

II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>53,612</u>	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
 NET FISCAL IMPACT	 <u>53,612</u>	 _____	 _____	 _____	 _____
 # ADDITIONAL FTE POSITIONS (Cumulative)	 _____	 _____	 _____	 _____	 _____

Is Item Included in Current Budget? Yes X No _____

Budget Account No.: Fund 1300 Dept 440 Unit 4230 Object 3103

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

Source of funds is the Fire Rescue main MSTU. The financial impact will be the expenditure for professional services of up to \$50,312 (\$16,770.38 monthly fee); up to \$2,500 for travel-related expenses; and up to \$800 for subscription/membership-related expenses.

C. **Departmental Fiscal Review:** _____

III. REVIEW COMMENTS

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

Susan Melny 7/25/14
 5/25 AM 7/25 OFMB

Dr. J. Jacobson 8/4/14
 Contract Dev. and Control
 8-4-14 *Jacobson*

B. **Legal Sufficiency:**

Drew Bunn 8/12/14
 Assistant County Attorney

C. **Other Department Review:**

 Department Director

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

FIRST AMENDMENT TO PROFESSIONAL SERVICE AGREEMENT BETWEEN PALM BEACH COUNTY AND DR. THOMAS H. MATESE, JR. FOR MEDICAL DIRECTOR SERVICES (R2011-1413)

THIS FIRST AMENDMENT, dated _____, 2014, to Professional Services Agreement between Palm Beach County and Dr. Thomas H. Matese, Jr., dated September 13, 2011, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter referred to as the "COUNTY"), and Dr. Thomas H. Matese, Jr., 106 Victorian Lane, Jupiter, Florida 33458 (hereinafter referred to as the "MEDICAL DIRECTOR").

WITNESSETH:

WHEREAS, the parties have entered into that certain Professional Services Agreement (r2011-1413) dated September 13, 2011, hereinafter referred to as the "AGREEMENT", whereby the MEDICAL DIRECTOR has agreed to provide professional services as Medical Director for Palm Beach County Fire Rescue in accordance with Chapter 401, Florida Statutes and Chapter 64J-1, Florida Administrative Code, Rules of the Department of Health, as more specifically set forth in the Scope of Work detailed in Article 3 of the AGREEMENT; and

WHEREAS, the parties desire to extend the term of the AGREEMENT for a three (3) month period through December 31, 2014.

NOW THEREFORE, in consideration of the mutual covenants and agreements expressed herein, the COUNTY and the MEDICAL DIRECTOR agree as follows:

1. **Article 2 – SCHEDULE**, is hereby amended to read as follows:

"The MEDICAL DIRECTOR shall commence services on October 1, 2011, and complete all services by ~~September 30, 2014~~ December 31, 2014."

2. **Section A of Article 4 – PAYMENTS TO MEDICAL DIRECTOR**, is hereby amended to read as follows:

"The total amount to be paid by the COUNTY under this Agreement for all services and materials, including "out of pocket" expenses for travel, subscriptions and memberships

(as indicated in paragraphs B and C of this Article), shall not exceed a total Agreement amount of ~~Six Hundred and One Thousand, Nine Hundred and Ten Dollars, and Sixty Four Cents (\$601,910.64)~~ Six Hundred Fifty Five Thousand, Five Hundred Twenty One Dollars, and Seventy Eight Cents (\$655,521.78) for Agreement period October 1, 2011 through ~~September 30~~December 31, 2014.

The MEDICAL DIRECTOR will bill the COUNTY on a monthly basis for services rendered toward the completion of the Scope of Work, Article 3. Invoices shall be paid based on Sixteen Thousand, Two Hundred and Eighty-one Dollars, and Ninety-two Cents (\$16,281.92) monthly fee for years 1 and 2 of the Agreement, and based on Sixteen Thousand, Seven Hundred and Seventy Dollars, and Thirty Eight Cents (\$16,770.38) monthly fee for year 3 of the Agreement, and for the 3 month extension period from October 1, 2014 through December 31, 2014, for services satisfactorily performed, which fees shall include the professional services of the MEDICAL DIRECTOR and the Associate Medical Director and all other services performed under this Agreement.”

3. **Section B of Article 4 – PAYMENTS TO MEDICAL DIRECTOR**, is hereby amended to read as follows:

“Out-of-pocket travel expenses authorized for reimbursement under Article 3 paragraph Q above, shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) annually, for a total Agreement amount of ~~Seven Thousand Five Hundred Dollars (\$7,500)~~10,000.00. All requests for payment of “out-of-pocket” travel expenses eligible for reimbursement under the terms of this Agreement shall include copies of paid receipts, invoices or other documentation acceptable to the Palm Beach County Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the scope of work described in this Agreement. Any travel, per diem, mileage, meals or lodging expenses, which may be reimbursable under the terms of this Agreement, will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.”

4. **Section C of Article 4 – PAYMENTS TO MEDICAL DIRECTOR**, is hereby amended to read as follows:

“Subscription and membership expenses authorized for payment by the Deputy Chief of Operations shall not exceed Eight Hundred Dollars (\$800.00) annually, for a total

Agreement amount of Two Thousand Four Hundred Dollars (~~\$2,400~~3,200.00). All requests for "out-of-pocket" subscription and membership expenses eligible for reimbursement under the terms of this Agreement shall include copies of paid invoices or other documents acceptable to the Palm Beach County Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and approved by the Fire-Rescue Administrator, or designee, for reimbursement."

5. The AGREEMENT is hereby amended to replace **Exhibit A** to the Agreement in its entirety with Exhibit A to this FIRST AMENDMENT.

6. All other provisions of said AGREEMENT, dated September 13, 2011, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, MEDICAL DIRECTOR and the COUNTY have made and executed this First Amendment on the date first above written.

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Priscilla A. Taylor, Mayor

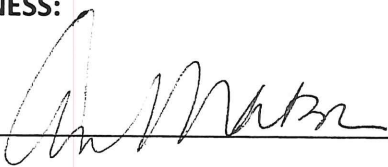
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

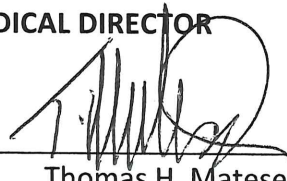
By: _____
County Attorney

By:  _____
Fire-Rescue

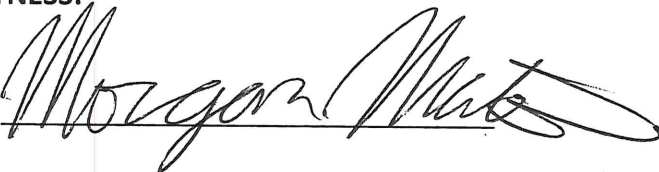
WITNESS:

By:  _____

MEDICAL DIRECTOR

By:  _____
Thomas H. Matese, Jr.

WITNESS:

By:  _____

**Business Associate Agreement
Between Palm Beach County and Dr. Thomas H. Matese, Jr.**

This Business Associate Agreement (“Agreement”) between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as “the County,” and Dr. Thomas H. Matese, Jr., 106 Victorian Lane, Jupiter, Florida 33458, hereinafter referred to as “Business Associate,” is executed to ensure that Business Associate will appropriately safeguard protected health information (“PHI”) that is created, received, maintained, or transmitted on behalf of the County in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended and any related regulations (“HIPAA”), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended and any related regulations (the “HITECH Act”).

A. General Provisions

1. **Meaning of Terms.** The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

B. Obligations of Business Associate

Business Associate agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information (“e-PHI”) and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
3. Report in writing to the County any use or disclosure of PHI not provided for by this Agreement of which Business Associate becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breach of unsecured PHI (as defined in

the HIPAA Breach Notification Rule) within three (3) business days of Business Associate's discovery of the security incident or breach. Business Associate will comply with all applicable provisions of the HIPAA Breach Notification Regulations found at 45 CFR §164.400 *et seq.* when making breach notification to the County. The County shall have sole control over the timing and method of breach notification to affected individual(s), the Department of Health and Human Services, and, if applicable, the media. Business Associate agrees that, if requested by the County to do so, it will provide breach notification to affected individuals of any breach of unsecured PHI discovered by Business Associate. If requested by the County to make breach notification to affected individuals, Business Associate shall comply with all applicable provisions of the HIPAA Breach Notification Regulations found at 45 CFR §164.400 *et seq.*, and any direction from the County;

4. In accordance with 45 CFR §164.502(e)(1)(ii) and §164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information by requiring such subcontractors to sign an agreement with Business Associate that contains, at a minimum, the same provisions as this Agreement;
5. Make PHI in a designated record set available to the County and to an individual who has a right of access in a manner that satisfies the County's obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by the County, or take other measures necessary to satisfy the County's obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to the County or an individual who has a right to an accounting within 60 days and as necessary to satisfy the County's obligations under 45 CFR §164.528;
8. To the extent that Business Associate is to carry out any of the County's obligations under the HIPAA Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to the County when it carries out that obligation;
9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of the County, available to the Secretary of the Department of Health and Human Services for purposes of determining Business Associate's and the County's compliance with HIPAA and the HITECH Act;
10. Restrict the use or disclosure of PHI if the County notifies Business Associate of any restriction on the use or disclosure of PHI that the County has agreed to or is required to abide by under 45 CFR §164.522; and

11. If the County is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Business Associate agrees to assist the County in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of the County's Identity Theft Prevention Program (if the County is required to have a Program); (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of the County agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting the County of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to the County of any threat of identity theft as a result of the incident.
12. Business Associate shall protect, defend, reimburse, indemnify and hold the County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising as a result of a breach of unsecured PHI caused by any act or omission of Business Associate or arising from any other violation of HIPAA or the HITECH Act caused by any act or omission of Business Associate.

C. Permitted Uses and Disclosures by Business Associate

The specific uses and disclosures of PHI that may be made by Business Associate on behalf of the County include any uses or disclosures of PHI permitted by HIPAA that are necessary to perform the services that Business Associate has been engaged to perform on behalf of the County.

D. Termination

1. The County may terminate this Agreement if the County determines that Business Associate has violated a material term of the Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.
3. Upon termination of this Agreement for any reason, Business Associate shall return to the County all PHI received from the County, or created, maintained, or received by Business Associate on behalf of the County that Business Associate still maintains in any form. Business Associate shall retain no copies of the PHI. If return is infeasible, the protections of this Agreement will extend to such PHI.

Agreed to this _____ day of _____, 20__.

WITNESS:

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

Signature


Name

By: _____
Brad Merriman, Assistant County Administrator,
through Robert Weisman, County Administrator

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

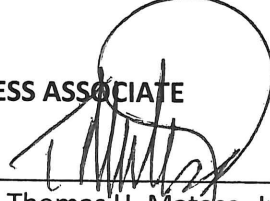
By: _____
County Attorney

By: 
Fire-Rescue

WITNESS:



Signature

BUSINESS ASSOCIATE
By: 
Thomas H. Matese, Jr.