



BOARD OF COUNTY COMMISSIONERS

DATE: June 2, 2009
AGENDA ITEM NO. 25.

Consent Agenda ☐

Regular Agenda ☒

Public Hearing ☐

County Administrator's Signature

Subject:

Approval of Final Negotiated Contract- Pharmacy Services for Health and Human Services
Contract No. 089-0197-P (AM)

Department:

Health & Human Services / Purchasing

Staff Member Responsible:

Maureen Freaney / Joe Lauro

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) AWARD THE FINAL NEGOTIATED CONTRACT FOR PHARMACY SERVICES FOR HEALTH AND HUMAN SERVICES WITH KASH N KARRY FOOD STORES, INC. D/B/A SWEETBAY SUPERMARKET (SWEETBAY), TAMPA, FLORIDA.

IT IS FURTHER RECOMMENDED THAT AFTER PROPER EXECUTION OF THE AGREEMENT BY THE CONTRACTOR, AND AFTER WRITTEN APPROVAL AS TO FORM BY THE OFFICE OF THE COUNTY ATTORNEY, THE CHAIRMAN BE AUTHORIZED TO SIGN AND THE CLERK BE AUTHORIZED TO ATTEST.

Summary Explanation/Background:

On May 5, 2009 the Board approved the ranking of firms and authorized staff to negotiate with the highest ranked proposer, Sweetbay.

The final negotiated contract with Sweetbay is now being presented to the Board for consideration. A negotiation team consisting of a staff person from the Health and Human Services Department (HHS) and a Purchasing Department representative have negotiated a contract that includes the following:

- A program offering rebates to the County based upon the amount of name brand drugs dispensed.
- A procedure for electronic billing and file transfer that should allow for a smooth transfer of data.
- Recognition that the Contractor will provide Utilization Management.
- Twenty-Four (24) hour pharmacies to serve County clients residing in North and South locations. These pharmacies will be available for use by County clients on August 1, 2009, the date of initiation of pharmacy services by the Contractor.

The contract includes features that are a first for the HHS's pharmacy services contract:

1. Free antibiotics that are listed on Sweetbay's Program Drug List for a 14 day supply or less per dosing requirements.
2. Thirty day supply for \$4.00 for over 450 generic drugs based on average daily dosing.
3. Ninety day supply for \$9.99 for over 450 generic drugs based on average daily dosing.
4. Education and Disease Case Management for HHS staff and clients in stores and medical homes at no cost.
5. Medication Therapy review with PharmD students on rotation at no cost.

To provide added value to the contract Sweetbay will provide the following at no cost to the County:

1. 1000 standard flu vaccinations at no cost to the County. This is an increase over the 250 offered by the existing provider.
2. 100 PPV pneumococcal vaccinations
3. 100 Tetanus vaccinations
4. Blood glucose and blood pressure screening.
5. Blood glucose meters
6. Pill reminder containers and dosage spoons

In recognition of the fact that the pharmacy market has seen and may continue to see a significant shift to lower priced medications, also included in the contract is the condition that should the market shift to lower priced medications, during the course of the contract Sweetbay will negotiate to pass the lower pricing on to the County. At no time, however, will pricing increase more than the pricing on the negotiated contract. Sweetbay is also paying and not passing on to the County, any administrative fee that would be assessed for use of a pharmacy benefit manager/network administrator. Sweetbay brings added value to the process of conversion to a new contractor having had prior experience with other health plans and pharmacy program conversions for other governmental entities such as Hillsborough County. The Contractor has noted in their proposal response that 92% of Pinellas County residents are within 2.5 miles of a proposed location.

Additionally, the dispensing fee for the new contract is \$1.00 compared to \$1.25 paid on the existing contract. The lower dispensing fee has the potential for significant savings. As an example, during the period of 9/1/08 through 9/30/08, 11,617 prescriptions were dispensed. Using that data as a indicator of average continuing usage figures there could be a possible savings of \$34,851 annually due to the lower dispensing fee.

The preliminary contract period is effective on June 2, 2009 for a duration of thirty-six (36) months. The effective date is conditional on the Board's approval of the final contract on June 2, 2009, and will allow for necessary conversion procedures. However, the actual pharmacy dispensing services will commence on August 1, 2009. The contract allows for a term extension of two (2) additional twelve (12) month periods beyond the primary contract period.

Fiscal Impact/Cost/Revenue Summary:

Funding is provided through Lower Income Pool (LIP) funds. LIP funds are available through a contract with the State of Florida which matches Pinellas County General Funds. The original contracted return on General Funds for FY09 was 12%. This percentage is changing due to the impact of Federal economic stimulus funds and State legislative adjustments. The final return amount is currently unknown but is anticipated to be approximately 10%.

For FY 09
Total \$4,600,000.00

Exhibits/Attachments Attached:

1. Final Agreement

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2009, by and between PINELLAS COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the "County" and _____, hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, County has previously determined that it has a need for PHARMACY SERVICES FOR HEALTH & HUMAN SERVICES; and

WHEREAS, County, after soliciting competitive proposals for such services pursuant to Pinellas County Request for Proposal, RFP No. 089-0197-P (hereinafter Request for Proposal or RFP), County has awarded this contract to Contractor; and

WHEREAS, Contractor has represented that it is able to satisfactorily provide the services according to the terms and conditions of the Request for Proposal, which are incorporated herein by reference, and the terms and conditions contained herein; and

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

1. Services to be Performed. The Contractor hereby agrees to provide the County with PHARMACY SERVICES FOR HEALTH & HUMAN SERVICES, as requested and more specifically outlined in the Request for Proposal, this Agreement and all subsequent official documents that form the Contract Documents for this Agreement.

2. Term of Agreement/Term Extension. Services performed pursuant to this Contract shall commence June 2, 2009 and continue for a period of thirty-six (36) months, unless canceled or terminated as provided herein. The actual Pharmacy Services shall commence August 1, 2009. The Contract may be extended subject to written notice of agreement from the County and successful bidder, for two (2) additional twelve (12) month(s) period beyond the primary contract period. The extension shall be exercised only if all prices, terms and conditions remain the same and approval is granted by the County Administrator or Director of Purchasing.

3. Amendment of the Agreement. This Agreement may be amended only by mutual written agreement of the parties.

4. Assignment/Subcontracting. The Contractor shall provide the Services required by this Agreement. No assignment or subcontracting shall be allowed without the prior written consent of the County. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the County within thirty (30) business days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first. In that event, the County may terminate this Agreement in those instances in which a corporate acquisition and/or merger represents a conflict of interest or contrary to any local, state or federal laws.

5. Termination. Pinellas County reserves the right to terminate this Agreement, without cause, by giving thirty (30) days prior written notice to the Contractor of the intention to terminate.

Failure of the Contractor to comply with any of the provisions of this Agreement shall be considered a material breach of the Agreement and shall be cause for immediate termination of the Agreement at the sole discretion of Pinellas County.

In addition to all other legal remedies available to County, County reserves the right to terminate and obtain from another source any services which have not been provided within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by County.

In the event that sufficient budgeted funds are not available for a new fiscal period, the County shall notify the Contractor of such occurrence and the Agreement shall terminate on the last day of the then current fiscal period without penalty or expense to the County.

6. Compensation. County shall pay Contractor upon Contractor's completion of, and County's acceptance of, the services required herein, as specified in the Request for Proposal. Prices shall remain firm for the duration of the Agreement. All payments shall be made in accordance with the Local Government Prompt Payment Act, Fla. Stat. § 218.70, et. seq.

7. Permits/ Licenses. Contractor must secure and maintain any and all permits and licenses required to complete this Agreement.

8. Audit. The Contractor shall retain all records relating to this Agreement for a period of at least three (3) years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, Pinellas County reserves the right to audit such records pursuant to Pinellas County Code, Section 2-176(j).

9. Minimum Insurance Requirements. The Contractor must maintain insurance in at least the amounts required in the Request for Proposal throughout the term of this contract. The Contractor must provide a Certificate of Insurance in accordance with Insurance Requirements, Section C of the Request for Proposal, evidencing such coverage prior to issuance of a purchase order or commencement of any work under this Agreement. Contractor shall ensure that any subcontractors or persons hired by subcontractors maintain the same level of insurance coverage as the Contractor.

10. Indemnification. Contractor shall indemnify, pay the cost of defense, including attorneys' fees, and hold harmless the County from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons or property by or from the said Contractor; or by, or in consequence of any neglect in safeguarding the work; or by the use of unacceptable materials in the construction of improvements; or by or on account of any act or omission, neglect or misconduct of the said Contractor; or by, or on account of, any claim or amounts recovered under the "Workers' Compensation Law" or of any other laws, by-laws, ordinance, order or decree, except only such injury or damage as shall have been occasioned by the sole negligence of the County. The first ten dollars (\$10.00) of compensation received by the Contractor represents specific consideration for this indemnification obligation.

12. Governing Law. The laws of the State of Florida shall govern this Agreement.

13. Independent Contractor Status and Compliance with the Immigration Reform and Control Act of 1986. The Contractor is and shall remain an independent contractor and is neither agent, employee, partner, nor joint venturer of County. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324, et. seq., and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the Agreement, at the discretion of Pinellas County.

14. Severability. The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the

particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

15. Documents Comprising Agreement. The Agreement for PHARMACY SERVICES FOR HEALTH & HUMAN SERVICES, as well as the following documents, which are incorporated herein by reference.

- a. Pinellas County's Request for Proposal and all of its addenda and attachments issued on _____, 2009;
- b. Contractor's Proposal.
- c. Negotiated Points Letter dated May 18, 2009 including Attachments A and B; and
- d. Contractor's Certificate of Insurance required under Section C of the Request for Proposal;

If there is a conflict between the terms of this Agreement and the above referenced documents, then the conflict shall be resolved as follows: the terms of this Agreement shall prevail over the other documents, and the terms of the remaining documents shall be given preference in their above listed order.

IN WITNESS WHEREOF the parties herein have executed this Agreement for PHARMACY SERVICES FOR HEALTH & HUMAN SERVICES pursuant to RFP No. 089-0197-P as of the day and year first written above.

PINELLAS COUNTY, FLORIDA
by and through its Board of County
Commissioners

Chairman

ATTEST:
KEN BURKE

By: _____
Deputy Clerk

CONTRACTOR

President (Signature)

President (Printed Name)

[Corporate Seal]

ATTEST:

By: _____
(Attesting Witness' name/title)

APPROVED AS TO FORM:

Michelle Wallace
Office of the County Attorney