

AGREEMENT FOR MEDICAL DIRECTOR SERVICES FOR OCALA FIRE RESCUE

THIS AGREEMENT FOR MEDICAL DIRECTOR SERVICES FOR OCALA FIRE RESCUE ("Agreement") is entered into by and between the **CITY OF OCALA**, a Florida municipal corporation ("City"), and **FRANK FRAUNFELTER, M.D.** ("Medical Director").

RECITALS:

WHEREAS, Ocala Fire Rescue ("OFR") is licensed under Chapter 401, Florida Statutes, and Chapter 64-E-2, Florida Administrative Code, to operate both a basic life support ("BLS") service and advanced life support ("ALS") service (the City's "Emergency Medical Services System"); and

WHEREAS, Section 401.265, Florida Statutes, requires each BLS transportation service or ALS service to employ or contract with a medical director to supervise and assume direct responsibility for the medical performance of the emergency medical technicians and paramedics operating under the emergency medical services system; and

WHEREAS, Frank Fraunfelter, M.D. is a licensed physician who has provided medical director services for City's emergency medical services system as required under Section 401.265, Florida Statutes, since at least February 12, 2018; and

WHEREAS, procurement of medical director services is exempt from competitive solicitation, and after consideration of the rates of comparable medical directors throughout the state of Florida, the City Contracting Officer has found the rate proposed by Frank Fraunfelter, M.D.'s, to be fair and reasonable.

NOW THEREFORE, in consideration of the foregoing recitals, the following mutual covenants and conditions, and other good and valuable consideration, City and Medical Director agree as follows:

TERMS OF AGREEMENT:

1. **RECITALS.** City and Medical Director hereby represent, warrant, and agree that the Recitals set forth above are true and correct and are incorporated herein by reference.
2. **EFFECTIVE DATE AND TERM.** This Agreement shall become effective and commence on **APRIL 2, 2026** and continue in effect for a term of **TWO (2) YEARS**, through and including **APRIL 1, 2028** (the "Term"). This Agreement may be renewed for up to **TWO (2)** additional **ONE (1) YEAR** periods by written consent between City and Medical Director.
3. **COMPENSATION.** As full and complete compensation for the satisfactory performance of services rendered by Medical Director pursuant to this Agreement, City shall pay Medical Director the sum of **FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000)** per year for the first year of the Initial Term. For the second year of the Initial Term, and for each Renewal Term, City shall pay Medical Director the sum of **SIXTY THOUSAND AND NO/100 DOLLARS (\$60,000)** per year. Such compensation shall be payable in twelve monthly installments after the first day of each month for the previous month's services.
 - A. **Medical Malpractice Insurance Reimbursement.** City shall reimburse Medical Director up to a maximum of **TWO THOUSAND, FIVE HUNDRED AND NO/100 DOLLARS PER YEAR (\$2,500/Year)** for the professional liability insurance required under this Agreement.

- B. **No Payment to Independent Contractors of Medical Director.** City will not be responsible for compensating any other physicians who may occasionally perform duties required under this Agreement at the direction of Medical Director.
 - C. **Excess Funds.** If due to mistake or any other reason Medical Director receives payment under this Agreement in excess of what is provided for by the Agreement, Medical Director shall promptly notify City upon discovery of the receipt of the overpayment. Any overpayment shall be refunded to City within **THIRTY (30)** days of Medical Director's receipt of the overpayment or must also include interest calculated from the date of the overpayment at the interest rate for judgments at the highest rate as allowed by law.
 - D. **Amounts Due to the City.** Medical Director must be current and remain current in all obligations due to the City during the performance of services under this Agreement. Payments to Medical Director may be offset by any delinquent amounts due to the City or fees and/or charges owed to the City.
 - E. **Tax Exemption.** City is exempt from all federal excise and state sales taxes (State of Florida Consumer's Certification of Exemption 85-8012621655C-9). The City's Employer Identification Number is 59-60000392. Medical Director shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor will Medical Director be authorized to use City's Tax Exemption Number for securing materials listed herein.
4. **SCOPE OF SERVICES, DUTIES, AND RESPONSIBILITIES.** Frank Fraunfelder, M.D. shall be designated the Medical Director for the City of Ocala's emergency medical services system for the term of this Agreement and during any renewal term agreed to and memorialized in a writing executed by both parties. Medical Director's duties and responsibilities shall consist of the following:
- A. Within ninety (90) days of the execution of this Agreement, Medical Director shall designate in writing any independent contractor physicians who will have the authority to act and provide the services required of Medical Director under this Agreement in the absence of Medical Director. Any independent contractor physicians so identified shall be subject to prior written approval by City and must provide proof of insurance for City review prior to and before rendering any services under this Agreement.
 - B. Supervise and assume direct responsibility for the medical performance of the emergency medical technicians and paramedics operating for the City of Ocala's emergency medical services system.
 - C. Provide duties including advising, consulting, training, counseling, and overseeing of services, including appropriate quality assurance, but not including administrative and managerial functions.
 - D. Establish, maintain, and ensure adherence to the standard of care regarding the City's emergency medical services system.
 - E. Gather input in the review and development of standards of care on an annual basis and revise performance standards for the City's emergency medical services system as necessary.
 - F. Develop, revise, implement, maintain and ensure adherence to detailed written operating procedures regarding all aspects of the handling of medications, fluids and controlled substances by the City's emergency medical services system.

- G. Provide continuous 24-hour-per-day, 7-day-per-week medical direction which shall include the direction to emergency medical system personnel as to availability of medical direction "off-line" service to resolve problems, system conflicts, and provide services in an emergency as that term is defined by section 252.34(3), Florida Statutes.
- H. Serve as a patient advocate and shall make every effort to ensure that all aspects of the City's emergency medical services system is developed to place the needs of the patient first.
- I. Assist in the development, implementation, and maintenance of an effective and continuous quality assurance program to assess the medical performance of all emergency medical technicians (EMTs) and paramedics operating under Medical Director's supervision by:
 - (1) Develop, implement, and supervise a formal patient care quality assurance system in accordance with section 401.265, Florida Statutes, and Rule 64J-1.004, Florida Administrative Code, to include the formation and supervision of a quality assurance committee;
 - (2) conducting periodic review sessions with OFR personnel regarding medical management of individual medical rescue cases;
 - (3) conducting in-station education and case scenario reviews to continually improve and refine the skills of emergency medical technicians and paramedics;
 - (4) providing conflict/dispute resolution within the City's emergency medical services system pertaining to clinical care with an emphasis on patient care; and
 - (5) maintain records related to quality assurance committee meetings and quality assurance measures.
 - (6) auditing the performance of emergency medical service system personnel by use of a quality assurance program to include, but not be limited to, a prompt review of patient care records, direct observation, and comparison of performance standards for drugs, equipment, system protocols and procedures.
- J. Ensure that the qualifications of all City emergency medical services personnel involved in patient care are maintained on an ongoing base through education, testing, and credentialing.
- K. Participate as a crew member on the City's emergency services vehicles in accordance with Florida Department of Health rules and provide on-site personnel evaluation. Medical Director shall perform at least ten (10) hours per contract year of in-the-field operations riding in rescue vehicles, reviewing the performance of OFR emergency medical services personnel, and reviewing different incidents in which emergency medical services are rendered.
- L. Participate directly and indirectly in City disaster planning and management, including hazmat response, incident command system, and deployments outside the City during state-declared emergency situations.
- M. Develop, revise, implement, and maintain medically correct standing orders and protocols which permit specified ALS and BLS procedures when communication cannot be established with a supervising physician or when any delay in patient care would potentially threaten the life or health of the patient. These standards include, but are not limited to Advanced Cardiac Life Support (ACLS), Basic Trauma Life Support (BTLS)(n/k/a International Trauma Life Support (ITLS)), Pediatric Advanced Life Support (PALS), and Trauma Transport Protocols (TTP).

- N. Conduct an ongoing review of all protocols and standing orders as may be necessary to promote reliable service delivery, appropriate patient care, and the maintenance of the current standard of care. This shall include, at a minimum, a comprehensive annual review and written approval of all protocols and standing orders. While conducting the annual review, Medical Director shall take into consideration the results of quality assurance reviews, reviews of current medical literature, and input from the City's emergency medical services system personnel.
- O. Ensure that appropriate training for new protocols and standing orders is conducted prior to implementation; ensure compliance with protocols and standing orders by all EMS personnel; and ensure that additional training is conducted for any identified needs.
- P. Possess and maintain proof of current registration as a medical director, either individually or through a hospital, with the U.S. Department of Justice, Drug Enforcement Administration (DEA) to provide controlled substances to an emergency medical services provider.
- Q. Ensure and certify that security procedures for the City's emergency medical services system for medications, fluids and controlled substances are in compliance with chapters 499 and 893, Florida Statutes, and Chapter 61N-1, Florida Administrative Code.
- R. Review and approve community medical education and training programs as may be offered by OFR.
- S. Review and approve emergency medical technician and paramedic continuing medical education (CEU) training provided by OFR as requested.
- T. Provide a minimum of ten (10) hours per year of continuing medical education (CEU) training for paramedics and emergency medical technicians.
- U. In conjunction with the Fire Chief and OFR staff, keep contemporaneous records for continuing education and re-certification training and other necessary documentation related to attendance at programs required by federal, state and local regulations in accordance with Florida law.
- V. Serve as a liaison between the City and various community hospitals, other local emergency medical services agencies, and any other agency, physician, institution or organization affecting the City's provision of emergency medical services.
- W. Provide liaison services as requested by the City, OFR personnel, or on behalf of City to any educational, governmental, or medical agency or institution and to other providers in Marion County and elsewhere, to which OFR may deliver patients or from which OFR may seek medical or regulatory consultation relating to the City's provision of emergency medical services.
- X. Maintain membership and actively participate in the Florida Medical Directors Association for the purposes of providing City and OFR personnel with emergency medical services system updates and concerns of other agencies as appropriate.
- Y. Abide by all requirements of Chapter 401, Florida Statutes, and Chapter 64J-I pertaining to emergency medical service medical directors.
- Z. Provide all other services as may be specifically required by law or regulations, and/or mutually agreed to by City and Medical Director, relating to the City's provision of emergency medical services.

5. **TERMINATION AND BREACH.** Either party may terminate this Agreement or any extension or renewal of this Agreement for any reason at any time by providing no less than **THIRTY (30) DAYS** prior written notice in the manner required by this Agreement.
 - A. **Medical Director Breach.** City may, in its sole discretion, terminate this Agreement immediately by giving written notice to Medical Director in the event of any one or more of the following occurrences:
 - (1) Medical Director fails to adequately and/or competently fulfill any of the terms and understandings of, or otherwise fails to comply with this Agreement.
 - (2) Medical Director's license to practice medicine in any state where Medical Director holds such a license is suspended or revoked, or Medical Director is placed on probation, reprimanded, fined, or has his or her medical practice privileges restricted by any state or governing authority;
 - (3) Medical Director is found, in connection with his service as a medical director for any emergency medical services system, to have committed negligence or gross negligence or recklessness or an intentional tort or medical malpractice by a jury or judge of a court of competent jurisdiction regardless of the results of any retrial, rehearing, or appeal;
 - (4) Any insurance coverage required by this Agreement is not maintained or is not maintained to the required level, or is cancelled;
 - (5) Medical director is either temporarily or permanently incapacitated and unable to perform the services required under this Agreement, as determined solely by City;
 - B. **Compensation Upon Termination.** Upon termination of this Agreement, for any reason, during either the initial or any renewal term, the compensation due and payable to Medical Director shall be prorated according to the number of calendar months for which services were actually rendered.
6. **NOTICE REGARDING FAILURE TO FULFILL AGREEMENT.** Any Medical Director who enters into an Agreement with the City of Ocala and fails to complete the Agreement term, for any reason, shall be subject to future bidding suspension for a period of **ONE (1)** year and bid debarment for a period of up to **THREE (3)** years for serious contract failures.
7. **PERFORMANCE EVALUATION.** At the end of the Agreement, City may evaluate Medical Director's performance. Any such evaluation will become public record.
8. **MEDICAL DIRECTOR REPRESENTATIONS.** Medical Director expressly represents that:
 - A. Medical Director has read and is fully familiar with all the terms and conditions of this Agreement and acknowledges that they are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of the work to be performed by Medical Director under this Agreement.
 - B. Medical Director has disclosed, in writing, all known conflicts, errors, inconsistencies, discrepancies, or omissions discovered by Medical Director in this Agreement and that the City's written resolution of same is acceptable to Medical Director.
 - C. Medical Director has had an opportunity to visit, has visited, or has had an opportunity to examine and ask questions regarding the sites upon which the work is to be performed and is satisfied with the site conditions that may affect cost, progress, and performance of the work, as observable or determinable by Medical Director's own investigation.

- D. Medical Director is familiar with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or performance under this Agreement whatsoever.
- E. **Public Entity Crimes.** Neither Medical Director, its parent corporations, subsidiaries, members, shareholders, partners, officers, directors or executives, nor any of its affiliates, contractors, suppliers, subcontractors, or vendors under this Agreement have been placed on the convicted vendor list following a conviction of a public entity crime. Medical Director understands that a "public entity crime" as defined in section 287.133(1)(g), Florida Statutes, is "a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an City or political subdivision of any other state or with the United States..." Medical Director further understands that any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime: (1) may not submit a bid, proposal, or reply on a contract: (a) to provide any goods or services to a public entity; (b) for the construction or repair of a public building or public work; or (c) for leases of real property to a public entity; (2) may not be awarded or perform work as a contractor, supplier, subcontractor, or Medical Director under a contract with any public entity; and (3) may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
9. **NO EXCLUSIVITY.** It is expressly understood and agreed by the parties that this is not an exclusive agreement. Nothing in this Agreement shall be construed as creating any exclusive arrangement with Medical Director or as prohibit City from either acquiring similar, equal, or like goods and/or services or from executing additional contracts with other entities or sources.
10. **PROFESSIONAL LIABILITY INSURANCE.** Medical Director shall procure and maintain during the term of this Agreement (and during the term of any extension or renewal of this Agreement) professional liability/medical malpractice insurance with minimum policy limits of One Million Dollars (\$1,000,000) per claim, and Three Million Dollars (\$3,000,000) insuring Medical Director and the Medical Director's officers, employees, and the City against liability arising out of any and all acts and/or omissions by the Medical Director and the Medical Director's officers, employees during the term of this Agreement (and during the term of any extension or renewal of this Agreement), including coverage for the liability assumed by Medical Director under the indemnification provision of this Agreement. Medical Director shall keep the policy of professional liability/medical malpractice insurance in force until the third anniversary of the expiration of this Agreement. Evidence of continual coverage must be provided to City within **TEN (10)** days of each policy inception or equivalent.
11. **COMMERCIAL AUTO LIABILITY INSURANCE.** Medical Director shall procure, maintain, and keep in full force, effect, and good standing for the life of this Agreement a policy of commercial auto liability insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage arising out of Medical Director's operations and covering all owned, hired, scheduled, and non-owned automobiles utilized in said operations. If Medical Director does not own vehicles, Medical Director shall maintain coverage for hired and non-owned automobile liability, which may be satisfied by way of endorsement to Medical Director's Commercial General Liability policy or separate Commercial Automobile Liability policy.

12. **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.** Worker's Compensation insurance shall be provided by Medical Director as required by Chapter 440, Florida Statutes, or any other applicable state or federal law, including the U.S. Longshoremen's and Harbor Workers Compensation Act and the Jones Act.

- A. Medical Director shall similarly require any and all subcontractors to afford such coverage for all of its employees as required by applicable law.
- B. Medical Director shall waive, and shall ensure that Medical Director's insurance carrier waives, all subrogation rights against the City of Ocala and its officers, employees, and volunteers for all losses or damages. Medical Director's policy shall be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or its equivalent.
- C. Exceptions and exemptions to this Section may be allowed at the discretion of the City's Risk Manager on a case-by-case basis in accordance with Florida Statutes and shall be evidenced by a separate waiver.

13. **MISCELLANEOUS INSURANCE PROVISIONS.**

- A. Medical Director's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by Medical Director shall not be interpreted as limiting Medical Director's liability or obligations under this Agreement. City does not in any way represent that these types or amounts of insurance are sufficient or adequate enough to protect Medical Director's interests or liabilities or to protect Medical Director from claims that may arise out of or result from the negligent acts, errors, or omissions of Medical Director, any of its agents or subcontractors, or for anyone whose negligent act(s) Medical Director may be liable.
- B. No insurance shall be provided by the City for Medical Director under this Agreement and Medical Director shall be fully and solely responsible for any costs or expenses incurred as a result of a coverage deductible, co-insurance penalty, or self-insured retention to include any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation.
- C. **Certificates of Insurance.** No work shall be commenced by Medical Director under this Agreement until the required Certificate of Insurance and endorsements have been provided nor shall Medical Director allow any subcontractor to commence work until all similarly required certificates and endorsements of the subcontractor have also been provided. Work shall not continue after expiration (or cancellation) of the Certificate of Insurance and work shall not resume until a new Certificate of Insurance has been provided. **Medical Director shall provide evidence of insurance in the form of a valid Certificate of Insurance (binders are unacceptable) prior to the start of work contemplated under this Agreement to: City of Ocala. Attention: Procurement & Contracting Department, Address: 110 SE Watula Avenue, Third Floor, Ocala Florida 34471, E-Mail: vendors@ocalafl.gov.** Medical Director's Certificate of Insurance and required endorsements shall be issued by an agency authorized to do business in the State of Florida with an A.M. Best Rating of A or better. The Certificate of Insurance shall indicate whether coverage is being provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

- D. **City as Additional Insured.** The City of Ocala shall be named as an Additional Insured and Certificate Holder on all liability policies identified in this Section with the exception of Workers' Compensation, Auto Liability (except when required by Risk Management) and Professional Liability policies. **Workers Compensation policy must contain a Waiver of Subrogation in favor of the City.**
 - E. **Notice of Cancellation of Insurance.** Medical Director's Certificate of Insurance shall provide **THIRTY (30) DAY** notice of cancellation, **TEN (10) DAY** notice if cancellation is for non-payment of premium. In the event that Medical Director's insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of Medical Director to provide the proper notice. Such notification shall be in writing by registered mail, return receipt requested, and addressed to the certificate holder. Additional copies may be sent to the City of Ocala at vendors@ocalafl.gov.
 - F. **Failure to Maintain Coverage.** The insurance policies and coverages set forth above are required and providing proof of and maintaining insurance of the types and with such terms and limits set forth above is a material obligation of Medical Director. Medical Director's failure to obtain or maintain in full force and effect any insurance coverage required under this Agreement shall constitute material breach of this Agreement.
 - G. **Severability of Interests.** Medical Director shall arrange for its liability insurance to include or be endorsed to include a severability of interests/cross-liability provision so that the "City of Ocala" (where named as an additional insured) will be treated as if a separate policy were in existence, but without increasing the policy limits.
14. **SUBCONTRACTORS.** Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by City or its representatives to any subcontractor of Medical Director or any other persons or organizations having a direct contract with Medical Director, nor shall it create any obligation on the part of City or its representatives to pay or seek payment of any monies to any subcontractor of Medical Director or any other persons or organizations having a direct contract with Medical Director, except as may otherwise be required by law. City shall not be responsible for the acts or omissions of any Medical Director, subcontractor, or of any of their agents or employees, nor shall it create any obligation on the part of City or its representatives to pay or to seek the payment of any monies to any subcontractor or other person or organization, except as may otherwise be required by law.
15. **INDEPENDENT CONTRACTOR STATUS.** Medical Director acknowledges and agrees that under this Agreement, Medical Director and any agent or employee of Medical Director shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which it performs the services and work required under this Agreement. Neither Medical Director nor its agents or employees shall represent or hold themselves out to be employees of City at any time. Neither Medical Director nor its agents or employees shall have employee status with City. Nothing in this Agreement shall constitute or be construed to create any intent on the part of either party to create an employment relationship, partnership, employer-employee relationship, joint venture relationship, or any other relationship which would allow City to exercise control or discretion over the manner or methods employed by Medical Director in its performance of its obligations under this Agreement.
16. **ACCESS TO FACILITIES.** City shall provide Medical Director with access to all City facilities as is reasonably necessary for Medical Director to perform its obligations under this Agreement.

17. **ASSIGNMENT.** Neither party may assign its rights or obligations under this Agreement to any third party without the prior express approval of the other party, which shall not be unreasonably withheld.
18. **RIGHT OF CITY TO TAKE OVER CONTRACT.** Should the work to be performed by Medical Director under this Agreement be abandoned, or should Medical Director become insolvent, or if Medical Director shall assign or sublet the work to be performed hereunder without the written consent of City, the City Project Manager shall have the power and right to hire and acquire additional men and equipment, supply additional material, and perform such work as deemed necessary for the completion of this Agreement. Under these circumstances, all expenses and costs actually incurred by City to accomplish such completion shall be credited to City along with amounts attributable to any other elements of damage and certified by the Project Manager. The City Project Manager's certification as to the amount of such liability shall be final and conclusive.
19. **PUBLIC RECORDS.** Medical Director shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, Medical Director shall:
 - A. Keep and maintain public records required by the public agency to perform the service.
 - B. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the 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.
 - C. 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 Medical Director does not transfer the records to the public agency.
 - D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of Medical Director or keep and maintain public records required by the public agency to perform the service. If Medical Director transfers all public records to the public agency upon completion of the contract, Medical Director shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Medical Director keeps and maintains public records upon completion of the contract, Medical Director shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF MEDICAL DIRECTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO MEDICAL DIRECTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CITY OF OCALA, OFFICE OF THE CITY CLERK; 352-629-8266; E-mail: clerk@ocalafl.gov; City Hall, 110 SE Watula Avenue, Ocala, FL 34471.

20. **AUDIT.** Medical Director shall comply and cooperate immediately with any inspections, reviews, investigations, or audits relating to this Agreement as deemed necessary by the Florida Office of

the Inspector General, the City's Internal or External auditors or by any other Florida official with proper authority.

21. **PUBLICITY.** Medical Director shall not use City's name, logo, seal or other likeness in any press release, marketing materials, or other public announcement without City's prior written approval.
22. **CONFLICT OF INTEREST.** Medical Director is required to have disclosed the name of any officer, director, or agent who may be employed by the City. Medical Director shall further disclose the name of any City employee who owns, directly or indirectly, any interest in Medical Director's business or any affiliated business entity. Any additional conflicts of interest that may occur during the contract term must be disclosed to the City of Ocala Procurement Department.
23. **WAIVER.** The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.
24. **SEVERABILITY OF ILLEGAL PROVISIONS.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this Agreement be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this Agreement.
25. **INDEMNITY.** Medical Director shall indemnify City and its elected officials, employees and volunteers against, and hold City and its elected officials, employees and volunteers harmless from, all damages, claims, losses, costs, and expenses, including reasonable attorneys' fees, which City or its elected officials, employees or volunteers may sustain, or which may be asserted against City or its elected officials, employees or volunteers, arising out of the activities contemplated by this Agreement including, without limitation, harm or personal injury to third persons during the term of this Agreement to the extent attributable to the actions of Medical Director, its agents, and employees including supervision, direction, oversight, counseling, and training of, and consultation with City personnel by Medical Director or by any third party physician acting on behalf of or in place of Medical Director. This paragraph shall survive expiration or early termination of this Agreement.
26. **NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to waive sovereign immunity by the City to which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute § 768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.
27. **NOTICES.** All notices, certifications or communications required by this Agreement shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested. Notices can be concurrently delivered by e-mail. All notices shall be addressed to the respective parties as follows:

If to Medical Director: Frank Fraunfelter, M.D.
700 SE 67th Lane
Ocala, Florida 34480
Phone: 352-286-3166
E-mail: fraunfelterf@gmail.com

If to City of Ocala: Daphne M. Robinson, Esq., Contracting Officer
City of Ocala
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
Phone: 352-629-8343
E-mail: notices@ocalafl.gov

Copy to: William E. Sexton, Esq., City Attorney
City of Ocala
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
Phone: 352-401-3972
E-mail: cityattorney@ocalafl.gov

28. **ATTORNEYS' FEES.** If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses reasonably incurred even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges reasonably billed by the attorney to the prevailing party.

29. **JURY WAIVER.** IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

30. **GOVERNING LAW.** This Agreement is and shall be deemed to be a contract entered and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.
31. **JURISDICTION AND VENUE.** The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court and/or the right to bring an action or proceeding in any other court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.
32. **REFERENCE TO PARTIES.** Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.
33. **MUTUALITY OF NEGOTIATION.** Medical Director and City acknowledge that this Agreement is a result of negotiations between Medical Director and City, and the Agreement shall not be construed in favor of, or against, either party because of that party having been more involved in the drafting of the Agreement.
34. **SECTION HEADINGS.** The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.
35. **RIGHTS OF THIRD PARTIES.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or because of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.
36. **AMENDMENT.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both parties to this Agreement.
37. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.
38. **ELECTRONIC SIGNATURE(S).** Medical Director, if and by offering an electronic signature in any form whatsoever, will accept and agree to be bound by said electronic signature to all terms and conditions of this Agreement. Further, a duplicate or copy of the Agreement that contains a duplicated or non-original signature will be treated the same as an original, signed copy of this original Agreement for all purposes.
39. **ENTIRE AGREEMENT.** This Agreement, including exhibits, (if any) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. No representations,

understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

40. **LEGAL AUTHORITY.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on _____.

ATTEST:

CITY OF OCALA

Angel B. Jacobs
City Clerk

Ire J. Bethea, Sr.
City Council President

Approved as to form and legality:

MEDICAL DIRECTOR

William E. Sexton, Esq.
City Attorney

Frank Fraunfelter, M.D.