

MEDICAL DIRECTOR AGREEMENT

THIS AGREEMENT made on _____, by and between:

CITY OF POMPANO BEACH, a Florida municipal corporation,
hereinafter referred to as "CITY,"

and

RICHARD J PALEY MD LLC, hereinafter referred to as
"CONTRACTOR."

WITNESSETH:

WHEREAS, medical rescue services are provided by the CITY for its citizens by means of its Fire Department under contract to the Pompano Beach Emergency Medical Services District; and

WHEREAS, the state of the art of delivery of advanced emergency medical rescue services by Emergency Medical Technicians (EMT) trained to the level of basic care, and paramedics trained to the level of advanced care, treatment and transportation requires intravenous administration of emergency resuscitative drugs and performances of sophisticated technical emergency providers; and

WHEREAS, the administration of drugs and the performance of such emergency procedures as endotracheal intubation, intravenous catheterization, electrical defibrillation, and any other invasive emergency procedure may only be performed by or under the direction of a licensed Florida physician according to the Medical Practice Act of the State of Florida; and

WHEREAS, the CITY desires to continue to provide advanced emergency medical services to its citizens by means of the Pompano Beach Fire Rescue pursuant to its contract with the Pompano Beach Emergency Medical Services District; and

WHEREAS, the City issued Request for Proposal (RFP) E-02-21, Contractor was deemed the highest ranked proposer, and City desires to enter into an Agreement with Contractor for medical consulting and advisory services for the Pompano Beach Fire Rescue;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto mutually agree as follows:

ARTICLE 1 - SCOPE OF SERVICES

1. Contractor agrees to provide the following services:

Consultant services as needed in the planning for and delivery of services to be provided by Pompano Beach Fire Rescue. These services include, but are not limited to:

- Recommendations for vehicle provision;
- Recommendation of medications to be carried on vehicles;
- Staffing and resource allocation recommendations as requested by the Fire Chief;
- Consultation, needs assessment, analysis, testing and approval of Paramedic and EMT training/recertification activities. These procedures are to be in conformance with all State and local regulations;
- Quality management/improvement activities;
- Other activities as deemed necessary by the Fire Chief.
- All services detailed within Exhibit "A," Request for Proposal (RFP) E-02-21, attached hereto and made a part hereof.

2. For purposes of construction, all articles within this contract specifying a response by, or authority to the Fire Chief shall refer to either the Fire Chief and/or his/her designee.

3. Contractor hereby agrees to comply with all applicable federal, state, local laws.

4. Contractor agrees to Comply with all requirements of Florida Statutes, Chapter 401, Chapter 64J-1 Florida Administrative Code (F.A.C), Chapter 33 of the Broward County EMS Ordinances, Chapter 3½, Emergency Medical Services and Nonemergency Medical Services Ordinance, and the Uniform Trauma Transport Protocol.

5. Contractor agrees to conduct review and testing sessions as needed with Fire Department EMT's and Paramedics relating to medical management of individual cases.

6. Contractor agrees to perform a minimum of twelve (12) hours of field observation, while participating as a crewmember on an EMS vehicle. This ride time will be divided into thirds, with one third of the time (or four hours minimum) allocated to each shift. This observation time shall include, but not be limited to:

- Observing EMT's and Paramedics performing in the field;
- Visiting fire stations to discuss medical issues with personnel;
- Attend Monthly QA Committee review sessions
- Visiting area emergency departments on behalf of Pompano Beach Fire Rescue;
- Provide counsel and training for EMS personnel;

7. Contractor shall supervise and accept responsibility for the medical performance of all paramedics and EMT's providing care on behalf of Pompano Beach Fire Rescue.

8. Contractor agrees to act as liaison between Pompano Beach Fire Rescue and:

- Local hospitals and emergency departments;
- Broward County Medical Association;
- Broward Regional Health Planning Council;
- Department approved Student Rider Agreements;
- Florida Association of EMS Medical Directors;
- As otherwise required by agencies impacting Pompano Beach Fire Rescue.
- Medical Liaison to the City Commission and Management
- Consult and advise City Management and City Commission as needed.
- Attend bi-monthly City EMS Advisory Board meetings

9. Contractor shall comply with and provide for the allocation of controlled substances to Pompano Beach Fire Rescue.

10. Contractor shall coordinate and supervise (as needed) telemetry communications between Pompano Beach Fire Rescue and all area hospitals as a means of monitoring the provision of medical care.

11. Contractor shall be on call, available and provide continuous medical direction 24 hours per day, seven days per week for the term of the contract. This medical direction shall be by either the Contractor or his/her appointee. For purposes of this contract, all remuneration of appointees shall be the responsibility of the Contractor. All appointees will be appointed under the direction and supervision of Contractor. All appointees shall be either a State of Florida licensed M.D. or D.O.

12. Contractor shall develop (or cause to have developed) and coordinate standing medical orders (protocols) for Pompano Beach Fire Rescue. This shall also include (at a minimum) a semi-annual review and written approval of the Protocols.

13. Contractor shall be responsible for the implementation, evaluation and revision of a quality control/quality assurance program. This process shall include the review of at least 30 incident reports per month by Contractor or appointee, and include a written report of the review. Additionally, Contractor shall monitor data collection as needed to perform both quality control as well as any research projects undertaken by the department.

- Contractor shall supervise the formal quality assurance program for Pompano Beach Fire Rescue in a way that complies with any standards set forth by the State of Florida Department of HRS, Division of Emergency Medical Services.
- Contractor shall provide quarterly meetings with EMS Administrators and Contractor to address risk management questions that are raised by the quality assurance program and to address any specific recommendations regarding changes to the medical protocols.

14. Contractor shall maintain a file in the Fire Department's administration headquarters, (EMS Division) a copy of all documentation required of a medical director in compliance with all applicable federal, state and local laws, codes and standards.

15. Contractor shall maintain without lapse in coverage for the duration of this contract, general and professional liability insurance with a minimum liability amount of one million (\$1,000,000) U.S. Dollars per occurrence and three million (\$3,000,00.00). Should such insurance become unobtainable (following execution of the agreement) or the rates for such coverage increase to a level defines as unacceptable by both the Contractor and City, it is understood that, subject to the termination provisions herein, the parties may elect to reopen negotiations solely for the purpose of negotiating the direct cost increase for above coverage. Contractor covenants and agrees that he will indemnify and hold harmless City and all City's officers, agents and employees from any claim, loss, damage, cost, charge or expense arising out of any act, action, neglect or omission by Contractor during the performance of this agreement, whether direct or indirect, and whether any person or property to which City or any of City's officers, agents and employees.

16. Contractor shall provide periodic continuing education conferences. The conferences shall involve formal continuing medical education lectures, case reviews and discussion. The conferences shall further include review of pertinent literature related to EMS. The lectures shall be provided by Contractor and may include lectures by local, regional, EMS, medical and licensed professionals.

17. Contractor shall review and provide such services as are required to insure compliance with all of the following:

a. **Narcotics Control Policy**

Contractor shall formulate and monitor a policy to cover the purchase, storage, use and accountability for narcotics/controlled substances used by Pompano Beach Fire Rescue Paramedics.

b. **Infectious Disease Control Policy**

Contractor shall formulate, monitor, evaluate and update as necessary, a policy complying with all applicable laws and rules necessary to control exposure of fire rescue paramedics to infectious diseases. This policy shall cover protective measures to be taken on incidents, inoculation procedures and recommendations, record keeping, follow up care recommendations as well as storage and disposal policies for contaminated materials.

c. **Patient Destination Issues**

Contractor commits to address on a professional level and in an aggressive fashion, the issues of patient destination difficulties in a manner that both optimizes patient care and minimizes risk to the City and its employees. Contractor further agrees to coordinate and closely monitor on an ongoing basis, issues that involve activities between the Pompano Beach Fire Rescue Department and all appropriate healthcare providers, and to report all such issues to the Fire Chief.

d. **Revision and Expansion of Medical Protocols**

Contractor shall review (at least semi-annually) and revise or expand as necessary, the medical standing orders for Pompano Beach Fire Rescue, and provide for the training needs to implement such protocols.

18. Contractor shall provide quarterly meetings with EMS administrators and Contractor to address risk management questions that are raised by the quality assurance program, and to address any specific recommendations regarding changes to the medical protocols.

19. Contractor specifically acknowledges that the City shall be responsible for the staffing, hiring and supervision level for the Fire Rescue Department. Any and all recommendations with regard to these items will be directed to the Fire Chief or his/her designee for consideration.

20. Contractor specifically acknowledges that the Fire Chief shall be responsible for determining the precise number of continuing education hours required for EMS personnel and for scheduling such programs.

Article II CITY RESPONSIBILITIES

City agrees to:

21. Pompano Beach Fire Rescue shall provide administrative liaison to Contractor through the Fire Chief and will cooperate, to the greatest extent possible in the delivery of competent emergency medical care including the implementation of policies set forth by the Contractor.

22. Pay the Contractor sixty thousand dollars (\$60,000.00) per annum, payable in equal monthly installments (upon receipt of a monthly invoice) for services provided pursuant to this agreement.
23. Provide any secretarial assistance required by the Contractor through the office of the Fire Chief.

Article III – HIPAA

24. Contractor shall carry out its obligations under this Addendum in compliance with the privacy regulations pursuant to Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Agreement between the City of Pompano Beach and Richard J. Paley, M.D.

Simplification, Sections 261, *et seq.*, as amended ("HIPAA"), to protect the privacy of any personally identifiable protected health information ("PHI") that is collected, processed or learned as a result of the Services provided hereunder. In conformity therewith, Contractor agrees that it will:

- a. Not use or further disclose PHI except as permitted under this Agreement or required by law;
 - b. Use appropriate safeguards to prevent use or disclosure of PHI except as permitted by this Agreement;
 - c. To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of this Agreement.
 - d. Report to the City any use or disclosure of PHI not provided for by this Agreement of which Contractor becomes aware;
 - e. Ensure that any agents or subcontractors to whom Contractor provides PHI, or who have access to PHI, agree to the same restrictions and conditions that apply to Contractor with respect to such PHI;
 - f. Make PHI available to the City and to the individual who has a right of access as required under HIPAA within 30 days of the request by the City regarding the individual;
 - g. Incorporate any amendments to PHI when notified to do so by the City;
 - h. Provide an accounting of all uses or disclosures of PHI made by Contractor as required under the HIPAA privacy rule within sixty (60) days;
 - i. Make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services for purposes of determining Contractor's and the City's compliance with HIPAA; and
 - j. At the termination of the Agreement, return or destroy all PHI received from, or created or received by Contractor on behalf of the City, and if return is infeasible, the protections of this Agreement will extend to such PHI.
25. The specific uses and disclosures of PHI that may be made by Contractor on behalf of City include:
- a. Uses required for the proper management of Contractor acting as business associate. Agreement between the City of Pompano Beach and *Richard J. Paley, M.D.*
 - b. Other uses or disclosures of PHI as permitted by the HIPAA privacy rule.

26. Notwithstanding any other provisions of this Agreement, the Agreement may be terminated by the City if Contractor has violated a term or provision of this Agreement pertaining to Contractor's material obligations under the HIPAA privacy rule, or if Contractor engages in conduct which would, if committed by the City, result in a violation of the HIPAA privacy rule by the City.

Article IV TERMS AND CONDITIONS

28. **Term.** This agreement shall be in effect for a period of three (3) years from January 26, 2021. Either party may terminate this agreement upon sixty (60) days written notice to the other party.

29. **Governing Law.** This agreement must be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement will be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit will be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

30. **Sovereign Immunity.** Nothing in this Agreement shall constitute a waiver by the City of its sovereign immunity limits as set forth in section 768.28, Florida Statutes. Nothing herein shall be construed as consent from either party to be sued by third parties.

31. **Indemnification.** Except as expressly provided herein, no liability shall attach to the City by reason of entering into this Agreement.

- a. Contractor shall at all times indemnify, hold harmless and defend the City, its officers, officials, employees, volunteers and other authorized agents from and against any and all claims, demands, suit, damages, attorneys' fees, fines, losses, penalties, defense costs or liabilities suffered by the City arising directly or indirectly from any act, breach, omission, negligence, recklessness or misconduct of Contractor and/or any of its agents, officers, or employees hereunder, including any inaccuracy in or breach of any of the representations, warranties or covenants made by the Contractor, its agents, officers and/or employees, in the performance of services of this contract. Contractor agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all other costs and expenses related thereto, even if the claim(s) is/are groundless, false or fraudulent. To the extent considered necessary by City, any sums due Contractor hereunder may be retained by City until all of City's claims for indemnification hereunder have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by City.
- b. Contractor acknowledges and agrees that City would not enter into this Agreement without Contractor's indemnification of the City. The parties agree that one percent (1%) of the total compensation paid to Contractor hereunder shall constitute specific consideration to Contractor for the indemnification provided under this Article and these provisions shall survive expiration or early termination of this Agreement.

32. **Performance Under Law.** The Contractor, in the performance of duties under the Agreement, agrees to comply with all applicable local, state and/or federal laws and ordinances including, but not limited to, standards of licensing, conduct of business and those relating to criminal activity, and the Americans with Disabilities Act (ADA).

33. **Audit and Inspection Records.** The Contractor shall permit the authorized representatives of the City to inspect and audit all data and records of the Contractor, if any, relating to performance under the contract until the expiration of three years after final payment under this contract.

The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that City or any of their duly authorized representatives shall, until the expiration of three years after final payment under the subcontractor, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontractor.

34. Adherence to Law. Both parties shall adhere to all applicable laws governing their relationship with their employees including, but not limited to, laws, rules, regulations and policies concerning worker's compensation, unemployment compensation and minimum wage requirements.

35. Independent Contractor. The Contractor shall be deemed an independent Contractor for all purposes, and the employees of the Contractor or any of its contractors, subcontractors and the employees thereof, shall not in any manner be deemed to be employees of City. As such, the employees of the Contractor, its Contractors or subcontractors, shall not be subject to any withholding for tax, social security or other purposes by City, nor shall such Contractor, subcontractor or employee be entitled to sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation or the like from City.

36. Waiver and Modification.

- a. No waiver made by either party with respect to performance, manner, time, or any obligation of either party or any condition hereunder shall be considered a waiver of that party's rights with respect to the particular obligation or condition beyond those expressly waived in writing or a waiver of any other rights of the party making the waiver or any other obligations of the other party.
- b. No Waiver by Delay. The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Agreement provided that any delay by City in asserting its rights hereunder shall not operate as a waiver of such rights or limit them in any way. The intent of this provision is that City shall not be constrained to exercise such remedy at a time when it may still hope to otherwise resolve the problems created by the default or risk nor shall any waiver made by City with respect to any specific default by Contractor be considered a waiver of City's rights with respect to that default or any other default by Contractor.
- c. Either party may request changes to modify certain provisions of this Agreement; however, unless otherwise provided for herein, any such changes must be contained in a written amendment executed by both parties with the same formality of this Agreement.

37. No Contingent Fee. Contractor warrants that other than a bona fide employee working solely for Contractor, Contractor has not employed or retained any person or entity, or paid or agreed to pay any person or entity, any fee, commission, gift or any other consideration to solicit or secure this Agreement or contingent upon or resulting from the award or making of this Agreement. In the event of Contractor's breach or violation of this provision, City shall have the right to terminate this Agreement without liability and, at City's sole discretion, to deduct from the Price Formula set forth in Article 7 or otherwise recover the full amount of such fee, commission, gift or other consideration.

38. Attorneys' Fees and Costs. In the event of any litigation involving the provisions of this Agreement, both parties agree that the prevailing party in such litigation shall be entitled to recover from the non-prevailing party reasonable attorney and paraprofessional fees as well as all out-of-pocket costs and expenses incurred thereby by the prevailing party in such litigation through all appellate levels.

39. No Third Party Beneficiaries. Contractor and City agree that this Agreement and other agreements pertaining to Contractor's performance hereunder shall not create any obligation on Contractor or City's part to third parties. No person not a party to this Agreement shall be a third-party beneficiary or acquire any rights hereunder.

49. Public Entity Crimes Act. As of the full execution of this Agreement, Contractor certifies that in accordance with §287.133, Florida Statutes, it is not on the Convicted Vendors List maintained by the State of Florida, Department of General Services. If Contractor is subsequently listed on the Convicted Vendors List during the term of this Agreement, Contractor agrees it shall immediately provide City written notice of such designation in accordance with Article 9 above.

50. Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

51. Headings. The headings or titles to Articles of this Agreement are not part of the Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.

52. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this Agreement and any signatory hereon shall be considered for all purposes as original.

53. Approvals. Whenever CITY approval(s) shall be required for any action under this Agreement, said approval(s) shall not be unreasonably withheld.

54. Absence of Conflicts of Interest. Both parties represent they presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with their performance under this Agreement and that no person having any conflicting interest shall be employed or engaged by either party in their performance hereunder.

55. Binding Effect. The benefits and obligations imposed pursuant to this Agreement shall be binding and enforceable by and against the parties hereto.

56. Public records. In compliance with Article III HIPAA, Contractor shall comply with all provisions of Florida Statutes Chapter 119. Specifically Contractor shall: 1. Keep and maintain public records required by the City in order to perform the service; 2. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City; and 4. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request

from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

Failure to comply with said statutory requirements may subject Contractor to penalties under 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

CITY CLERK

100 W. Atlantic Blvd., Suite 253

Pompano Beach, Florida 33060

(954) 786-4611

RecordsCustodian@copbfl.com

57. Severability. Should any provision of this Agreement or the applications of such provisions be rendered or declared invalid by a court action or by reason of any existing or subsequently enacted legislation, the remaining parts of provisions of this Agreement shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Attest:

CITY OF POMPANO BEACH

ASCELETA HAMMOND, CITY CLERK

(SEAL)

By: _____
REX HARDIN, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

APPROVED AS TO FORM:

MARK E. BERMAN, CITY ATTORNEY



"CONTRACTOR"

Richard J Paley MD LLC

Witnesses:

[Signature]

W. Fuby Edge
(Print or Type Name)

[Signature]
KATHERINE HARVEY MD
(Print or Type Name)

By: [Signature]

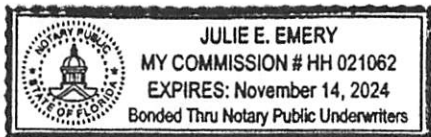
Richard J. Paley, Manager

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this 18 day of December, 2020 by Richard J. Paley as Manager of Richard J. Paley MD LLC, a Florida limited liability company on behalf of the company. He is personally known to me or who has produced - (type of identification) as identification.

NOTARY'S SEAL:



[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

Julie E. Emery
(Name of Acknowledger Typed, Printed or Stamped)

HH 021062
Commission Number