

R-2021-1563

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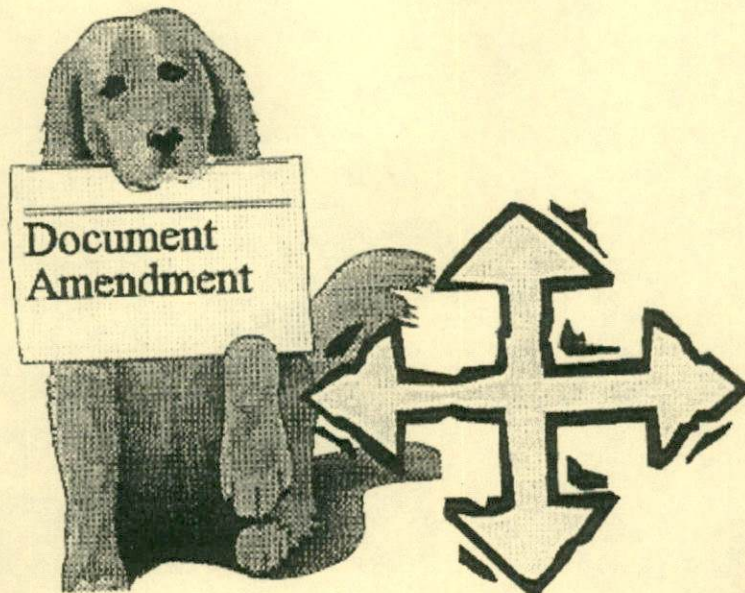


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R2021 1563

SIXTH AMENDMENT
TO INTERLOCAL AGREEMENT
BETWEEN

PALM BEACH COUNTY ON BEHALF OF ITS DEPARTMENT OF RISK
MANAGEMENT AND PALM TRAN INC. AND PALM BEACH COUNTY
SUPERVISOR OF ELECTIONS
(Agreement No. 2002 2287)

THIS SIXTH AMENDMENT, dated this _____ day of OCT 19 2021, 2021 to Agreement No. R2002 2287, dated December 17, 2002, is hereby entered into by Palm Beach County, a Political Subdivision of the State of Florida, (hereinafter "County") on behalf of its Department of Risk Management and Palm Tran, Inc. (hereinafter "Palm Tran"), and the Palm Beach County Supervisor of Elections (hereinafter "SOE").

WITNESSETH:

WHEREAS, the parties have entered into the Interlocal Agreement of December 17, 2002, hereinafter referred to as the "Agreement", under which the parties have established a self-insured group health benefits program to provide group health benefits coverage for employees and their eligible dependents, retirees, and COBRA participants and set forth the obligations and responsibilities of each party with regard to the group health benefits program; and

WHEREAS, the initial term of the Agreement continued in full force and effect up to and through December 31, 2005 and was by and between the County and the Solid Waste Authority of Palm Beach County; and

WHEREAS, the First Amendment of this Agreement renewed the term for one (1) additional one year period up to and through December 31, 2006 (R2005-1753); and

WHEREAS, the Second Amendment of this Agreement renewed the term for five (5) additional years up to and through December 31, 2011 (R2006-2288); and

WHEREAS, the Third Amendment of this Agreement added the Supervisor of Elections as a party to this Agreement effective January 2, 2007 (R2007-0070); and

WHEREAS, The Solid Waste Authority exercised the termination rights under this Agreement effective December 31, 2008, leaving the County, Palm Tran, and Supervisor of Elections as remaining parties to this Agreement; and

WHEREAS, the Fourth Amendment of this Agreement effective October 11, 2011 renewed the term for five (5) additional years up to and through December 31, 2016 (R2011-1668); and

WHEREAS, the Fifth Amendment of this Agreement effective October 17, 2016 renewed the term for five (5) additional years up to and through December, 31, 2021 (R2016-1816); and

WHEREAS, it is necessary to amend the Interlocal Agreement to renew the

term for five (5) additional years up to and through December 31, 2026.

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

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. The Board of County Commissioners and on behalf of Palm Tran, Inc. and Supervisor of Elections are hereby restated as parties to this agreement, and shall continue to assume all the rights and responsibilities as a participant in the self-insured group health benefits program established through Interlocal Agreement R2002 2287.
3. The term of this Agreement is amended to include five (5) additional years up to and through December 31, 2026.
4. The attached Business Associate Agreement Between Covered Entity (County) and Business Associate (Supervisor of Elections), executed on November 21, 2016, remains in effect and shall be incorporated into this Agreement.
5. All other provisions of said Agreement, dated December 17, 2002, previous amendments thereto, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have made and executed this Sixth Amendment to the Agreement between Palm Beach County on behalf of its Department of Risk Management and Palm Tran, Inc. and Supervisor of Elections and has hereunto set its hand the day and year above written.

R2021 1563 OCT 19 2021

ATTEST:

JOSEPH ABRUZZO
CLERK AND COMPTROLLER

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

ON BEHALF OF PALM TRAN, INC.

By: *Joseph Power*
Deputy Clerk



By: *[Signature]*
Dave Kerner, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: *[Signature]*
County Attorney

By: *[Signature]*
Scott Marting, Director
Risk Management

WITNESS:

SUPERVISOR OF ELECTIONS OF
PALM BEACH COUNTY

Ashley Houlahan
Signature

By: *Wendy Sartory Link*
Wendy Sartory Link

Ashley Houlahan
Name (type or print)

Its *[Signature]*

**Business Associate Agreement
Between Covered Entity and Business Associate**

This Business Associate Agreement ("Agreement") between Palm Beach County Board of County Commissioners, hereinafter referred to as "Covered Entity," and Palm Beach County Supervisor of Elections, hereinafter referred to as "Business Associate," parties to Agreement No. R2016-_____ entered on _____, 2016, is executed to ensure that in the execution of Agreement No. R2016-_____, Business Associate will appropriately safeguard protected health information ("PHI") that is created, received, maintained, or transmitted on behalf of the Covered Entity 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 for Economic 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 Covered Entity 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 Covered Entity. The Covered Entity 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 Covered Entity 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 Covered Entity 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 Covered Entity;

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 Covered Entity and to an individual who has a right of access in a manner that satisfies the Covered Entity'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 Covered Entity, or take other measures necessary to satisfy the Covered Entity's obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to the Covered Entity or an individual who has a right to an accounting within 60 days and as necessary to satisfy the Covered Entity's obligations under 45 CFR §164.528;
8. To the extent that Business Associate is to carry out any of the Covered Entity's obligations under the HIPAA Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to the Covered Entity 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 Covered Entity, available to the Secretary of the Department of Health and Human Services for

purposes of determining Business Associate's and the Covered Entity's compliance with HIPAA and the HITECH Act;

10. Restrict the use or disclosure of PHI if the Covered Entity notifies Business Associate of any restriction on the use or disclosure of PHI that the Covered Entity has agreed to or is required to abide by under 45 CFR §164.522; and
11. If the Covered Entity is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Business Associate agrees to assist the Covered Entity 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 Covered Entity's Identity Theft Prevention Program (if the Covered Entity 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 Covered Entity agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting the Covered Entity 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 Covered Entity of any threat of identity theft as a result of the incident.
12. If Palm Beach County is the Covered Entity, then Business Associate shall protect, defend, reimburse, indemnify and hold harmless the Covered Entity, its agents, employees and elected officers 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 Covered Entity 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 Covered Entity.

D. Termination

1. The Covered Entity may terminate this Agreement if the Covered Entity 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 Covered Entity all PHI received from the Covered Entity, or created, maintained, or received by Business Associate on behalf of the Covered Entity that Business Associate still maintains in any form. To the extent permitted by law, 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 21st day of November, 2016.

COVERED ENTITY

PALM BEACH COUNTY, FLORIDA, BY
BOARD OF COUNTY

ITS
COMMISSIONERS

WITNESS:

Rina O'Brien
Signature

By: *Nancy L. Bolton*
Nancy Bolton, County HIPAA Privacy
Officer/Assistant County Administrator,
Through Verdenia Baker, County Administrator

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *Steve C. [Signature]*

APPROVED AS TO TERMS
AND CONDITIONS

By: *[Signature]*

WITNESS:

Mark Totoul
Signature
Mark Totoul
Name

BUSINESS ASSOCIATE

By: *Susan Bucher*
Signature
Susan Bucher
SUPERVISOR OF ELECTIONS
Name and Title

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____

APPROVED AS TO TERMS
AND CONDITIONS

By: _____