

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date:	December 19, 2017	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing
Department:	Fire-Rescue		

**I. EXECUTIVE BRIEF**



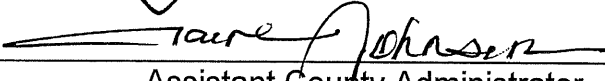
**Motion and Title:** **Staff recommends motion to approve:** a First Amendment to Professional Service Agreement with Elite Medical Specialists, LLC, formally known as Kenneth A. Scheppke, M.D., P.A. for medical director services to extend the Agreement from December 31, 2017 to December 31, 2018 in an amount not to exceed \$198,300.

**Summary:** Pursuant to State law, Palm Beach County Fire-Rescue, as an Emergency Medical Services Provider, must employ or contract with a medical director who is a licensed physician and meets the criteria set out in Chapter 401, Florida Statutes, and the Rules of the Department of Health, Chapter 64J-1, F.A.C. On December 2, 2014, the County entered into a professional services agreement (R2014-1849) with Kenneth A. Scheppke, M.D., P.A. for Medical Director services. Since the inception of the Agreement, Kenneth A. Scheppke, M.D., P.A. was converted to Kenneth A. Scheppke, M.D., LLC, which was then renamed as Elite Medical Specialists, LLC. The expiration date of the Agreement is December 31, 2017, with two (2) optional one (1) year periods of renewal. Both parties desire to operate under the same terms and conditions of the Agreement through the end of the first one-year renewal period ending December 31, 2018. Countywide (SB)

**Background and Justification:** The Medical Director is directly involved in the development, implementation, and supervision of the protocol training, delivery, and quality control of the County's Basic and Advanced Life Support program. Duties include the overall medical supervision of approximately 1,106 paramedics and 140 EMTs, oversight of Fire Rescue's quality management program, medical direction of the aeromedical program (Trauma Hawk), and quality review of the County's Emergency Medical Dispatch (EMD) program administered through the 911 communications system. The Agreement also requires the Medical Director to contract with two physicians to serve as Associate Medical Directors in order to provide increased training classes provided to the Paramedics and EMTs, an increased level of time spent in the field for supervision/observation of skill levels, and availability of twenty-four hour emergency consultation.

**Attachments:**

- 1. First Amendment to Professional Service Agreement (2)
- 2. Professional Service Agreement (R2014-1849)

Recommended by:		12/4/17
	Deputy Chief	Date
Approved by:		12/4/2017
	Fire Rescue Administrator	Date
Approved by:		12/15/17
	Assistant County Administrator	Date

## **II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures					
Operating Costs	<u>148,725</u>	<u>198,300</u>	<u>49,575</u>		
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>148,725</u>	<u>198,300</u>	<u>49,575</u>		
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Proposed Budget?	Yes	X	No
1. <b>Administrative Expenses</b>			
2. <b>Professional Fees</b>			
3. <b>Travel Expenses</b>			
4. <b>Entertainment Expenses</b>			
5. <b>Office Expenses</b>			
6. <b>Utilities</b>			
7. <b>Insurance</b>			
8. <b>Depreciation</b>			
9. <b>Other Expenses</b>			
10. <b>Total Expenses</b>			
11. <b>Revenue</b>			
12. <b>Net Income</b>			

**Budget Account No.:** Fund 1300 Dept 440 Unit 4230 Object/Rev Source 3101  
**Does this item include the use of federal funds?** Yes ☐ No ☒

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

Source of funds is the Fire Rescue MSTU. The financial impact will be the annual expenditure of up to \$195,000 for professional services, up to \$2,500 for travel-related expenses; and up to \$800 for subscription/membership-related expenses. Both optional renewal periods are included in the fiscal impact shown above; however, future years beyond the optional renewal periods are indeterminable at this time.

C. Departmental Fiscal Review: *[Signature]*

### III. REVIEW COMMENTS

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

Q. KALAL 12/8/17  
OFMB 12/5 5m 246

*[Signature]*  
Contract Development and Control  
12/14/15 *[Signature]*

## B. Legal Sufficiency

 12/15/17  
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 ELITE MEDICAL SPECIALISTS, LLC,  
FORMALLY KNOWN AS KENNETH A. SCHEPPKE, M.D., P.A.  
FOR FIRE RESCUE DEPARTMENT MEDICAL DIRECTOR SERVICES**

**THIS FIRST AMENDMENT TO PROFESSIONAL SERVICE AGREEMENT** is made and entered into on \_\_\_\_\_, 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 Elite Medical Specialists, LLC, formally known as Kenneth A. Scheppke, M.D., LLC, formally known as Kenneth A. Scheppke, M.D., P.A. (hereinafter referred to as the "MEDICAL DIRECTOR").

**WITNESSETH:**

**WHEREAS**, the parties entered into that certain Professional Services Agreement (R2014-1849) dated December 2, 2014 (hereinafter referred to as the "Agreement") with Kenneth A. Scheppke, M.D., P.A., now known as Elite Medical Specialists, LLC, 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 original term of this Agreement is from January 1, 2015 through December 31, 2017, with two (2) additional one (1) year periods of renewal on the same terms and conditions; and

**WHEREAS**, both parties desire to extend the term of the Agreement for one year through December 31, 2018.

**NOW THEREFORE**, in consideration of the mutual promises contained 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 January 1, 2015, and complete all services by December 31, 2018. This Agreement may be renewed on the same terms and conditions set forth herein for one (1) additional one (1) year period by written agreement of the parties."

2. The first paragraph of **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 Seven Hundred Ninety-Three Thousand Two Hundred Dollars (\$793,200.00).”

3. The first sentence of **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 above, shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) annually, for a total Agreement amount of Ten Thousand Dollars (\$10,000.00).”

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

“Subscription and membership expenses authorized for reimbursement under Article 3, shall not exceed Eight Hundred Dollars (\$800.00) annually, for a total Agreement amount of Three Thousand Two Hundred Dollars (\$3,200.00).”

5. All other provisions of said AGREEMENT 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 to Professional Service Agreement 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: \_\_\_\_\_  
Melissa McKinlay, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS


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

By:  \_\_\_\_\_  
Fire-Rescue

WITNESSES:

MEDICAL DIRECTOR

\_\_\_\_\_  
(Signature)

By:  \_\_\_\_\_  
Kenneth A. Scheppke, M.D.,  
Authorized Member

\_\_\_\_\_  
Name (Type or Print)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Name (Type or Print)

R2014M1849

**PROFESSIONAL SERVICE AGREEMENT BETWEEN PALM BEACH COUNTY  
AND KENNETH A. SCHEPPKE, M.D., P.A. FOR FIRE RESCUE DEPARTMENT  
MEDICAL DIRECTOR SERVICES**

DEC 02 2014

This Agreement is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, 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 Kenneth A. Scheppke, M.D., P.A. (Federal ID #65-0931848), hereinafter referred to as the MEDICAL DIRECTOR.

In consideration of the mutual promises contained herein, the COUNTY and the MEDICAL DIRECTOR agree as follows:

**ARTICLE 1 - SERVICES**

The MEDICAL DIRECTOR'S responsibility under this Agreement is 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 and specifications detailed in Article 3.

**ARTICLE 2 - SCHEDULE**

The MEDICAL DIRECTOR shall commence services on January 1, 2015, and complete all services by December 31, 2017. This Agreement may be renewed on the same terms and conditions set forth herein for two (2) additional one (1) year periods by written agreement of the parties.

**ARTICLE 3 - SCOPE OF WORK**

The Medical Director shall provide comprehensive Fire Rescue Department medical director services for Palm Beach County Fire Rescue, including Advanced Life Support, Basic Life Support and Aeromedical. The following shall outline responsibilities of the Fire Rescue MEDICAL DIRECTOR. This does not limit duties to the following requirements, which may be subject to revision/addition/deletion upon written agreement by both parties.

- 3.1 The MEDICAL DIRECTOR shall perform all services required of a medical director, and assume all legal duties and responsibilities of a medical director, as provided for by Section 401.265, Florida Statutes, Chapter 64J-1 F.A.C., and any other applicable laws, regulations and rules of any governmental agency implementing said chapter; and any other duties upon written notice from the Florida Department of Health that such additional duties are required of the MEDICAL DIRECTOR, all as may be amended from time to time. The MEDICAL DIRECTOR shall provide all labor, materials, supplies and equipment necessary to provide the required services.
- 3.2 As required by Section 401.265 Florida Statutes and Rule 64J-1.004, F.A.C., the MEDICAL DIRECTOR shall supervise and assume direct responsibility for the medical performance of all EMT's and Paramedics operating for Palm Beach County Fire Rescue, including both ground and aeromedical personnel.
- 3.3 The MEDICAL DIRECTOR shall be knowledgeable with the standards as set by the National Fire Protection Association Standard 1581: Standard on Fire Rescue Department Infection Control.

- 3.4 The MEDICAL DIRECTOR shall have a working knowledge of the Incident Command System and participate in the development and ongoing review of Dispatch Protocols followed by Palm Beach County Fire Rescue. The MEDICAL DIRECTOR shall have a period of one (1) year to obtain NIMS IS-100, IS-200, IS-700, and IS-800 to meet NIMS compliance.
- 3.5 The MEDICAL DIRECTOR shall develop review and authorize use of ALS, BLS, Aeromedical and Interfacility protocols which allow personnel to properly manage medical emergencies, consistent with Chapter 401, Florida Statutes, and Chapter 64J-1, F.A.C., as may be amended from time to time. Such protocols shall be specific in nature and shall provide for managing immediately life-threatening medical emergencies.
- 3.6 At the County's request, the MEDICAL DIRECTOR shall develop, assist in the development, and review any other protocols, policies and procedures as they relate to emergency medical service personnel and the delivery of Emergency Medical Services.
- 3.7 The MEDICAL DIRECTOR shall be required to attend quarterly meetings with District Captains, at a location designated by the County and as coordinated by the Chief of EMS, or his designee. Rescue Office staff will assist in the logistical components of these quarterly-based meetings.
- 3.8 The MEDICAL DIRECTOR shall be required to attend other meetings, when requested by the County.
- 3.9 The MEDICAL DIRECTOR shall meet with Rescue Office staff, at a location designated by the County, for a minimum of two hours, one time per week. Meeting agendas will be prepared by the Chief of EMS, or his designee. Rotational subject matter for each agenda may include, but not be limited to: CQI (Continuous Quality Improvement), training agenda/implementation, infection control, ePCR/documentation, generalized progress/development and protocol progress/development.
- 3.10 The MEDICAL DIRECTOR shall ride with District Captains and/or rescue units for a minimum of eight (8) hours per month to evaluate emergency medical personnel skills and to maintain a working relationship with EMT's and Paramedics. During the scheduled ride time, the MEDICAL DIRECTOR shall provide hands-on training to field personnel applicable to items encountered on calls and topics that correspond with the Rescue Office's predetermined training agenda. This ride time scheduling shall be coordinated by the Chief of EMS, or his designee, on a rotational basis within the Battalions.
- 3.11 The MEDICAL DIRECTOR shall spend a minimum of three (3) hours per quarter in the Fire Rescue Communications Center/Alarm Office as observation time for Continuous Quality Improvement purposes and assist with the Emergency Medical Dispatch (EMD) program.
- 3.12 The MEDICAL DIRECTOR shall supervise the implementation and maintenance of a Continuous Quality Improvement Program as required by section 401.265 Florida Statutes and Rule 64J-1.004 F.A.C., to include auditing medical reports, as referenced in the Continuous Quality Improvement department policy, for completion and correctness. The Continuous Quality Improvement Program must cover dispatchers, Paramedics, Emergency Medical Technicians (EMT's) and Aeromedical personnel.

- 3.13 The MEDICAL DIRECTOR shall actively and cooperatively participate in the Department's Continuous Quality Improvement Program, including the review and development process.
- 3.14 As part of the Continuous Quality Improvement Program, the MEDICAL DIRECTOR shall assist the Department in obtaining patient outcome information from local hospitals.
- 3.15 The MEDICAL DIRECTOR shall provide Fire Rescue with a detailed monthly report of all activities performed, including those of the Associate Medical Director, with reference to the requirements of the Agreement. COUNTY shall provide administrative support in order for the MEDICAL DIRECTOR to meet the obligations of this paragraph.
- 3.16 The MEDICAL DIRECTOR shall, upon request of the Training Division, evaluate Palm Beach County Fire Rescue Emergency Medical Technicians and Paramedical personnel during training exercises.
- 3.17 The MEDICAL DIRECTOR shall review and approve the content of EMS training, including but not limited to Department Advanced Cardiac Life Support (ACLS), International Trauma Life Support (ITLS), Pediatric Advanced Life Support (PALS), Neonatal Resuscitation Program (NRP) and Pre-Hospital Trauma Life Support (PHTLS) classes, for medical correctness at the request of the Deputy Chief of Operations, or his designee.
- 3.18 The MEDICAL DIRECTOR shall review and approve EMT and Paramedic continuing medical education credit provided by Palm Beach County Fire Rescue at the request of the Division Chief of Training, or his designee.
- 3.19 The MEDICAL DIRECTOR shall be required to attend a minimum of two (2) Equipment/Vendor review sessions annually and participate in the hands-on activities involved in the equipment review process. All equipment review will be determined by Rescue Office staff. Equipment review is a cooperative initiative through which the MEDICAL DIRECTOR is encouraged to introduce new ideas and equipment for evaluation and discussion.
- 3.20 The MEDICAL DIRECTOR shall ensure that appropriate training is provided following any changes in the EMS Protocols or medical equipment implementation or usage.
- 3.21 The MEDICAL DIRECTOR shall participate in the development and further education of fire-rescue personnel by bringing in educational components that meet the Training Division's goals.
- 3.22 The MEDICAL DIRECTOR shall review and provide written affirmation of recertification training of Palm Beach County Fire-Rescue EMT and Paramedic personnel in accordance with Section 401.2715(3), Florida Statutes.
- 3.23 The MEDICAL DIRECTOR shall be required to deliver a quarterly video training component to deliver an ongoing connection to the station level regarding the medical direction of the Fire Rescue Department. Video components shall provide a clear and concise explanation of the changes in Protocols, equipment, medications and other operational directives. Subject matter shall be determined by the parties.



- 3.24** The MEDICAL DIRECTOR shall participate in the development of the probationary Paramedic program, as well as the EMS portion of the Recruit Academy, on an as-needed basis determined by the Rescue Office and Training Division. At a minimum, the MEDICAL DIRECTOR shall attend at least one orientation with each new recruit class and Paramedic Development Course (PDC).
- 3.25** The MEDICAL DIRECTOR shall be available via radio or telephone communication on a 24 hour a day, 7 days per week basis for online medical control. Notwithstanding anything to the contrary contained herein, the MEDICAL DIRECTOR may use reasonable discretion in determining whether he needs to respond to an incident scene.
- 3.26** It shall be the obligation of the MEDICAL DIRECTOR to contract for the professional services of two Associate Medical Directors (collectively referred to herein as "Associate Medical Director") for the duration of this Agreement and at no additional cost to the COUNTY, to assist the Fire Rescue MEDICAL DIRECTOR in providing medical control for the Fire Rescue Department, and to act as back-up medical director when the MEDICAL DIRECTOR is unavailable.
- a.** The Associate Medical Director shall meet all the qualifications for a medical director as set forth in Rule 64J-1.004 F.A.C. and Section 401.265, Florida Statutes, and shall be approved by the COUNTY'S Deputy Chief of Operations prior to being appointed by the MEDICAL DIRECTOR and commencing services. The MEDICAL DIRECTOR shall be responsible for assuring that the Associate Medical Director meets the duties and requirements of the Associate Medical Director as set forth herein.
  - b.** Any change in the Associate Medical Director must likewise be approved by the COUNTY'S Deputy Chief of Operations prior to being appointed by the MEDICAL DIRECTOR.
  - c.** The Associate Medical Director shall comply with Sections 3.3, 3.4, 3.10 and 3.11 of this Article at all times during this Agreement.
  - d.** In addition to the above duties and responsibilities, the MEDICAL DIRECTOR will appoint the Associate Medical Director to act as back-up medical director when the MEDICAL DIRECTOR is not available. When acting as back-up medical director, the Associate Medical Director shall be responsible for the services, duties and obligations set forth in Sections 3.1 through 3.25 of this Article, except for Sections 3.1, 3.2, 3.15, and 3.18; and Sections 3.5, 3.6, and 3.12.
  - e.** In addition to the above duties and responsibilities, the MEDICAL DIRECTOR may authorize the Associate Medical Director to assist the MEDICAL DIRECTOR at any time with the duties and responsibilities set forth Sections 3.1 through 3.25 of this Article, except for Sections 3.1, 3.2, 3.15, and 3.18.
  - f.** The services of the Associate Medical Director shall be in addition to those performed by the MEDICAL DIRECTOR under this Agreement and shall not relieve the MEDICAL DIRECTOR of his responsibilities to also perform those duties identified in this Article, as well as all other duties established by this Agreement and

any applicable laws and regulations. The Associate Medical Director's performance is intended to supplement the MEDICAL DIRECTOR in providing medical control for the Fire Rescue Department and does not in any way relieve the MEDICAL DIRECTOR of his responsibilities and duties as the Medical Director for Palm Beach County Fire Rescue.

- b. Upon prior approval by the Deputy Chief of Operations, the MEDICAL DIRECTOR shall be reimbursed for all reasonable travel expenses when attending such

organizations outside of Palm Beach County. Such reimbursements shall not exceed \$2,500.00 annually.

- c. Upon prior approval by the Deputy Chief of Operations, the MEDICAL DIRECTOR shall be reimbursed for Subscription and Membership expenses for subscriptions and memberships related to medical direction, as approved by the Deputy Chief of Operations, up to an amount not to exceed \$800.00 annually.

#### **ARTICLE 4 - PAYMENTS TO MEDICAL DIRECTOR**

- A. 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 Five Hundred Ninety Four Thousand Nine Hundred Dollars (\$594,900.00).

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 Fifty Dollar (\$16,250.00) monthly fee for each year of the Agreement for services satisfactorily performed, which fees shall include the professional services of the MEDICAL DIRECTOR, the Associate Medical Director, any back-up physicians, and all other services performed under this Agreement.

- B. Out-of-pocket travel expenses authorized for reimbursement under Article 3 above, shall not exceed two thousand five hundred dollars (\$2,500.00) annually, for a total Agreement amount of seven thousand five hundred dollars (\$7,500.00). 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 and approved in accordance with Article 3. 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.
- C. Subscription and membership expenses authorized for reimbursement under Article 3, shall not exceed eight hundred dollars(\$800.00) annually, for a total Agreement amount of two thousand four hundred dollars (\$2,400.00). 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 as provided for under Article 3.
- D. Invoices received from the MEDICAL DIRECTOR pursuant to this Agreement will be reviewed and approved by the COUNTY, indicating that services have been rendered in conformity with the Agreement and then will be sent to the Finance Department for payment. Invoices shall be paid within thirty (30) days following the COUNTY representative's approval.

- E. Final Invoice: In order for both parties herein to close their books and records, the MEDICAL DIRECTOR will clearly state "final invoice" on the MEDICAL DIRECTOR'S final/last billing to the COUNTY. This certifies that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County.
- F. Truth-In-Negotiation Certificate: Signature of this Agreement by the MEDICAL DIRECTOR shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of the Agreement and no higher than those charged the MEDICAL DIRECTOR'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this paragraph F within three (3) years following final payment.

#### **ARTICLE 5 - DUTIES AND RESPONSIBILITIES OF THE COUNTY**

- A. Meet or exceed all applicable standards and requirements of the State of Florida for certification as an Advanced Life Support Provider and shall remain so certified by the State.
- B. The COUNTY shall verify that its Emergency Medical Technicians and Paramedics become and remain certified as appropriate under the laws of the State of Florida.
- C. The COUNTY shall provide an administrative liaison to the MEDICAL DIRECTOR through the Fire-Rescue Administrator, and will cooperate to the greatest possible extent in the delivery of competent emergency medical care.
- D. The COUNTY shall provide facilities and maintain an appropriate environment to evaluate and enhance the medical skills and knowledge of the Paramedics and EMT's working with the MEDICAL DIRECTOR'S authorization.
- E. The COUNTY shall maintain at its cost and expense all radio and communications equipment used by the MEDICAL DIRECTOR and the Associate Medical Director in the performance of their duties under this Agreement.
- F. The COUNTY shall provide, at Fire-Rescue Headquarters, office space, furnishings, office supplies, clerical assistance and access to the department computer to obtain EMS data.
- G. The COUNTY shall provide the appropriate equipment and personnel necessary to institute a Continuous Quality Improvement program meeting all requirements of the State and County.
- H. The COUNTY shall provide, for each of the MEDICAL DIRECTOR and Associate Medical Director's use, a laptop computer and remote access to Fire-Rescue's CAD/RMS, in order for the MEDICAL DIRECTOR to fulfill his obligations under this Agreement. All equipment shall remain the property of the COUNTY.

#### **ARTICLE 6 - BUSINESS ASSOCIATE AGREEMENT**

As a business associate of the COUNTY, the MEDICAL DIRECTOR, including his agents, servants, subcontractors, Associate Medical Director, back-up physicians and employees, shall carry out its obligations under this Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and regulations promulgated thereunder ("HIPAA Regulations"), all as have been and may be amended from time to time.

The MEDICAL DIRECTOR and the COUNTY shall enter into the Business Associate Agreement ("BAA") attached hereto as Exhibit A, which is hereby incorporated herein as a part of this Agreement. The MEDICAL DIRECTOR shall require and ensure that any business associates, agents and/or subcontractors, including the Associate Medical Director and back-up physicians as necessary, who have access to protected health information, in providing services contemplated by this Agreement, enter into a written BAA with the MEDICAL DIRECTOR, and a BAA with the COUNTY, if requested by the COUNTY, agreeing in writing to be bound by the same restrictions and conditions that apply to the MEDICAL DIRECTOR with respect to such protected health information.

The MEDICAL DIRECTOR 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, penalties, 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 the acts or omissions of the MEDICAL DIRECTOR, the Associate Medical Director, and/or any back-up physicians, including their respective agents, employees, servants and subcontractors, relating to the duties and obligations imposed by HIPAA, HITECH, HIPAA Regulations, the BAA, and/or any other business associate agreements relating to the services provided hereunder.

#### **ARTICLE 7 - TERMINATION**

This Agreement may be terminated by the MEDICAL DIRECTOR upon ninety (90) days prior written notice to the COUNTY'S representative in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Agreement through no fault of the MEDICAL DIRECTOR. It may also be terminated by mutual agreement of both parties upon (30) days prior written notice and, in whole or in part, by the COUNTY, with or without cause upon thirty (30) days prior written notice to the MEDICAL DIRECTOR. Unless the MEDICAL DIRECTOR is in breach of this Agreement, the MEDICAL DIRECTOR shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the COUNTY, the MEDICAL DIRECTOR shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated.

#### **ARTICLE 8 - FEDERAL AND STATE TAX**

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the MEDICAL DIRECTOR. The MEDICAL DIRECTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the MEDICAL DIRECTOR authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The MEDICAL DIRECTOR shall be responsible for payment of its own and its share of its employees payroll, payroll taxes, and benefits with respect to this Agreement.

#### **ARTICLE 9 - AVAILABILITY OF FUNDS**

The COUNTY'S performance and obligation to pay under this Agreement are contingent upon annual appropriations for its purpose by the Board of County Commissioners.

#### **ARTICLE 10 - INSURANCE**

- A. Without waiving the right to sovereign immunity as provided by Florida Statute 768.28, the COUNTY shall agree to provide liability insurance coverage for the MEDICAL DIRECTOR'S negligent acts, errors, or omissions, but only with respect to his duties as MEDICAL DIRECTOR on behalf of the COUNTY. Such coverage shall also be extended to the Associate Medical Director and back-up physicians, with respect to their medical direction duties to the COUNTY, provided said physicians have been approved by the COUNTY'S Deputy Chief of Operations. Coverage is afforded under the COUNTY'S SELF-INSURED RETENTION PLAN and SPECIFIC EXCESS INSURANCE POLICY as follows:

**SELF-INSURED RETENTION PLAN**

\$500,000 Each Occurrence Self-Insured Retention

**SPECIFIC EXCESS INSURANCE POLICY**

\$500,000 Each Occurrence Combined Single Limit

- B. The COUNTY reserves the right, but not the obligation, to purchase separate liability insurance on behalf of the MEDICAL DIRECTOR, the Associate Medical Director and back-up physicians in lieu of providing the coverage as mentioned above.
- C. The requirements contained herein are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the MEDICAL DIRECTOR under this Agreement.

#### **ARTICLE 11 - INDEMNIFICATION**

The MEDICAL DIRECTOR shall protect, defend, reimburse, indemnify and hold 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 during and as a result of the performance of the terms of this Agreement or due to the acts or omissions of the MEDICAL DIRECTOR, the Associate Medical Director, and/or any back-up physicians, including their respective agents, servants employees and subcontractors.

#### **ARTICLE 12 - SUCCESSORS AND ASSIGNS**

The COUNTY and the MEDICAL DIRECTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; however neither the COUNTY nor the MEDICAL DIRECTOR shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other, except that MEDICAL DIRECTOR may assign its right to receive payment. Nothing in this Agreement shall be construed as creating any personal liability on the part of any officer, employee or agent of the COUNTY. Nothing in this Agreement shall be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the MEDICAL DIRECTOR.

#### **ARTICLE 13 – REMEDIES**

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizens, subcontractors, or employees of the COUNTY and/or the MEDICAL DIRECTOR.

#### **ARTICLE 14 - CONFLICT OF INTEREST**

The MEDICAL DIRECTOR represents that it presently has no known interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. The MEDICAL DIRECTOR further represents that no person having any such conflict of interest shall be employed, contracted or appointed for said performance of services. The MEDICAL DIRECTOR shall promptly notify the COUNTY'S representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the MEDICAL DIRECTOR'S judgement or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the MEDICAL DIRECTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the MEDICAL DIRECTOR. The COUNTY agrees to notify the MEDICAL DIRECTOR of its opinion by certified mail within thirty (30) days of receipt of notification by the MEDICAL DIRECTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the MEDICAL DIRECTOR, the COUNTY shall so state in the notification and the MEDICAL DIRECTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the MEDICAL DIRECTOR under the terms of this Agreement.

#### **ARTICLE 15 - ARREARS**

The MEDICAL DIRECTOR shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The MEDICAL DIRECTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

#### **ARTICLE 16 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The MEDICAL DIRECTOR shall deliver to the COUNTY'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Agreement.

To the extent permitted by 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, will be kept confidential by the MEDICAL DIRECTOR and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful order or otherwise required by law. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Agreement for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

The COUNTY and the MEDICAL DIRECTOR shall comply with the provisions of Chapter 119, Florida Statute (Public Records Law), HIPAA, HITECH, HIPAA Regulations, and any other applicable laws relating to records and/or confidentiality of records.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

Notwithstanding any other provision in this Agreement, all documents, records, reports and any other materials produced hereunder shall, to the extent permitted by law, be subject to disclosure, inspection and audit, pursuant to the Office of Inspector General, Palm Beach County, Florida Ordinance, Palm Beach County Code, Sections 2-421 – 2-440, as may be amended from time to time.

#### **ARTICLE 17 – PERSONNEL**

The MEDICAL DIRECTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereunder shall be performed by the MEDICAL DIRECTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. No subcontractors shall be used to perform any services under this Agreement unless specifically authorized herein and with the prior approval of the COUNTY.



The MEDICAL DIRECTOR warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. All of the MEDICAL DIRECTOR'S personnel (and all subcontractors), while on County premises, will comply with all COUNTY requirements governing conduct, safety and security.

#### **ARTICLE 18 - INDEPENDENT CONTRACTOR RELATIONSHIP**

The MEDICAL DIRECTOR is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the MEDICAL DIRECTOR'S sole direction, supervision, and control. The MEDICAL DIRECTOR shall exercise control over the means and manner in which it and its employees, agents, subcontractors, Associate Medical Director and back-up physicians perform the work, and in all respects the MEDICAL DIRECTOR'S relationship, and the relationship of its employees, agents, subcontractors, Associate Medical Director and back-up physicians, to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY. The MEDICAL DIRECTOR, the Associate Medical Director and all back-up physicians shall comply with all COUNTY policies concerning conduct and security when performing services hereunder. The MEDICAL DIRECTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this Agreement.

#### **ARTICLE 19 - ACCESS AND AUDITS**

The MEDICAL DIRECTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the MEDICAL DIRECTOR'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. To the extent permitted by law, the Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the MEDICAL DIRECTOR, 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 interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

#### **ARTICLE 20 - NONDISCRIMINATION**

The MEDICAL DIRECTOR warrants and represents that all of its employees are treated equally during employment without regard to race, sex, sexual orientation, gender identity or expression, genetic information, color, religion, disability, age, marital status, familial status, national origin, or ancestry; and that no person shall, based on any of these grounds, be excluded from the benefits of,

or be subjected to any form of discrimination under, any activity carried out by the performance of this Agreement.

The MEDICAL DIRECTOR has submitted to COUNTY a copy of its non-discrimination policy which is consistent with the above, as contained in Resolution R-2014-1421, as amended, or in the alternative, if MEDICAL DIRECTOR does not have a written non-discrimination policy, it has acknowledged through a signed statement provided to COUNTY affirming their non-discrimination policy conforms to R-2014-1421, as amended.

#### **ARTICLE 21 - ENFORCEMENT COSTS**

If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, each party shall bear its own attorney's fees and costs.

#### **ARTICLE 22 - AUTHORITY TO PRACTICE**

The MEDICAL DIRECTOR hereby represents and warrants that it, the Associate Medical Director and any backup physicians, have and will continue to maintain all licenses and approvals required to conduct their business, and that they will at all times conduct their business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY'S representative upon request. The MEDICAL DIRECTOR further represents and warrants that it, the Associate Medical Director and any back-up physicians possess and will continue to maintain the requisite qualifications, knowledge and experience required of a medical director by Section 401.265, Florida Statutes and Rule 64J-1.004, F.A.C., and any other applicable laws and regulations.

#### **ARTICLE 23 - SEVERABILITY**

If any term or provision of this Agreement, or the application thereof to any person or circumstances, shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

#### **ARTICLE 24 - ENTIRETY OF CONTRACTUAL AGREEMENT**

The COUNTY and the MEDICAL DIRECTOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 26 - Modifications of Work, or otherwise by a duly authorized amendment to this Agreement.

#### **ARTICLE 25 - PUBLIC ENTITY CRIMES**

As provided in Florida Statute 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the MEDICAL DIRECTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36

months immediately preceding the date hereof. This notice is required by Florida Statute 287.133(3)(a).

#### **ARTICLE 26 - MODIFICATIONS OF WORK**

The COUNTY reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the MEDICAL DIRECTOR of the COUNTY'S notification of a contemplated change, the MEDICAL DIRECTOR shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect the MEDICAL DIRECTOR'S ability to meet the completion dates or schedules of this Agreement.

If the COUNTY so instructs in writing, the MEDICAL DIRECTOR shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall initiate an Agreement amendment and the MEDICAL DIRECTOR shall not commence work on any such change until such written amendment is signed by the MEDICAL DIRECTOR and approved and executed by the Board of County Commissioners for Palm Beach County.

#### **ARTICLE 27 - NOTICE**

All notices required in this Agreement shall be sent by certified mail, return receipt requested, and if sent to the COUNTY'S representative shall be mailed to:

Fire Rescue Administrator  
Palm Beach County Fire Rescue  
405 Pike Road  
West Palm Beach, Florida 33411

and if sent to the MEDICAL DIRECTOR shall be mailed to:

Kenneth A. Scheppke, M.D., P.A.  
4480 River Pines Court  
Tequesta, Florida 33469

#### **ARTICLE 28 - CONTINGENT FEES**

The MEDICAL DIRECTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the MEDICAL DIRECTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the MEDICAL DIRECTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

#### **ARTICLE 29 - CRIMINAL HISTORY RECORDS CHECK**

If MEDICAL DIRECTOR's employees or subcontractors are required under this contract to enter a "critical facility," as identified in Resolution R-2003-1274, the CONSULTANT shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The MEDICAL DIRECTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the MEDICAL DIRECTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.

#### **ARTICLE 30 - REGULATIONS; LICENSING REQUIREMENTS**

The MEDICAL DIRECTOR shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. MEDICAL DIRECTOR is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

#### **ARTICLE 31 – SCRUTINIZED COMPANIES**

As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the MEDICAL DIRECTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473.

If the COUNTY determines, using credible information available to the public, that a false certification has been submitted by MEDICAL DIRECTOR, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135.

**[Remainder of page left blank intentionally]**

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of the COUNTY and MEDICAL DIRECTOR has hereunto set its hand the day and year above written.

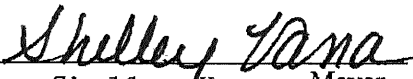
ATTEST:  
SHARON R. BOCK, Clerk  
& Comptroller

2014-1849 DEC 02 2014  
PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

By:

  
Deputy Clerk

By:

  
Shelley Vana, Mayor

Approved as to Form and  
Legal sufficiency

Approved as to Terms and Conditions

By:

  
County Attorney

By:

  
Fire-Rescue Department

WITNESS:

MEDICAL DIRECTOR  
Kenneth A. Scheppke, M.D., P.A.

  
Signature

By:

  
Kenneth A. Scheppke, President

Michelle Liska  
Name (type or print)

**EXHIBIT A**

**Business Associate Agreement  
Between Palm Beach County and Kenneth A. Scheppke, M.D., P.A.**

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 Kenneth A. Scheppke, M.D., P.A., 4480 River Pines Court, Tequesta, Florida 33469, 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**

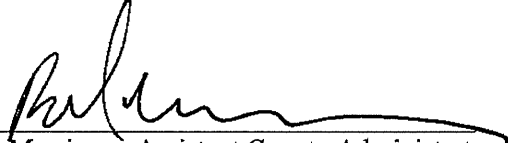
1. The County may terminate this Agreement if the County determines that Business Associate has violated a material term of the Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations 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:

**BUSINESS ASSOCIATE**  
Kenneth A. Scheppke, M.D., P.A.

  
Signature

By:   
Kenneth A. Scheppke, President