

# MEMORANDUM

Agenda Item No. 11(A)(9)

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**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners


**DATE:** January 21, 2015

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution authorizing execution  
of Memorandum of  
Understanding between the  
Public Health Trust and  
Community Health of South  
Florida, Inc., relating to the  
operation, maintenance and  
governance of Trust designated  
facilities

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/smm




# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** January 21, 2015

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 11(A)(9)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(9)

1-21-15

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING EXECUTION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE PUBLIC HEALTH TRUST AND COMMUNITY HEALTH OF SOUTH FLORIDA, INC., RELATING TO THE OPERATION, MAINTENANCE AND GOVERNANCE OF TRUST DESIGNATED FACILITIES LOCATED AT 10300 S.W. 216TH STREET, MIAMI, FLORIDA 33190 AND 810 WEST MOWRY DRIVE, HOMESTEAD, FLORIDA 33030, FOR AN INITIAL TERM OF ONE YEAR WITH FOUR ONE-YEAR AUTOMATIC RENEWAL OPTIONS IN THE AMOUNT OF \$6,924,000.00 DURING YEAR ONE AND AMOUNTS TO BE AGREED UPON IN SUBSEQUENT YEARS; AUTHORIZING THE PUBLIC HEALTH TRUST TO EXECUTE AMENDMENTS, MODIFICATIONS, RENEWALS, AND EXTENSIONS, AND TO EXERCISE THE CANCELLATION PROVISIONS AND TERMINATION CLAUSES CONTAINED THEREIN; AND AUTHORIZING THE PUBLIC HEALTH TRUST TO ENTER INTO FUTURE AGREEMENTS WITH COMMUNITY HEALTH OF SOUTH FLORIDA, INC., CONSISTENT WITH CHAPTER 25A OF THE CODE OF MIAMI-DADE COUNTY

**WHEREAS**, on May 6, 1997, this Board adopted Resolution No. R-483-97 designating the following County-owned facilities used in connection with the delivery of health care as designated facilities of the Public Health Trust ("Trust"): 10300 S.W. 216<sup>th</sup> Street, Miami, Florida 33190 and 810 West Mowry Drive, Homestead, Florida 33030 (the "Trust Designated Facilities"); and

**WHEREAS**, Resolution No. R-483-97 further directed the Trust to enter into an agreement with Community Health of South Florida, Inc., formerly known as Community Health of South Dade, Inc. ("CHI") relating to the operation, maintenance and governance of the Trust Designated Facilities used by CHI for delivery of health care to the community, subject to approval by this Board; and

**WHEREAS**, by Resolution No. R-1564-97 adopted on December 16, 1997, this Board approved a memorandum of agreement between the Trust and CHI related to the Trust Designated Facilities used by CHI; and

**WHEREAS**, on October 27, 2014, the Public Health Trust Board of Trustees adopted Resolution No. PHT 10/14-074, a copy of which is attached to this Resolution, authorizing the Trust President to negotiate and execute a new agreement with CHI, and directing the Trust President to seek this Board's approval thereof; and

**WHEREAS**, the Trust and CHI have negotiated a new agreement, in substantially the form attached hereto and made a part hereof, relating to the operation, maintenance and governance of the Trust Designated Facilities, for an initial term of one year with four one-year automatic renewal options; and

**WHEREAS**, in the new agreement, the Trust and CHI have negotiated that the Trust will pay CHI no more than the amount of \$6,924,000.00 during year one and that the parties will agree on a budgeted amount for subsequent years; and

**WHEREAS**, this Board desires to approve the Trust's execution of the new agreement between the Trust and CHI,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board hereby:

**Section 1.** Approves the foregoing recitals and such recitals are incorporated in this resolution.

**Section 2.** Approves the execution of the agreement, in substantially the form attached hereto and made a part hereof, between the Public Health Trust and Community Health of South Florida, Inc. in the amount of \$6,924,000.00 during year one and amounts to be agreed

upon in subsequent years relating to the operation, maintenance and governance of the Trust Designated Facilities used in connection with the delivery of health care by Community Health of South Florida, Inc.

**Section 3.** Authorizes the Public Health Trust to execute the agreement and to execute amendments, modifications, renewals, and extensions of the agreement, and to exercise the cancellation and termination clauses contained therein.

**Section 4.** Authorizes the Public Health Trust to enter into future agreements with Community Health of South Florida, Inc., consistent with Chapter 25A of the Code of Miami-Dade County.

The Prime Sponsor of the foregoing resolution is Commissioner Dennis C. Moss. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

- |                                     |                      |
|-------------------------------------|----------------------|
| Jean Monestime, Chairman            |                      |
| Esteban L. Bovo, Jr., Vice Chairman |                      |
| Bruno A. Barreiro                   | Daniella Levine Cava |
| Jose "Pepe" Diaz                    | Audrey M. Edmonson   |
| Sally A. Heyman                     | Barbara J. Jordan    |
| Dennis C. Moss                      | Rebeca Sosa          |
| Sen. Javier D. Souto                | Xavier L. Suarez     |
| Juan C. Zapata                      |                      |

The Chairperson thereupon declared the resolution duly passed and adopted this 21<sup>st</sup> day of January, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

*[Handwritten signature]* ES

Eugene Shy, Jr.

RESOLUTION NO. PHT 10/14 - 074

RESOLUTION AUTHORIZING THE PRESIDENT OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE A MEMORANDUM OF UNDERSTANDING ("MOU") WITH COMMUNITY HEALTH OF SOUTH FLORIDA, INC. ("CHI"), THROUGH ITS BOARD OF DIRECTORS, FOR THE MAINTENANCE OF CHI'S FISCAL STABILITY, AS WELL AS THE OPERATION, MAINTENANCE AND GOVERNANCE OF CERTAIN TRUST DESIGNATED FACILITIES, IN THE MAXIMUM AMOUNT OF SIX MILLION NINE HUNDRED TWENTY-FOUR THOUSAND DOLLARS (\$6,924,000.00) FOR THE INITIAL ONE (1) YEAR TERM OF THE AGREEMENT; AUTHORIZING THE PRESIDENT OR HIS DESIGNEE TO EXERCISE ANY AMENDMENT, RENEWAL, TERMINATION, CANCELLATION, AND MODIFICATION CLAUSES OF THE MOU ENTERED INTO PURSUANT TO THIS RESOLUTION; AND DIRECTING THE PRESIDENT TO SEEK BOARD OF COUNTY COMMISSIONER'S APPROVAL OF THE MOU

*(Carlos A. Migoya, President and Chief Executive Officer, Jackson Health System)*

WHEREAS, the Public Health Trust ("Trust") is an agency and instrumentality of Miami-Dade County, Florida, responsible for the operation, maintenance and governance of designated facilities, including specified providers of primary health care services and other services in Miami-Dade County; and

WHEREAS, Community Health of South Florida, Inc. ("CHI") is a Florida not-for-profit corporation that operates a community health care system in South Miami-Dade County, Florida, providing comprehensive integrated primary and behavioral health care and is an approved, licensed, and duly organized Federally Qualified Health Center (FQHC, entities receiving funding under Section 330 of the Public Health Services Act, and FQHC Look-A-Likes); and

WHEREAS, on May 6th, 1997, the Board of County Commissioners ("Commission") approved and adopted Resolution No. R-483-97 designating certain Miami-Dade County facilities operated by CHI, at 10300 SW 216 Street, Miami, Florida 33190 and 810 West Mowry Street, Homestead, Florida 33030, as designated facilities of the Trust; and

WHEREAS, the Commission, by Resolution No. R-483-97, - further directed the Trust to enter into an agreement with the Board of CHI relating to maintenance of CHI's fiscal stability, as well as the operation, maintenance and governance of the designated facilities and to submit such agreement to the Commission its approval.

Agenda Item 6 (c)  
Public Health Trust Board of Trustees  
October 27, 2014

-Page 2-

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby (i) authorizes the President, or his designee, to negotiate and execute a Memorandum of Understanding with CHI, through its Board of Directors, for the maintenance of CHI's fiscal stability, as well as the operation, maintenance and governance of certain trust designated facilities, in the maximum amount of Six Million Nine Hundred Twenty-Four Thousand Dollars (\$6,924,000.00) for the initial one (1) year term of the agreement (ii) authorizes and directs the President, or his designee, to exercise any amendment, renewal, termination, cancellation, and modification clauses of the memorandum of understanding entered into pursuant to this Resolution, and (iii) directs the President to seek Commission approval of the Memorandum of Understanding.



Agenda Item 6 (e)  
Public Health Trust Board of Trustees  
October 27, 2014

-Page 3-

The foregoing resolution was offered by Joe Arriola and the motion was seconded by Irene Lipof as follows:

Joe Arriola	Aye
Mojdeh L. Khaghan	Absent
Marcos Jose Lapciuc	Aye
Irene Lipof	Aye
Ralph G. Patino	Aye
Darryl K. Sharpton	Aye
Carlos Trujillo	Aye

The Chairperson thereupon declared the resolution duly passed and adopted this 27<sup>th</sup> day of October 2014.

**PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY, FLORIDA**

BY: \_\_\_\_\_

*Irene Lipof*

Irene Lipof, Secretary

Approved by the Miami-Dade County Attorney's Office as to form  
and legal sufficiency \_\_\_\_\_



*Miracles made daily.*

**TO:** Darryl K. Sharpton, Chairperson  
and Members, PHT Board of Trustees

**FROM:** Carlos A. Migoya  
President and Chief Executive Officer

**DATE:** October 27, 2014

**RE:** Negotiation and Execution of a Memorandum of Understanding with Community Health of South Florida, Inc.

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This is a companion item to the proposed lease agreement with Community Health of South Florida, Inc., which is being presented first in the Purchasing & Facilities Subcommittee.

**Recommendation**

Staff recommends that the Public Health Trust Board of Trustees authorize the President or his designee to negotiate and execute a memorandum of understanding with Community Health of South Florida, Inc. ("CHI") to formally define the rights and responsibilities of both parties with respect to the financial support provided by the Trust to CHI. The proposed agreement has a one-year term with four one-year options to renew.

**Scope**

The agreement addresses the maintenance of CHI's fiscal stability, as well as the operation, maintenance and governance of the Trust's designated facilities in which CHI provides comprehensive primary and behavioral health care.

**Fiscal Impact/Funding Source**

The proposed agreement has an estimated cost to Jackson of \$6.92 million for the first year, and requires the parties to agree on the budget for subsequent years. The first-year impact is included in the Trust's FY 2014-15 budget.

**Track Record/Monitor**

This proposed agreement would be overseen by the Finance Division of the Trust, which reports to Mark Knight, executive vice president and chief financial officer.

**Background**

CHI is a Florida not-for-profit corporation that operates a community health care system in South Miami-Dade County, Florida, and is an approved, licensed, and duly organized Federally Qualified Health Center. Pursuant to Board of County Commission Resolution No. R-483-97, approved and adopted on May 6, 1997, CHI provides health care services to the community in two PHT designated facilities at 10300 SW 216 Street, Miami, Florida 33190 (Doris Ison South Dade Community Health Center) and 810 West Mowry Street, Homestead, Florida 33030 (Martin Luther King Health Clinic Clinica Campesina). In addition, Resolution No. R-483-97 required the agreement to be submitted to the Commission for its approval. Lastly, the Commission approved and adopted Resolution No. 1564-97, on December 16, 1997, which among other things, provides that the PHT is responsible for providing financial support to CHI for the operation, maintenance, and governance of the aforementioned designated facilities.

The proposed agreement includes the following provisions:

- CHI would be required to submit its Board-approved budget, including a detailed description of all programmatic expenses funded by the Trust at the two facilities, for review by Jackson staff and submission to the Trust Board. Any changes made by the Trust Board would need subsequent agreement by the CHI board, and the Trust would not begin payments until both boards approve the final budget. Furthermore, funding is only renewed upon CHI's satisfactory completion of its obligations under the MOU.
- CHI would submit to the Trust, monthly invoices with supporting documentation, with all salary expenses showing the complete salary of CHI staff for the billing period, and the portion being charged to the MOU. These invoices would be submitted to the Trust by the 15<sup>th</sup> of each month for the previous month's expenditures.
- The Trust would have audit rights for up to three years after final payment under the MOU is made to CHI.
- The Trust would recommend individuals for the CHI Board to consider, and the CHI Board would be required to choose one of the Trust's recommended individuals to sit as voting member of the CHI Board for the term of the MOU.
- Maintenance of the two facilities would be governed by a lease agreement submitted as a separate item for the Trust Board's consideration.

**MEMORANDUM OF UNDERSTANDING BETWEEN**  
**THE PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY, FLORIDA AND**  
**COMMUNITY HEALTH OF SOUTH FLORIDA, INC.**

This Memorandum of Understanding, hereinafter referred to as "MOU", is entered into between The Public Health Trust of Miami-Dade County, Florida, an agency and instrumentality of Miami-Dade County, Florida, which operates the Jackson Health System, located at 1611 N.W. 12<sup>th</sup> Avenue, Miami, FL 33136, hereinafter referred to as the "Trust" and Community Health of South Florida, Inc., located at 10300 S.W. 216<sup>th</sup> Street, Miami, FL 33190, hereinafter referred to as "CHI," to set forth the operation, maintenance and governance of certain designated facilities.

**WHEREAS**, the Trust is an agency and instrumentality of Miami-Dade County, Florida, responsible for the operation, maintenance and governance of designated facilities, including specified providers of primary health care services and other services in Miami-Dade County;

**WHEREAS**, CHI is a Florida not-for-profit corporation that operates a community health care system in South Miami-Dade County, Florida, providing comprehensive integrated primary and behavioral health care and is an approved, licensed, and duly organized Federally Qualified Health Center (FQHC, entities receiving funding under Section 330 of the Public Health Services Act, and FQHC Look-A-Likes);

**WHEREAS**, on May 6<sup>th</sup>, 1997, the Miami-Dade County Board of County Commissioners passed Resolution No. R-483-97 designating certain Miami-Dade County facilities (as defined below), previously leased by CHI, as designated facilities of the Trust;

**WHEREAS**, the Miami-Dade County Board of County Commissioners further directed the Trust to enter into an agreement with the Board of CHI relating to maintenance of CHI fiscal stability, as well as the operation, maintenance and governance of the designated facilities;

**WHEREAS**, the parties wish to enter into this MOU in order to define the rights and responsibilities of the Trust and CHI with respect to the financial support provided by the Trust to CHI and the operations, maintenance and governance of the designated facilities.

**NOW, THEREFORE**, in consideration of the mutual terms set forth herein, the Trust and CHI hereby agree to the following:

I. **DEFINITION.**

A. Designated Facilities – The "Designated Facilities" addressed in this MOU shall mean those facilities designated to the Trust by Miami-Dade County pursuant

to Resolution No. R-483-97 and further described below. The Designated Facilities, which are operated by CHI, are leased to CHI through a separate Lease/Rental agreement which will be executed concurrently with this MOU.

1. Doris Ison Health Center  
10300 S.W. 216<sup>th</sup> Street  
Miami, Florida 33190
2. Martin Luther King, Jr.  
Clinica Campesina  
810 West Mowry Street  
Homestead, Florida 33030

## II. OBLIGATIONS OF CHI.

- A. CHI shall, at reasonable intervals, but at least annually, re-evaluate this MOU to ensure that this arrangement is expected to continue to contribute meaningfully to CHI's ability to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by CHI, CHI shall also contemporaneously document the re-evaluation and make this documentation available to the Secretary of Health & Human Services upon request.
- B. CHI shall provide effective notification to patients of their freedom to choose any willing provider or supplier.
- C. CHI shall disclose the existence and nature of this MOU to any patient who inquires and CHI shall provide such notification or disclosure in a timely fashion and in a manner reasonably calculated to be effective and understood by the patient.

## III. REPRESENTATIONS & WARRANTIES.

- A. By the parties:
  1. The parties represent and warrant that the Trust does not require CHI (or its affiliated health care professionals) to refer patients to a particular individual or entity, or restrict CHI (or its affiliated health care professionals) from referring patients to any individual or entity.
  2. The parties represent and warrant this MOU does not restrict CHI, if it chooses, to enter into agreements with other providers or suppliers of comparable goods, items, or services, or with other lenders or donors. If CHI has multiple individuals or entities willing to offer comparable remuneration, CHI must employ a reasonable methodology to determine which individuals or entities to select and must document its determination (consistent with 45 CFR 74.40 through 74.48).
  3. The parties represent and warrant that they intend to comply with all applicable federal, State of Florida ("State") and local laws, rules, regulations and guidance, including, without limitation, the federal

Physician Self-Referral Law (Social Security Act 1877; 42 U.S.C. 1395nn) and the regulations promulgated thereunder (collectively, the "Stark Law"), as well as any similar State and/or local statutes or regulations prohibiting certain financial relationships among health care providers; the federal Anti-Kickback Statute (42 U.S.C. 1320a-7, 1320a-7a, 1320a-7b) and the regulations promulgated thereunder (collectively, the "Anti-Kickback Statute") as well as similar State and/or local statutes and regulations; the Emergency Medical Treatment and Labor Act (Social Security Act 1867; 42 U.S.C. 1395dd) and the regulations promulgated thereunder (collectively, "EMTALA"); and the Florida Mental Health Act of 1971 (Florida Statute 394.451-394.47891) and the regulations promulgated thereunder (collectively, the "Baker Act"). The parties further agree to promptly restructure or amend this MOU, if necessary, to facilitate such compliance.

4. The parties represent and warrant that the amounts to be paid to CHI are not and will not be conditioned on the volume or value of Federal health care program business generated between the parties.

**B. By CHI:**

CHI represents and warrants

1. The support provided in this MOU is to support CHI's medical or clinical efforts or relates directly to services provided by CHI as part of the scope of CHI's section 330 grant. Additionally, CHI represents and warrants that the support provided in this MOU will only be utilized to pay the clinical salaries to staff and provide services at the below listed facilities:

Doris Ison Health Center  
10300 S.W. 216th Street  
Miami, FL 33190

Martin Luther King, Jr.  
Clinica Campesina  
810 West Mowry Drive  
Homestead, FL 33030

2. CHI reasonably expects this MOU to contribute meaningfully to CHI's ability to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by CHI. CHI warrants it has documented the basis for the reasonable expectation prior to entering this MOU. CHI shall make this documentation available to the Secretary of Health & Human Services upon request.
3. CHI represents and warrants that it compensates its physicians based upon fair market value for services and items actually provided and

- not determined in any manner that takes into account the volume or value of referrals or other business generated by the referring physician for the entity furnishing designated health services (DHS).
4. CHI represents it has not entered into, and shall not during the Term hereof enter into, any financial relationship prohibited under the federal Stark Law or any similar State or local statutes or regulations prohibiting certain financial relationships among health care providers. CHI further represents and warrants that it has not engaged in, and shall not during the Term hereof engage in, any activity prohibited under the federal Anti-Kickback Statute similar State or local statutes or regulations, or rules of professional conduct.
  5. CHI and none of its employees or contractors are not now and have never been suspended, excluded, debarred, sanctioned or otherwise made ineligible from participation in any federally funded health care program or any other federally funded program or federal contract, including, but not limited to Medicare and Medicaid.

### **TERMS, TERMINATION, AND AMENDMENTS.**

A. **Term.** This MOU shall be effective for a one (1) year term from the later of October 1, 2014 or the date both Parties have fully executed this Agreement ("Effective Date"). This term shall be automatically renewed for consecutive one (1) year terms, absent written notice by any party, as provided herein, of the party's intent not to renew the MOU, for no more than four (4) additional terms following the original term; provided, however, that this MOU will not be renewed or renegotiated unless CHI reasonably expects that this MOU will continue to satisfy the standard set forth in 42 U.S.C. 1001.952(w)(3), contained in the Qualified Health Center safe harbor in the next agreement term, and will contemporaneously document same.

B. **Termination.** This MOU may be terminated by either party upon no less than sixty (60) days' notice in writing to the other party, without cause, unless a lesser time is mutually agreed upon in writing by both parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery

C. **Amendments.** Any amendments or modifications to this MOU shall only be valid when they have been reduced to writing and duly signed by both parties. The parties agree to renegotiate this MOU if federal, state and/or county revisions of any applicable ordinances, laws or regulations warrant any necessary changes to this MOU.

### **III. TRUST AND CHI PARTNERSHIP.**

A. **Governance.** As a condition precedent for funds receipt through this MOU, and in order to enhance the partnership and collaboration between CHI and the Trust, the Public Health Trust Board of Trustees ("Jackson Board") shall recommend at least one individual for the CHI Board of Directors' ("CHI Board") consideration to serve as a voting member on the CHI Board. The CHI Board shall consider each of the

Jackson Board's recommendations, and select one to serve as a voting member on the CHI Board. The term of the Jackson Board's recommended member on CHI's Board shall run concurrently with the term of this MOU. Both CHI and the Trust will work closely to address long standing issues, including, the feasibility of continuation and enhancement of operations at the Designated Facilities, financial feasibility, and other variables. In addition, the CHI Board will approve and then recommend to the Trust's Chief Financial Officer or his designee for approval CHI's annual operating budget, capital budget, strategic plan and scope of service related to the use of the Designated Facilities.

**B. Maintenance.** Maintenance of the Designated Facilities shall be addressed via a separate rental/lease agreement between the parties which shall be executed concurrently with this MOU.

**C. Operation.** In addition to CHI's annual submission of its preliminary budget as provided in Section IV.A.2. of this MOU, CHI shall also annually submit to the Trust, a detailed description of all programmatic expenses funded by the Trust at the Designated Facilities.

#### **IV. FUNDING FOR SERVICES AT DESIGNATED FACILITIES.**

**A. Budget Services.** The parties acknowledge and agree that each party must approve the annual budget for funds provided to CHI by the Trust. CHI agrees to comply with the Trust's financial policies and procedures for the budget process as set forth below.

1. CHI and the Trust will meet prior to development of the budget to establish budgetary guidelines and service delivery objectives.
2. CHI will develop and present its preliminary budget, at a meeting of the CHI Board, whose agenda will include "budget review and approval" as an action item. The CHI Board shall review the budget, and approve it, with or without revision, prior to submission to the Trust.
3. CHI will submit its approved preliminary budget to the Trust, and the Trust shall review the preliminary budget and shall recommend it, with or without revisions, to the Jackson Board.
4. Prior to presentation before the Jackson Board, the Trust's Chief Financial Officer or his designee shall notify CHI that either (i) the budget has been approved as submitted by CHI or (ii) that proposed changes to the budget have been recommended to the Jackson Board.
5. In the event the Jackson Board approves the budget with revisions, that budget shall be returned to the CHI Board for its acceptance. The Trust will not make payments to CHI pursuant to this MOU until the annual budget has been approved by both parties.
6. Throughout the fiscal year, either party shall notify the other party of any proposed amendment to the budget. If the Jackson Board determines that the proposed budget amendment is required in order to



meet its obligations to CHI, then the parties shall agree to approve an amendment.

**B. Payment.** The parties agree that this is a cost reimbursement MOU, and CHI will be paid based on actual expenditures. CHI will submit a monthly invoice with supporting documentation to the Trust by the 15<sup>th</sup> of each month for the previous months' expenditures. CHI shall submit supporting documentation for all salary expenses displaying clearly the staff members' complete salary for the billing period and the portion being charged to the MOU. The Trust shall pay CHI no more than \$6,924,000.00 during year one of the MOU. The parties will agree on a budget, as described above, for subsequent years.

**C. Terms of Payment.** In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the Trust shall be forty-five (45) days from receipt of a complete and proper invoice. For small businesses, the time at which payment shall be due from the Trust shall be thirty (30) days from receipt of a complete and proper invoice. Section 2-8.1.4 of the Miami-Dade County Code, Sherman S. Winn Prompt Payment Ordinance No. 94-40, provides for expedited payments to small businesses by County agencies and the Trust; creates dispute resolution procedures for payment of Miami-Dade County and Trust obligations; and requires the prime contractor to issue prompt payments and have the same dispute resolution procedures as Miami-Dade County for all small business subcontractors. Failure of the prime vendor to issue prompt payment to small businesses, or to adhere to its dispute resolution procedures, may be cause for suspension, termination, and debarment, in accordance with the terms of the Miami-Dade County or Trust MOU and debarment procedures of Miami-Dade County. All payments due from the Trust, and not made within the time specified by this section, shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the Chief Procurement Officer, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the Trust.

**D. Advanced Payments.** Advanced payments will not be issued to CHI.

**E. Renewal of Funding.** The renewal of these funds is contingent upon CHI's satisfactory performance of its obligations under this MOU.

**V. ACCESS TO RECORDS AND AUDITS.**

CHI shall maintain records, accounts and other documents necessary to assure a proper accounting of the funds allocated under this MOU. At the request of the Trust, CHI will allow access to records or documents of a financial or programmatic nature pertaining to the services provided at the Designated Facilities pursuant to this MOU. All records shall be maintained by CHI for at least three (3) years after the Trust's final payment. The Trust, its authorized agents and/or Federal, State and local auditors, as authorized by law, shall have full access to and the right to examine and/or audit any of said materials during this period. In addition, in the event the Trust is audited by an external auditor in relation

to the funds provided to CHI through this MOU, CHI shall make any all financial and/or programmatic records and documents available to the external auditor. Upon receipt of notice for production of records and/or documents, as contemplated in this section, CHI will be given ten (10) business days from receipt of notice in order to produce the documents requested, specifying the review period. CHI also agrees to provide the Trust, upon request, with copies of all such records and documents.

## **VII. INSPECTOR GENERAL REVIEWS.**

**A. Independent Private Sector Inspector General.** Pursuant to the Code of Miami-Dade County, Resolution # R-516-96, and Miami-Dade County Administrative Order 3-20, and in connection with the award of this MOU, the Trust has the right to retain the services of an Independent Private Sector Inspector General ("IPSIG") whenever the Trust or Miami-Dade County deems it appropriate to do so. Upon written notice from the Trust, CHI shall make available, to the IPSIG retained by the Trust, all requested records and documentation pertaining to this MOU, for inspection and copying. The Trust will be responsible for the payment of these IPSIG services, and under no circumstance shall CHI's fees for the services under this MOU be inclusive of any charges relating to these IPSIG services. The terms of this provision herein shall, apply to the CHI, its officers, agents, employees and assignees.

Nothing contained in this provision shall impair any independent right of the Trust to conduct, audit, or investigate the operations, activities and performance of CHI in connection with this MOU. The terms of this provision are neither intended nor shall CHI construe them to impose any liability on the Trust.

**B. Miami-Dade County Inspector General Review.** According to Resolution # R-516-96 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General (IG) which may, on a random basis, perform audits, inspections, and reviews of all Miami-Dade County and Trust contracts. This random audit is separate and distinct from any other audit by Miami-Dade County. To pay for the functions of the Office of the Inspector General, any and all payments to be made to the Subcontractor under this Contract will be assessed one quarter (1/4) of one (1) percent of the total amount of the payment, to be deducted from each progress payment as the same becomes due unless, as stated in the Special Conditions, this MOU is federally or state funded where federal or state law or regulations preclude such a charge. CHI shall, in stating its agreed process, be mindful of this assessment, which will not be separately identified, calculated or adjusted in CHI's proposal. The audit cost shall also be included in all change orders and all contract renewals and extensions.

The Miami-Dade Office of Inspector General is authorized to investigate County affairs and empowered to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget

and in conformance with plans, specifications and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, proposal specifications, proposal submittals, activities of CHI, its officers, agents and employees, lobbyists, County and Public Health Trust staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon ten (10) days written notice to CHI, CHI shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General shall have the right to inspect and copy all documents and records in CHI's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the MOU, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and MOU documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforementioned documents and records.

CHI shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (proposal preparation) and performance of this MOU, for examination, audit, or reproduction, until three (3) years after final payment under this MOU or for any longer period required by statute or by other clauses of this MOU. In addition:

1. If this MOU is completely or partially terminated, CHI shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and
2. CHI shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this MOU until such appeals, litigation, or claims are finally resolved.

The provisions in this section shall apply to CHI, its officers, agents, employees, subcontractors and suppliers. CHI shall incorporate the provisions in this section in all subcontracts and all other agreements executed by CHI in connection with the performance of this MOU. Nothing in this section shall impair any independent right to Miami-Dade County to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on Miami-Dade County by CHI or third parties.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility

rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Trust; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. Notwithstanding the foregoing, the Trust may authorize the inclusion of the fee assessment of one-quarter (1/4) of one percent in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all Trust contracts including, but not limited to, those contracts specifically exempted above.

## **VII. CONFIDENTIALITY.**

Except as is necessary in the performance of this MOU, or as authorized in writing by a party or by law, the parties shall not disclose to any person, institution, entity, company, or any other third party, any information directly or indirectly related to either party that the other party receives as a result of performing obligations under this MOU, or of which it is otherwise aware. The parties also agree not to disclose, except to each other, any proprietary information, professional secrets, or other information obtained in the course of carrying out their responsibilities under this MOU, unless either party receives prior written authorization to do so from the other party or as authorized by law. Nothing contained herein shall be construed to prohibit the parties or any other appropriate official from obtaining, reviewing, and auditing any information, record, data, and data elements to which (s) he is lawfully entitled. Notwithstanding anything to the contrary herein, CHI acknowledges that the Trust, as a public entity, is subject to Florida's public records laws, which makes all materials communicated to or from the Trust pursuant to this MOU subject to disclosure under such laws unless specifically exempted from disclosure or made confidential. In no event shall the Trust be deemed to be in breach of any contractual or other duty to CHI, nor otherwise liable for, any decision or action taken by the Trust (including its employees, representatives, or agents), which the Trust in good faith believed to be consistent with or required by such public record laws.

## **VIII. INDEMNIFICATION AND INSURANCE.**

A. **Indemnification.** CHI shall indemnify and hold harmless the Trust, County and their respective Trustees, officers, employees, agents and affiliated organizations ("the Indemnified Parties") from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Indemnified Parties may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this MOU by CHI or its employees, agents, servants, partners, or principals. CHI shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Indemnified Parties, where applicable, including

appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. CHI expressly understands and agrees that any insurance protection required by this MOU or otherwise provided by CHI shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Indemnified Parties as herein provided. This provision shall survive the termination or cancellation of this Agreement.

**B. Insurance.** CHI shall maintain at CHI's own expense (1) Comprehensive General Liability Insurance to include contractual liability coverage, in limits of no less than \$1,000,000.00/claim; \$3,000,000.00/annual aggregate, (2) Professional Liability Coverage in the same limits as (1) above and (3) Worker's Compensation Insurance in statutory amounts, but will provide coverage for liabilities or claims in accordance with Section 440 of the Florida Statutes. The insurance shall result solely from the activities contemplated pursuant to this MOU or undertaken by CHI hereunder. The form, type and limits of coverage of such insurance shall be subject to reasonable approval of the Trust. Certificates of Insurance shall be furnished to the Trust from time to time upon reasonable request of the Trust.

**IX. OFFICIAL PAYEE AND REPRESENTATIVES; NOTICE.**

A. The name of the official payee to whom the payment shall be made is Community Health of South Florida, Inc.

B. The name, title, address, e-mail and telephone number of CHI's representative responsible for the administration of this MOU is:

Name: Brodes H. Hartley, Jr.  
Title: President/CEO  
Address: 10300 SW 216 Street Miami, Florida 33190  
Email: bhartley@chisouthfl.org  
Telephone: 305-252-4853

C. The name, title, address, e-mail and telephone number of the Trust's representative responsible for the administration of this MOU:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
E-mail: \_\_\_\_\_  
Telephone: \_\_\_\_\_

D. Notice of change of representatives (names, addresses, telephone numbers), by either party, shall be provided in writing to the other party within seven (7) days from the date the change has been made.

E. Every notice that may be required by this MOU shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested or delivered personally to the parties' respective representative responsible for the administration of this MOU, as set forth above.

X. **COMPLIANCE WITH LAW.**

The parties agree to comply with all applicable federal, state, and local laws and regulations concerning their performance, rights, and obligations under this MOU. The Trust shall retain in a central database all agreements with CHI, including this MOU.

XI. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.**

Throughout the term of this MOU, CHI shall comply with the Health Insurance Portability and Accountability Act of 1996, Privacy Regulations and the regulations promulgated thereunder by the U.S. Department of Health and Human Services. Any use of Protected Health Information that is not authorized by the TRUST is strictly prohibited.

XII. **INDEPENDENT CONTRACTOR.**

For purposes of this MOU, the parties hereto shall be independent contractors and neither shall at any time be considered an agent or employee of the other. No joint venture, partnership, or like relationship is created between the parties by this MOU.

XIII. **MISCELLANEOUS TERMS AND CONDITIONS.**

A. **Entire Agreement.** Both parties agree that this MOU sets forth the entire agreement and understanding of the parties and supersedes all prior and contemporaneous agreements, arrangements, or understandings relating to the subject matter hereof. There are no conditions or limitations to this undertaking except those stated therein.

B. **Binding Agreement; Assignment.** This MOU shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns. The CHI shall not assign, transfer, pledge, hypothecate, surrender, or otherwise encumber or dispose of any of its rights under this MOU, or any interest in any portion of same, without the prior written consent of the Trust, which consent may be withheld by the Trust for any reason it determines to be in its best interest.

C. **No Third Party Benefit:** The rights, remedies and obligations contained in this MOU shall pertain solely to the parties executing the MOU. The MOU shall not be construed

or deemed to create any rights or remedies for any third parties or any other person who is not a party thereto.

**D. Representations or Warranties.** The parties represent that they have all necessary authority and approvals to enter into this MOU and no further approval is necessary to validate the terms and conditions of this MOU. No representations or warranties shall be binding upon either party unless expressed in writing herein.

**E. Applicable Law; Venue.** This MOU shall be construed according to the law of the State of Florida applicable to contracts made therein, without giving effect to its laws or rules relating to the conflict of laws. Venue for any litigation between the parties regarding this MOU shall lie only in state or federal court located in Miami-Dade County, Florida.

**F. Counterparts.** This MOU may be executed in several counterparts, each of which shall be deemed an original and all such counterparts together shall constitute but one and the same instrument.

**G. Waiver.** Waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure. Neither party will be bound by any purported recession or modification of this MOU and shall not be deemed to have waived any provisions of this MOU unless such recession, modification or waiver is set forth in writing and signed by an authorized official of both parties.

**H. Severability.** If any provision of this MOU is held to be invalid, illegal or unenforceable, the remaining provisions will remain in full force and effect.

**I. Paragraph Headings.** The paragraph headings used in connection with this MOU have been inserted for the convenience of the parties only. They do not purport to and shall not be deemed to define, govern, limit, modify or in any manner, affect the scope, meaning or intent of the provisions to which they pertain.

**J. Drafting Party.** This MOU shall not be construed against the party preparing it but shall be construed as if all parties hereto jointly prepared this MOU.

**K. Advertising.** Neither party shall use the name of the other in any promotional or advertising material unless review and approval in writing of the intended use shall first be obtained from the party whose name is to be used. The Trust may withhold such approval for any reason it determines to be in its best interest.

**L. Force Majeure.** Neither party shall be liable to the other for failures or delays in performance due to causes beyond its reasonable control and that cannot be avoided by exercise of due care, including war, strikes, lockouts, fire, flood, hurricane, storm or other acts of God. Both parties agree to use their commercially reasonable efforts to minimize the effects of such failures or delays.

I have read the above MOU and understand each section and paragraph. The parties hereto have caused this MOU to be executed by their officials as duly authorized.

COMMUNITY HEALTH OF SOUTH  
FLORIDA, INC.

PUBLIC HEALTH TRUST OF MIAMI-  
DADE COUNTY, FLORIDA

Signed By: *Brodes H. Hartley, Jr.*

Signed By: \_\_\_\_\_

Name: Brodes H. Hartley, Jr.

Name: Carlos A. Migoya

Title: Chief Executive Officer /President

Title: President and CEO

Date: 11/25/2014

Date: \_\_\_\_\_