

MASTER CONTRACTOR/SERVICES AGREEMENT

THIS AGREEMENT is made by and between the City of Delray Beach, a Florida municipal corporation (hereinafter referred to as “City”), whose address is 100 NW 1st Avenue, Delray Beach, Florida 33444 and Henry Schein, Inc, a Delaware corporation authorized to do business in the State of Florida (herein after referred to as “Supplier”), whose address is 135 Duryea Road Melville, NY 11747 this _____ day of _____, 2023 (the “Effective Date”).

WHEREAS, the City desires to procure medical supplies, equipment, and pharmaceuticals for the EMS division of the City’s Fire Department; and

WHEREAS, on March 25, 2021, Eagle County Health Service District (a quasi-municipal corporation) dba Eagle County Paramedic Services on behalf of itself (the “Principal Procurement Agency”) and the Public Safety Association Inc. (the “Company”), issued RFB No. 2021-06, for Medical Supplies, Equipment, and Pharmaceuticals (“RFB”); and

WHEREAS, the Principal Procurement Agency, Company and Supplier negotiated certain amendments or exceptions to the RFB and subsequently entered into an agreement to memorialize the final terms relating to such RFB effective November 8, 2021, for a term of (3) three years with one (1) option to renew for a two-year period (the “Underlying Agreement”); and

WHEREAS, the City desires to procure medical supplies, equipment, and pharmaceuticals from Supplier, according to the same terms, conditions and pricing provided in the Underlying Agreement, subject to the terms and conditions of this Agreement, the City’s purchasing ordinance and applicable Florida law; and

WHEREAS, Supplier agrees to extend the terms, conditions, and pricing of the Underlying Agreement to the City, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration of which the parties hereto acknowledge, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. Supplier shall provide medical supplies, equipment, and pharmaceuticals to the City in accordance with and pursuant to the same terms, conditions, and pricing of the Underlying Agreement, and all of the terms and conditions of the Underlying Agreement are hereby incorporated herein by reference.
3. This Agreement shall commence on the Effective Date and terminate on November 7, 2024. Thereafter, this Agreement may be renewed by mutual written agreement of the parties, provided that the Underlying Agreement is still in force and effect.
4. This Agreement will terminate upon the earliest of the following dates: (a) expiration of the Contract Term (unless extended), (b) termination following an event of default that remains uncured through the Cure Period as defined in Section 22.5 of the Underlying Agreement, or (c) by either party for convenience with written notice.
5. Supplier shall indemnify and hold harmless the City and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including reasonable attorney’s fees

and costs of defense, which the City or its officers, employees, agents, or instrumentalities 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 negligence or willful misconduct of Supplier in connection with this Agreement. Supplier expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Supplier shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the City or its officers, employees, agents, and instrumentalities as herein provided and the obligations of this section shall survive the term of this Agreement.

6. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified or registered United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

For CITY:

City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Manager

For SUPPLIER:

Henry Schein, Inc
135 Duryea Road
Melville, NY 11747
Attn: Jeff Klingler, VP & GM

With a copy to:

Henry Schein, Inc.
135 Duryea Road
Melville, NY 11747
Attn: General Counsel
Email: Melville-Legal@henryschein.com

7. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other party.

8. This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this contract or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall pay their own attorney's fees and costs, including appellate fees and costs.

9. IF SUPPLIER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO SUPPLIER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

- a. Supplier shall comply with public records laws, specifically to:
- i. Keep and maintain public records required by the City to perform the service.
 - ii. Upon request from the City's custodian of public records, provide the City 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 Florida Statute or as otherwise provided by law.
 - iii. 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 Agreement term and following completion of the Agreement if the Supplier does not transfer the records to the City.
 - iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Supplier or keep and maintain public records required by the City to perform the service. If the Supplier transfers all public records to the City upon completion of the Agreement, the Supplier shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Supplier keeps and maintains public records upon completion of the Agreement, the Supplier shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
 - v. If the Supplier does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with applicable state law.

10. Supplier is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Agreement and may demand and obtain records and testimony from Supplier. Supplier understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Supplier to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

11. By entering into this Agreement Supplier acknowledges its obligation to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Supplier affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement.

Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by Supplier, Supplier may be prohibited from conducting future business with the City or awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the Supplier.

12. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

13. The documents listed below are a part of this Agreement and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

- a. Terms and conditions as contained in this Agreement.
- b. Terms and conditions set forth in the Underlying Agreement

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City and Supplier executed this Agreement as of the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH

Katerri Johnson, City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

HENRY SCHEIN, INC

By: _____

Print Name: _____

Title: _____

(SEAL)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20 __, by _____ (name of person), as _____ (type of authority) for _____ (name of party on behalf of whom instrument was executed).

Personally known ____ OR Produced Identification ____
Type of Identification Produced _____

Notary Public – State of _____