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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(4)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 16, 2014

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

SUBJECT: Resolution approving Memorandum of Understanding between Miami-Dade County and West Kendall Baptist Hospital, Inc. for enrollment and participation in the 340B Drug Pricing Program
Resolution No. R-1124-14

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

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MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 16, 2014

FROM: R. A. Cuevas, Jr.
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SUBJECT: Agenda Item No. 11(A)(4)

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)(4)
12-16-14

RESOLUTION NO. R-1124-14

RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN MIAMI-DADE COUNTY AND WEST KENDALL BAPTIST HOSPITAL, INC. FOR ENROLLMENT AND PARTICIPATION IN THE 340B DRUG PRICING PROGRAM TO MAKE THE HOSPITAL ELIGIBLE FOR DISCOUNT OUTPATIENT DRUG PRICING BENEFITING LOW INCOME MIAMI-DADE COUNTY RESIDENTS WHO ARE NOT ELIGIBLE FOR MEDICARE OR MEDICAID; AND AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND EXERCISE THE TERMINATION AND OTHER PROVISIONS CONTAINED THEREIN

WHEREAS, the 340B Drug Pricing Program (the "340B Program") resulted from the enactment of Public Law 102-585, the Veteran's Health Care Act of 1992; and

WHEREAS, the 340B Program provides for discount outpatient drug pricing for covered entities enrolled in the 340B Program; and

WHEREAS, West Kendall Baptist Hospital desires to become a covered entity under the applicable requirements of the 340B Program; and

WHEREAS, West Kendall Baptist Hospital's enrollment in the 340B Program will benefit indigent, uninsured and under-insured Miami-Dade County residents; and

WHEREAS, one of the requirements for enrollment in the 340B Program is that West Kendall Baptist Hospital must have an agreement with a local government to provide health care services to low income individuals who are not eligible for Medicare or Medicaid, as in the attached Memorandum of Understanding,

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

Section 1. The foregoing recitals are incorporated in this resolution and are approved.

Section 2. This Board hereby approves the Memorandum of Understanding between Miami-Dade County and West Kendall Baptist Hospital, Inc. in substantially the form attached hereto and made a part hereof.

Section 3. This Board authorizes the County Mayor or Mayor's designee to execute same for and on behalf of Miami-Dade County to provide for West Kendall Baptist Hospital Inc.'s enrollment in the 340B Program for discount outpatient drug pricing to benefit low income Miami-Dade County residents who are not eligible for Medicare or Medicaid, and to exercise any of the termination and other provisions contained therein.

The Prime Sponsor of the foregoing resolution is Commissioner Audrey M. Edmonson. It was offered by Commissioner **Esteban L. Bovo, Jr.**, who moved its adoption. The motion was seconded by Commissioner **Xavier L. Suarez** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman **aye**

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

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of December, 2014. 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Christopher C. Kokoruda

MEMORANDUM OF UNDERSTANDING

BETWEEN

MIAMI-DADE BOARD OF COUNTY COMMISSIONERS, STATE OF FLORIDA

AND

WEST KENDALL BAPTIST HOSPITAL

THIS MEMORANDUM OF UNDERSTANDING is made this 18th day of November, 2014 by and between the undersigned representatives of MIAMI-DADE BOARD OF COUNTY COMMISSIONERS, FLORIDA ("COUNTY BOARD") and WEST KENDALL BAPTIST HOSPITAL, INC. ("HOSPITAL"), a Florida non-profit corporation, located at 9555 S.W. 162nd Avenue, Miami, FL 33196.

RECITALS:

WHEREAS, HOSPITAL is a Florida not-for-profit hospital that provides a disproportionate share of healthcare services to the Medicare population in addition to supporting many programs that benefit the indigent, uninsured or underinsured population in the State of Florida;

WHEREAS, HOSPITAL desires to participate in the drug discount program established under Section 340B of the Public Health Services Act, as amended (the "340B Program");

WHEREAS, in order to participate in the 340B Program, HOSPITAL must enter into an agreement with a unit of the state or local government pursuant to which HOSPITAL commits to provide health care services to low income individuals who are not entitled to Medicare or Medicaid benefits at no reimbursement, or at considerably less than full reimbursement, from these patients;

WHEREAS, the COUNTY BOARD is the governing body of unincorporated Miami-Dade County and has broad, regional powers to establish policies for Miami-Dade County services;

WHEREAS, HOSPITAL desires to make such a formal commitment to COUNTY BOARD; and

WHEREAS, COUNTY BOARD agrees to accept such commitments on behalf of the citizens of Miami-Dade County and those served by COUNTY BOARD.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained therein and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, it is mutually agreed and covenanted, under seal, by and between the parties to this Agreement, as follows:

1. Commitment of HOSPITAL to Provide Indigent Care.

During the term of this MOU, HOSPITAL agrees to continue its historic commitment to the provision of health care to indigent, uninsured and underinsured residents of Miami-Dade County and those served by COUNTY BOARD. In Fiscal Year 2013, this commitment totaled more than $43.6 Million in foregone charges. Pursuant to this commitment, it is the intention of HOSPITAL that indigent care provided during the term of this MOU will range generally between $44 Million and $52 Million annually. In any event, HOSPITAL will assume that all patients will receive necessary care, as required by law, regardless of ability to pay.

2. Acceptance and Acknowledgements of COUNTY BOARD.

(a) COUNTY BOARD accepts the commitment of HOSPITAL set forth above;

(b) COUNTY BOARD hereby acknowledges that the healthcare services provided by HOSPITAL hereunder are in the public interest and are being provided to individuals who are not entitled to benefits under Title XVIII or eligible for assistance under any State plan pursuant to Title XIX of the Social Security Act; and

(c) COUNTY BOARD acknowledges that HOSPITAL is providing these services at no reimbursement, or at considerably less than full reimbursement, from the patients.

3. Representations of HOSPITAL. HOSPITAL represents that as of the date hereof:

(a) HOSPITAL constitutes a corporation, duly incorporated and validly existing in good standing under the laws of the State of Florida, with the corporate power and authority to enter into and perform its obligations under this MOU; and

(b) HOSPITAL is a tax-exempt corporation of under Section 501(c)(3) of the Internal Revenue Code of the United States, as amended and under applicable laws of the State of Florida.

4. Term and Termination. The term of this MOU shall commence on the date first above written and shall continue until terminated by either party upon not less than sixty (60) days prior written notice to the other.

5. Notice. All notices required or permitted to be given under this MOU shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows:

MIAMI-DADE BOARD OF COUNTY COMMISSIONERS

Attention: Office of the Mayor

Address: Stephen P. Clark Center
111 NW 1st Street
Miami, Florida 33128

WEST KENDALL BAPTIST HOSPITAL:

Attention: Maribeth Rouseff
Assistant Vice President,
Employee Health Services and Wellness Advantage
12420 SW 127th Avenue
Miami, Florida 33186

Copy to: David Friedman
Corporate Vice President & General Counsel
6855 Red Road, Suite 600
Coral Gables, Florida 33134

6. Governing Law. This MOU shall be governed by and construed in accordance with the laws of the State of Florida (excepting any conflict of laws provisions which would serve to defeat application of Florida substantive law).

IN WITNESS WHEREOF, HOSPITAL and COUNTY BOARD have executed this Memorandum of Understanding as of the day and year first written above by their duly authorized representatives.

MIAMI-DADE BOARD OF COUNTY COMMISSIONERS

By: _____

Name: _____

Title: _____

Approved as to form and legal sufficiency by:

By: _____

Name: Christopher C. Korzuda

Title: Assistant County Attorney

WEST KENDALL BAPTIST HOSPITAL, INC.

By: _____
Javier Hernandez-Lichtl
Chief Executive Officer

DMLEGALP-#112056-v2