

## AGENDA ITEM SUMMARY

☒ [X]  
☐ [ ]

[[  
[[

## Regular Public Hearing

**Submitted by: FIRE RESCUE**

## Date \_\_\_\_\_

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>0</u>	<u>509,333</u>	<u>509,333</u>	<u>509,333</u>	<u>0</u>
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0</u>	<u>509,333</u>	<u>509,333</u>	<u>509,333</u>	<u>0</u>

# ADDITIONAL FTE

POSITIONS (Cumulative) \_\_\_\_\_

Is Item Included in Current Budget? Yes X No \_\_\_\_\_

Budget Account No.:

Fund \_1300\_Dept\_440\_Unit\_Various\_Object\_Various\_ (Fire Rescue, \$1,446,999)

Fund \_5011\_Dept\_700\_Unit\_7245\_Object\_5230\_ (Risk Mgmt, \$75,000)

Fund \_0001\_Dept\_660\_Unit\_8230\_Object\_\_\_\_\_ (Youth Affairs, \$6,000)

### B. Recommended Sources of Funds/Summary of Fiscal Impact:

Fire-Rescue is the primary user of this Agreement. The fiscal impact is the expenditure of the pharmaceutical supplies and medications, which are funded by the Fire-Rescue MSTU.

C. Departmental Fiscal Review: \_\_\_\_\_

*John W. Wilson*

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Dev. and Control Comments:

*John D. ...*  
OFMB  
5/27/10  
2/2/10

*Dr. J. ...*  
Contract Dev. and Control  
6/29/10

### B. Legal Sufficiency

This Contract complies with our contract review requirements.

*Sharon ...*  
Assistant County Attorney  
10/29/10

### C. Other Department Review:

\_\_\_\_\_  
Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

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

This Interlocal Agreement ("Agreement"), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010 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 retroactively to October 1, 2010 and shall remain in effect through September 30, 2013. 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. There are occasions in which a pharmaceutical supply or medication may not be available from the DISTRICT's contracted wholesaler with an expiration date sooner than six (6) months as stipulated. In this case, the DISTRICT shall so advise COUNTY and COUNTY reserves the right to either accept a shorter expiration date product or to defer that order into a later date (reorder). 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. The DISTRICT's provision of pharmaceutical supplies and/or medications to the COUNTY shall be in compliance with, and subject to, any applicable laws and regulations. Once the pharmaceutical supply or medication has been received and accepted by the COUNTY and the product has been removed from the DISTRICT's facilities, no returns will be allowed into the DISTRICT's inventory stock unless the discrepancy was directly related to the filling of the order by the DISTRICT's pharmacy staff.

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. The COUNTY must utilize the DISTRICT's provided Requisition Order Forms when placing an order for pharmaceutical supplies or medications. The COUNTY shall be responsible for completing, signing, and providing the DISTRICT with any applicable DEA form required when ordering controlled substance pharmaceuticals (applicable to C-II Schedule substances only).

C. The COUNTY is responsible for verifying the completeness and accuracy of every order received prior to leaving the DISTRICT's facilities. If a discrepancy is noted in orders placed, the COUNTY must quickly communicate the discrepancy to the DISTRICT's pharmacy staff for proper follow up and correction. The COUNTY is not allowed to return any pharmaceutical product or supply once it has been removed from the DISTRICT's facilities unless the discrepancy was directly

related to the filling of the order by the DISTRICT's pharmacy staff.

**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 must be paid to the DISTRICT within sixty (60) days thereafter. Payments made after the due date will be subject to a late fee in accordance with the Prompt Payment Act.

The total amount to be ordered by the COUNTY and delivered by the DISTRICT under this Agreement shall not exceed a total annual contract amount of Five Hundred Nine Thousand Three Hundred Thirty Three Dollars (\$509,333) 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 Rescue Administrator  
405 Pike Road  
West Palm Beach, FL 33411

##### **DISTRICT**

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

and to:

copy to:

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

Nicholas W. Romanello, Esq.  
Legal Counsel  
Health Care District of Palm Beach County  
324 Datura Street, Suite 401  
West Palm Beach, FL 33401

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 Division Chief of Rescue Operations for the Fire-Rescue department whose phone number is (561) 616-7009 and the Occupational Health Clinic Manager for the Risk Management department whose phone number is (561) 233-5450.

**Section 19. Nondiscrimination**

Each party warrants and represents 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, gender identity and expression, color, religion, disability, age, marital status, familial 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.

**Section 24.                   Inspector General**

Palm Beach County has established the Office of the Inspector General in Ordinance 2009-049, as may be amended, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. All documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the

Palm Beach County Office of the Inspector General Ordinance 2009-049, as may be amended. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor, and inspect the activities of the DISTRICT, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interference with or impeding any investigation shall be in violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**Section 25.                      Filing**

A copy of this Interlocal Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

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: \_\_\_\_\_  
Burt Aaronson, Chair

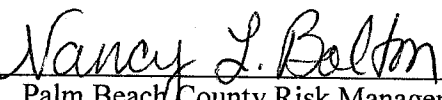
APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: \_\_\_\_\_  
County Attorney


By:  \_\_\_\_\_  
Palm Beach County Fire-Rescue


APPROVED AS TO TERMS AND CONDITIONS

By:  \_\_\_\_\_  
Palm Beach County Risk Management

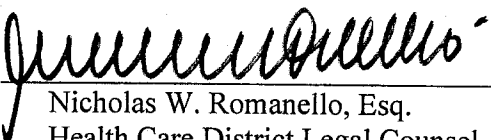
ATTEST:

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

By:  \_\_\_\_\_  
Dwight D. Chenette  
Chief Executive Officer

By:  \_\_\_\_\_  
Jonathan R. Satter, Chair

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:  \_\_\_\_\_  
Nicholas W. Romanello, Esq.  
Health Care District Legal Counsel