

**Agreement for Pharmaceutical Supplies and Medications by and between the Health Care
District of Palm Beach County and Palm Beach County**

THIS AGREEMENT, is made and entered into this _____ day of _____, 2007 by and between the Health Care District of Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (hereinafter the "DISTRICT") and Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter the "COUNTY").

WITNESSETH:

WHEREAS, the DISTRICT and the COUNTY desire to enter into this Agreement for the provision of pharmaceutical supplies and/or medications by the DISTRICT to the COUNTY including, but not limited to, the Palm Beach County Fire-Rescue Department (hereinafter "Fire-Rescue") and the Palm Beach County Risk Management Department (hereinafter "Risk Management").

WHEREAS, the DISTRICT operates a pharmacy duly licensed in the State of Florida; and

WHEREAS, the DISTRICT and the COUNTY have determined that it would best service the public interest by entering into this Agreement to clearly define the responsibility of each party regarding the provision of pharmaceutical supplies and/or medications.

NOW THEREFORE, the DISTRICT and the COUNTY, in consideration of the terms and conditions set forth herein and the benefits flowing from each to the other, do hereby agree as follows:

SECTION 1. Incorporation of facts

The facts set forth above in the preambles to this Agreement are true and correct and are hereby reaffirmed by the parties.

SECTION 2. Purpose

The purpose of the Agreement is to establish the parties' rights and obligations regarding the provision and purchase of pharmaceutical supplies and/or medications. The parties understand and agree that this Agreement is intended to clarify the rights and responsibilities of the parties.

SECTION 3. Effective date and term

This Agreement shall be effective October 1, 2007 and shall remain in effect through September 30,

2010. Either party may terminate this Agreement, with cause, at any time with sixty (60) days written notice.

SECTION 4. DISTRICT responsibilities

A. The DISTRICT shall, at no cost to the COUNTY except as contemplated in Section 6 below, acquire pharmaceutical supplies and/or medications of a type and quantity as reasonably requested and ordered by the COUNTY in accordance with this Agreement.

B. The DISTRICT shall provide the COUNTY with the pharmaceutical supplies and/or medications ordered by the COUNTY. All pharmaceutical supplies and medications ordered by COUNTY shall be ready for pickup at the Health Care District Pharmacy Distribution Center or Clinic Pharmacy, as necessary, within fifteen (15) days of COUNTY'S order.

C. The DISTRICT will invoice the COUNTY on a monthly basis for the requested pharmaceutical supplies and/or medications received by the COUNTY during the preceding month.

D. The DISTRICT agrees and warrants that all pharmaceutical supplies and/or medications that it provides to the COUNTY shall have an expiration date no sooner than six (6) months from the date of receipt by the COUNTY. The DISTRICT further agrees and warrants that all pharmaceutical supplies and/or medications provided by the DISTRICT to the COUNTY shall be, prior to receipt by the COUNTY, maintained in compliance with all applicable laws and regulations and shall meet industry standards of good practice, including but not limited to standards to maintain the quality and integrity of said pharmaceutical supplies and/or medications during storage by the DISTRICT.

E. Each party hereto hereby represents and warrants to the other that it has, and will continue to maintain during the term of this Agreement, all licenses, permits, authorizations and approvals required to conduct its affairs and business activities in connection with its performance under this Agreement, and that it will at all times conduct its business activities in a responsible and reputable manner. Proof of such licenses and approvals shall be submitted to a party upon request of the other party.

SECTION 5. COUNTY responsibilities

- A. The COUNTY shall maintain sole administrative control of the use of the pharmaceutical supplies and/or medications purchased and received from the DISTRICT.
- B. The COUNTY department requiring pharmaceutical supplies and/or medications will arrange and coordinate directly with the DISTRICT to obtain the necessary pharmaceutical supplies and/or medications.

Section 6. Funding

On a monthly basis, the DISTRICT will invoice the COUNTY for the pharmaceutical supplies and/or medications received by the COUNTY during the preceding month. For all pharmaceutical supplies and/or medications purchased and received by the COUNTY, the DISTRICT will charge the COUNTY at the actual cost paid by the DISTRICT for said pharmaceutical supplies and/or medications (inclusive of any freight, delivery or similar charges or costs, if any) plus an administrative handling fee of \$5.00 per requisition line item. The DISTRICT shall direct the invoices to the attention of the appropriate COUNTY department representative. Invoices received from the DISTRICT will be reviewed and approved by the appropriate COUNTY representative within the Department receiving the pharmaceutical supplies and/or medications to verify that said pharmaceutical supplies and/or medications have been received in conformity with this Agreement. Approved invoices will be sent to the Finance Department for payment and are normally paid within thirty (30) days following the COUNTY representative's approval.

The total amount to be ordered by the COUNTY and delivered by the DISTRICT under this Agreement shall not exceed a total contract amount of One Million Four Hundred Thousand Dollars (\$1,400,000) inclusive of all charges for pharmaceutical supplies and/or medication and all administrative handling fees. The District shall notify the COUNTY'S contract representatives in writing when 90% of the not-to-exceed amount has been reached.

Section 7. Availability of Funds

Each party's performance and obligation to pay under this contract is contingent upon an annual

appropriation for its purpose by each party's respective governing body.

Section 8. Modification and Amendment

No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

Section 9. Notice

All notices required to be given under this Agreement shall be deemed sufficient to each party when sent by certified mail, postage prepaid, to the following:

COUNTY
Palm Beach County Fire Rescue
Attn: Fire Administrator
50 S. Military Trail, Suite 101
West Palm Beach, FL 33415-3198

DISTRICT
Health Care District of Palm Beach County
Attn: Chief Executive Officer
324 Datura Street
West Palm Beach Fl 33401

and to:

Palm Beach County Risk Management
Occupational Health Clinic
Attn: Annie Brewer, R.N., Manager
160 Australian Avenue, Room 102
West Palm Beach, FL 33406

Each party may change its address upon written notice to the other.

Section 10. Liability

Each party shall be responsible for its own negligence. The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, or negligence of the other party, its officers and, employees, or for any third party. In addition, nothing herein shall be construed as a waiver of either party's sovereign immunity or the assumption of liability in excess of that allowed by law.

Section 11. Remedies

This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

Section 12. Captions

The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 13. Severability

In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

Section 14. Entirety of Agreement

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement.

Section 15. Indemnification

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, the COUNTY shall indemnify, defend and hold harmless the DISTRICT against any actions, claims or damages arising out of the COUNTY'S negligence in connection with this Agreement, and the DISTRICT shall indemnify, defend and hold harmless the COUNTY against any actions, claims, or damages arising out of the DISTRICT'S negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

Section 16. HIPAA Compliance

Both parties acknowledge and agree that the DISTRICT and the COUNTY'S Fire-Rescue and Risk Management departments include covered entity components subject to the Health Insurance Portability and Accountability Act ("HIPAA"), and therefore are bound by the provisions of HIPAA and the regulations promulgated thereunder (including the privacy and security rules), all as may be amended from time to time. Should any provision of this Agreement be determined to be inconsistent with the requirements of HIPAA and/or the regulations promulgated thereunder, then the parties shall promptly amend such provision as necessary to comply with HIPAA and its regulations.

Section 17. Records

To the extent allowed by Chapter 119, Florida Statutes (Florida's Public Records Law), all written and oral 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 shall be kept confidential by the DISTRICT and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order or otherwise required by law.

Both parties shall comply with the Public Records Law. Both parties shall maintain all records relating to the performance of this Agreement in accordance with the Public Records Law and for a minimum of three years after this Agreement's termination or expiration. To the extent permitted by law, each party shall provide to the other party access to all such records for the purpose of inspection or audit during normal business hours.

Section 18. Contract Monitors/Representatives

The DISTRICT's representative and contract monitor during the performance of this Agreement is the Director of Pharmacy Services whose phone number is (561)655-8100. The COUNTY's representatives and contract monitors during the performance of this Agreement are the Chief of Rescue for the Fire-Rescue department whose phone number is (561)616-7000 and the Occupational Health Clinic Manager for the Risk Management department whose phone number is (561)233-5450.

Section 19. Nondiscrimination

Each party represents and warrants that it will not discriminate in the performance of services hereunder and that its employees and members of the general public benefitting from services hereunder shall be treated equally and without regard to race, sex, sexual orientation, color, religion, disability, age, marital status, national origin or ancestry.

Section 20. Successors and Assigns

The COUNTY and the DISTRICT each binds itself and its partners, successors, executors, administrators, and assigns to the other party and to the partners, successors, executors,

administrators and permitted assigns of such other party, in respect to all covenants of this Agreement; provided however that neither party shall assign, convey, sublet, transfer or subcontract its obligations or interest in this Agreement without the prior written consent of the other party. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of either party or as giving any rights or benefits to anyone other than the COUNTY and the DISTRICT.

Section 21. Survivability

Any provision of this Agreement which by its language or its nature imposes an obligation of a continuing nature or extending beyond the term of this Agreement, including obligations relating to warranties, representations, records, claims, indemnification and legal proceedings, shall survive the expiration or earlier termination of this Agreement.

Section 22. Conflict Resolution

Any dispute or conflict between the parties that arises from the provisions of this Agreement shall be presented in writing to the respective contract representatives. The contract representatives shall then meet to discuss the disputed issues and attempt in good faith to resolve the dispute or conflict.

Section 23. Palm Beach County Health Care Act

The COUNTY acknowledges that the DISTRICT is an independent, special taxing district subject to the terms of the Palm Beach County Health Care Act (Laws of Florida, Ch. 326-2003) and other laws of the State of Florida and the United States of America now or hereafter enacted, as the same may be modified or amended from time to time. If any part of this Agreement, or any obligations of the COUNTY or the DISTRICT hereunder, are contrary to, prohibited by or deemed invalid under the Palm Beach County Health Care Act or any other applicable federal, state or local law or regulation, such provision or obligation shall be inapplicable and be deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement shall not be invalidated thereby and shall be given full force and effect so far as possible.

IN WITNESS WHEREOF, the parties, through their duly authorized representative, do hereby execute this Agreement on the date first written above.

ATTEST:
SHARON R. BOCK, CLERK
& COMPTROLLER, PALM
BEACH COUNTY

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: *Sharon Bunn*
Assistant County Attorney

By: *[Signature]*
Palm Beach County Fire-Rescue

APPROVED AS TO TERMS AND CONDITIONS

By: *Nancy J. Bolter*
Palm Beach County Risk Management

ATTEST:

HEALTH CARE DISTRICT OF PALM BEACH
COUNTY, BY ITS BOARD
OF COMMISSIONERS

By: _____

By: *[Signature]*

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *[Signature]*
Health Care District Legal Counsel

**RISK MANAGEMENT
BUDGET AVAILABILITY STATEMENT**

REQUEST DATE: 08/05/2007 REQUESTED BY: OFMB PHONE:

PROJECT TITLE: Medical Supplies Contract

ESTIMATED ANNUAL AMOUNT: \$40,000

AGENDA DATE: 8/21/07

BUDGET ACCOUNT NUMBER (IF KNOWN)

FUND: 5011 DEPT: 700 UNIT: 7245 OBJ: 5230

FUNDING SOURCE : Risk Management Fund (5011)

BAS APPROVED BY:  DATE: 8/5/07