of Other Documents.

(a) Provider shall provide services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for the Shelby County Purchasing Department and incorporated herein by reference.

(b) It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

20. Contracting With Locally Owned Small Businesses. The Provider shall take affirmative action to utilized Locally Owned Small Businesses when possible as sources of supplies, equipment, construction and services.

21. Incorporation Of Whereas Clauses. The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

22. Waiver Of Proprietary Interest. Notwithstanding anything to the contrary contained herein or within any other document supplied to County by the Provider, Provider understands and acknowledges that County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to County by Consultant due to services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

23. Organization Status And Authority.

(a) Provider represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

(b) The execution, delivery and performance of this Contract by the Provider has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Provider, any provision of any indenture, agreement or other instrument to which the Provider is a party, or by which the Provider's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

24. Warranty. Provider warrants to County that all Services shall be in strict compliance with the terms of this Contract, and all applicable governmental laws, rules and regulations.

25. Ownership of Deliverables. Except to the extent that they incorporate the Provider's proprietary benchmarks, software, techniques, methodologies, know-how and report formats (collectively, the "Provider's Proprietary Information"), all documents, data, and other tangible materials authored or prepared and delivered by the Provider to the County under the terms of this Contract (collectively, the "Deliverables"), are the sole and exclusive property of the County, or its successors, once paid for by the County. To the extent that the Provider's Proprietary Information is incorporated into such Deliverables, the County shall have a perpetual, nonexclusive, worldwide, royalty-free license to use, copy, and modify the Provider's Proprietary Information as part of the Deliverables, in the ordinary course of the County's business.

26. Right to Monitor, Audit and Access To Records. During all phases of the work and services to be provided hereunder the Provider agrees to permit duly authorized agents and employees of the County, to enter Provider's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The Provider will maintain all books, documents, papers, accounting records, and other evidence pertaining to the fee paid under this Contract and make such materials (other than that portion of such materials evidencing the confidential/proprietary information and/or trade secrets of the Provider or any third party) available at their offices at all reasonable times during the period of this Contract and for three (3) years from the date of payment under this Contract for inspection by the County or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested. This clause is notwithstanding any action or dissemination of information which would result in a violation of HIPPA laws or otherwise breach any patient confidentiality.

27. HIPAA. Provider warrants to the County that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract. Provider warrants that it will cooperate with the County in the course of performance of the Contract so that all parties will be in compliance with HIPAA, including cooperation and coordination with County and State privacy officials and other compliance officers required by HIPAA and its regulations. Provider will sign any documents that are reasonably necessary to keep the County in compliance with HIPAA, including, but not limited to, a business associate agreement. These documents shall be mutually agreeable to be HIPAA compliant by both parties to the Agreement prior to execution.

28. Living Wage Ordinance. In accordance with Ordinance Number 328, commonly referred to as the Living Wage Ordinance, all persons/entities engaged in service contracts with the County, including but not limited to both prime and subcontractors, shall pay a Living Wage to employees for all work performed on said service contract, as defined in the Living Wage Ordinance. Proof of such compensation must be evidenced as required in the Living Wage Ordinance.

29. Reports. Provider shall prepare and submit quarterly reports of its activities, funded under this Contract, to the originating department and the Contract Administration Department of the County. The reports shall include an itemization of the use of County's funds, inclusive of specific Services delivered. Any such reports provided to the County shall be prepared with the understanding that the County may make such reports available to the public. The quarterly reports and all books of account and financial records that are specific to the work performed in accordance with this Contract (other than that portion of such books and records evidencing the confidential and proprietary information or

trade secrets of Provider of any third party) may be subject to audit by the Director of the Division of Administration and Finance of the County. The County shall have the right to withhold future disbursement of funds under this Contract and any future Contracts until this provision has been met.

30. Notice. Any notices required or permitted to be given under the provisions of this Contract shall be effective only if in writing and delivered either in person to the County's authorized agent or by First Class or U.S. Mail to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided:

COUNTY: Shelby County Government
Employee Benefits
160 N. Main Street, Suite 949
Memphis, Tennessee 38103
Attn.: Mr. Jim Martin

and

Shelby County Government
Contract Administration
160 N. Main St., Suite 550
Memphis, Tennessee 38103

VENDOR: The Segal Company
2018 Powers Ferry Road, Suite 850
Atlanta, GA 30339
Attn.: Daniel Bearden

and

The Segal Company
One Park Avenue
New York, New York 10016
Attn.: General Counsel

IV. INDEMNIFICATION AND INSURANCE REQUIREMENTS

1. Responsibilities For Claims And Liabilities.

(a) Provider shall indemnify, defend, save and hold harmless the County, and its elected officials, officers, and employees from and against any and all claims, liability, losses or damages (including reasonable attorneys' fees) that result from the gross negligence or willful misconduct of Provider (including Provider's directors, officer and employees) in the performance of this Contract. This indemnification shall survive the termination or conclusion of this Contract.

(b) Provider expressly understands and agrees that any insurance protection required by this contract or otherwise provided by the Consultant shall in no way limit the responsibility to indemnify, defend, save and hold harmless the County or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.

(c) The County has no obligation to provide legal counsel or defense to the Provider or its sub-providers in the event that a suit, claim or action of any character is brought by any person not party to this Contract against Provider as a result of or relating to obligations under this Contract.

(d) Except as expressly provided herein, the County has no obligation for the payment of any judgment or the settlement of any claims against the Provider as a result of or relating to obligations under this Contract.

(e) Provider shall promptly notify the County, c/o Shelby County Government, Contracts Administration, 160 N. Main Street, Suite 550, Memphis, TN 38103, of any claim or suit made or filed against the Provider or its sub-providers regarding any matter resulting from or relating to Consultant's obligations under this Contract and will cooperate, assist and consult with the County in the defense or investigation thereof..

(f) Notwithstanding anything to the contrary herein, Provider shall not be liable for any portion of any claim that results from the acts or omissions of the County, its elected officials, officers, employees, contractors or agents. The County agrees and acknowledges that Provider shall not be liable for consequential, incidental, indirect, punitive, or special damages, however caused and regardless of legal theory or foreseeability, directly or indirectly arising under this Contract, even if it has been apprised of the possibility of such damages.

2. Insurance Requirements. Provider will provide evidence of the following minimum insurance coverage:

1) *Commercial General Liability Insurance* $1,000,000 limit per occurrence bodily injury and property damage/$1,000,000 personal and advertising injury/$2,000,000 General Aggregate/$2,000,000 Products-Completed Operations Aggregate. Shelby County Government, its elected officials, appointees, employees and members of boards, agencies and commissions shall be named as additional insureds. The insurance shall include coverage for the following:
   a) Premises/Operations
   b) Products/Completed Operations
   c) Contractual
   d) Independent Contractors
   e) Broad Form Property Damage
   f) Personal Injury and advertising liability
   g) Employment Practices Liability

2) *Business Automobile Liability Insurance* - $1,000,000 each accident for property damage and personal injury. Coverage is to be provided on all:
   a) Owned/Leased Autos
   b) Non-owned Autos
   c) Hired Autos

3) *Workers Compensation and Employers' Liability Insurance* - Workers Compensation statutory limits as required by Tennessee statutes. This policy should include Employers' Liability Coverage for $500,000 per accident.

4) *Umbrella or Excess Liability* - $2,000,000 per claim or occurrence.

5) *Professional Liability/Errors & Omissions Insurance* - $3,000,000 annual aggregate. Insurer is to be rated A- or better by A.M. Best.

IN WITNESS WHEREOF, the parties hereto have set their signatures for the purposes contained herein, on the day and date first above written.

APPROVED: **SHELBY COUNTY GOVERNMENT**

_____ _____

Contract Administrator/
Assistant County Attorney

A C Wharton, Jr., Mayor

THE SEGAL COMPANY

BY: _____
Jeffrey L. Johnson

TITLE: _____
Senior Vice President

CORPORATE ACKNOWLEDGMENT

STATE OF Georgia

COUNTY OF Cherokee

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared Jeffrey Johnson with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the _____, the within named bargainor, a corporation, and that he as such _____, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as _____.

WITNESS my hand and official seal at office this 9th day of October, 2008.

_____
Notary Public

NOTARY PUBLIC, CHEROKEE COUNTY, GEORGIA
MY COMMISSION EXPIRES APRIL 8, 2012

My Commission Expires: _____