

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN ALACHUA COUNTY AND ALACHUA COUNTY
HEALTH DEPARTMENT FOR THE
ADMINISTRATION OF FLU-MIST VACCINE**

This agreement is entered into this 13th day of July, 2010 between Alachua County, a charter county and political subdivision of Florida, by and through its Board of County Commissioners for the benefit of the Community Health Offering Innovative Care and Educational Services (CHOICES) Program, hereinafter referred to as "County" and the Alachua County Health Department doing business at 224 SE 24 Street, Gainesville, Florida, hereinafter referred to as "Professional".

WITNESSETH

WHEREAS, The Alachua County Health Department has partnered with School Board of Alachua County, United Way, Junior League, Black Nurses Association, Chamber of Commerce, Santa Fe College of Nursing, University of Florida Emerging Pathogens Institute, UF Department of Pediatrics, UF Colleges of Nursing, Pharmacy, and Public Health, and AVMED Health Plans to implement an innovative school-based influenza vaccination program; and,

WHEREAS, an average influenza season in Alachua County typically causes 31,000 illnesses, 120 hospitalizations and 38 deaths. These health consequences cost the residents of our county 2.2 million dollars expended in direct costs and 8.8 million in indirect costs; and

WHEREAS, the goal of the School-Based Influenza Vaccination Program is to make Alachua County the most protected community in the nation from the potential health and economic costs associated with the seasonal influenza epidemic by immunizing 70% of school children in Alachua County. Successfully vaccinating this proportion of the target population would prevent 100 hospitalizations, 27,000 illnesses, 31 deaths and save 1.87 million in direct healthcare costs and 7.5 million indirect costs; and,

WHEREAS, the County wishes to participate in the School-Based Influenza Vaccination Program through its CHOICES (Community Health Offering Innovative Care and Educational Services) Program;

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

1. Term - This agreement is effective on the date executed by the parties and will continue through December 20, 2010 unless earlier terminated as provided herein.

2. Representations - By executing this Contract, the Professional makes the following express representations to the County:

a. The Professional is professionally qualified to act as the professional for the

provisions of services required by this Agreement for the Program.

b. The Professional shall maintain all necessary licenses, permits or other authorizations necessary to act as professional for the Project until the Professional's duties hereunder have been full satisfied;

c. The Professional shall provide all services required by this Agreement in such a manner that they shall be adequate for the purposes intended and shall be in conformity and comply with all applicable law, codes and regulations and standards of practice;

3. Duties of the Professional - The Professional shall have and perform the following duties, obligations, and responsibilities to the County:

a. Vaccinate students in the Alachua County Public School system using Flu-Mist.

b. Obtain all permissions and other authorizations required from the parents or guardians of students to be vaccinated.

c. Schedule administration of the vaccine with the appropriate officials in the Alachua County School Board and at each school; or with other facilities as required.

d. Provide all supplies, personnel and equipment required to administer the vaccine.

e. Ensure that all personnel administering the vaccine are qualified to perform such services in accordance with the laws of the State of Florida.

4. Duties of the County - The County shall have and perform the following duties, obligations, and responsibilities to the Professional:

a. Pay the Professional \$10.00 for each vaccination administered

5. Method of Payment - For its assumption and performance of the duties, obligations and responsibilities set forth herein, the Professional shall be paid in accordance with this section.

a. The Professional shall be paid for those services required by this Contract an amount not to exceed eighty thousand dollars (\$80,000.00) for the term of this agreement allocated as follows:

i. Ten dollars (\$10.00) for each Flu-mist vaccination administered.

b. As a condition precedent for any payment, the Professional shall submit monthly, unless otherwise agreed in writing by the County, an invoice to the County requesting payment for services. Each invoice shall bear the signature of the Professional, which signature shall constitute the Professional's representation to the County that the services provided. The invoice shall contain sufficient information to support the number of Flu-mist vaccinations administered to students in the Alachua County Public Schools and claimed for payment by County. Submission of the Professional's invoice for final payment shall further constitute the Professional's representation to the County that, upon receipt by the County of the amount invoiced, all obligations of the

Professional to others, including its consultants, incurred in connection with the Project, will be paid in full. The Professional shall submit invoices to the County at the following address:

Director, CHOICES Health Services
Alachua County Department of Community Support Services
218 SE 24th Street
Gainesville, Florida 32641

c. In the event that the County becomes credibly informed that any representations of the Professional relating to payment are wholly or partially inaccurate, the County may withhold payment of sums then or in the future otherwise due to the Professional until the inaccuracy, and the cause thereof, is corrected to the County's reasonable satisfaction.

d. The County shall make payment to the Professional, of all sums properly invoiced under the provisions of this paragraph, in accordance with the provisions of Chapter 218, Part VII (Florida Prompt Payment Act), Florida Statutes. Payments shall be made to the following address:

Alachua County Health Department
224 SE 24th Street
Gainesville, FL 32641
Attn: Director

6. **Notice** - Except as otherwise provided in this agreement, any notice of termination or default from either party to the other party must be in writing and sent by certified mail, return receipt requested, or by personal delivery with a signed proof of delivery. For purposes of notice, Professional's and County representative are:

County

Director, CHOICES Health Services
Alachua County Department of Community Support Services
218 SE 24th Street
Gainesville, FL 32641

Professional

Alachua County Health Department
224 SE 24th Street
Gainesville, FL 32641
Attn: Lucy Anken

A copy of any notice, request or approval to the County must also be sent to:

J. K. Irby
Clerk of the Court
Post Office Box 939
Gainesville, FL 32602
ATTN: Finance and Accounting

Alachua County
Office of Management and Budget
105 SE 1st Avenue, Suite 6
Gainesville, FL 32601
ATTN: Contracts

7. Default and Termination - The failure of the Professional to comply with any provision of this Contract will place the Professional in default. Prior to terminating the Contract, the County will notify the Professional in writing. This notification will make specific reference to the provision which gave rise to the default. The County will give the Professional thirty (30) days to cure the default. The CHOICES Director is authorized to provide written notice of default on behalf of the County, and if the default situation is not corrected within the allotted time the Community Support Services Director is authorized to provide final termination notice on behalf of the County to the Professional.

The County may terminate the Contract without cause by providing sixty (60) written notice to the Professional. The County Manager is authorized to provide written notice of termination on behalf of the County. Upon such notice, Professional will take action to discontinue all services within the specified time frame (unless the notice directs otherwise); and, deliver to the County all data, specifications, reports, estimate, summaries, and such other information and materials as may have been accumulated by the Professional in performing this Agreement, whether completed or in process. In the event of such termination for convenience, Professional's recovery against County shall be limited to that portion of the Contract amount earned through the date of termination, but Professional shall not be entitled to any other or further recovery against County, including, but not limited to, damages, consequential or special damages, or any anticipated fees or profit on portions of the work not performed.

If funds to finance this Contract become unavailable, the County may terminate the Contract with no less than twenty-four hours notice in writing to the Professional. The County will be the final authority as to the availability of funds. The County will pay the Professional for all work completed prior to any notice of termination.

The Professional may terminate the Contract without cause by providing 90 (ninety) days written notice to the County. The Administrator of the County Health Department is authorized to provide written notice of termination on behalf of the Professional.

8. Project Records - All records relating in any manner whatsoever to the project, which are in the possession of Professional, shall be made available to the County for inspection and copying upon written request of the County, and shall be kept for a period of five (5) years or fifteen (15) years if related to a capital improvement project, after the completion of all work to be performed, or as required by Chapter 119, Florida Statutes (Public Records Act) and schedules published by the Florida Bureau of Archives and Records Management, or federal requirements, whichever shall be greater. Additionally, said records shall be made available, upon request by the County, to any state, federal, or other regulatory authorities and any such authority may review, inspect and copy such records, except as considered confidential under Chapter 119, Florida Statutes.

9. Ownership of Deliverables - All project deliverables and documents are the sole property of the County and may be used by the County for any purpose.

10. Permits - The Professional will obtain and pay for all necessary permits, permit application fees, licenses or any fees required.

11. Laws & Regulations - The Professional will comply with all laws, ordinances, regulations, and building code requirements applicable to the work required by this agreement. The Professional is presumed to be familiar with all state and local laws, ordinances, code rules and regulations that may in any way affect the work outlined in this agreement. If the Professional is not familiar with state and local laws, ordinances, code rules and regulations, the Professional remains liable for any violation and all subsequent damages or fines.

12. HIPAA Compliance - Both Professional and the covered components of the County shall be in full compliance with all HIPAA regulations and provisions, including the privacy of students and their parents(s) or guardian(s) related to protected health information and in securing all necessary releases/authorizations for the release of information as required.

Both Professional and covered components of the County shall require that any and all employees, agents, subcontractors and any others who receive protected health information abide by the privacy requirements of HIPAA.

Professional and covered components of the County shall comply with all the requirements of the HIPAA laws and regulations related to security, transactions and privacy.

13. Indemnification and Insurance - Nothing contained herein shall constitute a waiver by the Professional or County of sovereign immunity or the provisions of §768.28, Florida Statutes. Furthermore, the parties agree that any duty of the Professional or County to indemnify or defend any entity under this contract is limited by the limits of liability set forth in §768.28, Florida Statutes.

a. During the term of this agreement the professional will comply with the requirements for Insurance as provide in Attachment A.

14. Assignment of Interest - Neither party will assign or transfer any interest in this agreement without prior written consent of the other party.

15. Successors and Assigns - The County and Professional each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this agreement

16. Independent Contractor - In the performance of this agreement, the Professional is acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of the County. The Professional is solely responsible for the means, method, technique, sequence, and procedure utilized by the Professional in the full performance of the agreement.

17. Collusion - By signing this agreement, the Professional declares that this agreement is made without any previous understanding, agreement, or connections with any persons, professionals or corporations and that this agreement is fair, and made in good faith without any outside control, collusion, or fraud.

18. Conflict of Interest - The Professional warrants that it nor any of its employees have any financial or personal interest that conflicts with the execution of this agreement. The Professional shall notify the County of any conflict of interest due to any other clients, contracts, or property interests.

19. Prohibition Against Contingent Fees - The Professional warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Professional to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Professional any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement.

20. Third Party Beneficiaries - This agreement does not create any relationship with, or any rights in favor of, any third party.

21. Severability - If any provision of this agreement is declared void by a court of law, all other provisions will remain in full force and effect

22. Non Waiver - The failure of any party to exercise any right in this agreement shall not be considered a waiver of such right.

23. Governing Law and Venue - This agreement is governed in accordance with the laws of the State of Florida. Venue shall be in Alachua County.

24. Attachments - All exhibits attached to this agreement are incorporated into and made part of this agreement by reference.

25. Amendments - The parties may amend this agreement only by mutual written agreement of the parties.

26. Counterparts – This agreement may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

27. Captions and Section Headings - Captions and section headings used herein are for convenience only and shall not be used in construing this Agreement.

28. Construction - This agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by one of the parties. It is recognized that both parties have substantially contributed to the preparation of this agreement.

29. Entire Agreement - This agreement constitutes the entire agreement and supercedes all prior written or oral agreements, understandings, or representations.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed for the uses and purposes therein expressed on the day and year first above-written.

ALACHUA COUNTY, FLORIDA

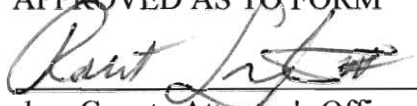
By: _____
Cynthia Moore Chestnut, Chair
Board of County Commissioners

ATTEST:

J. K. Irby, Clerk

(SEAL)

APPROVED AS TO FORM



Alachua County Attorney's Office

ALACHUA COUTHY HEALTH DEPARTMENT

By: _____
Print: _____
Title: _____

ATTACHMENT A – Insurance Requirements

**TYPE “G” INSURANCE REQUIREMENTS
“Self Insured Governmental Entities”
And/Or Fully Insured Entities**

Entity shall provide evidence that it has in place a program of self-insurance pursuant to Florida Statutes Sections 111.072, 136.091 and 768.28. That the self-insurance program provides coverage for claims which emanate from Automobile Physical Damage and Public Liability incidents arising from Automobile Liability (both Bodily Injury and Property Damage), Commercial General Liability, and Workers’ Compensation with a limit of liability not to exceed \$300,000 per accident.

OR

Entity shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the entity, his agents, representatives, employees or subcontractors.

COMMERCIAL GENERAL LIABILITY

Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 General Aggregate, \$1,000,000 Products / Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury Liability, \$1,000,000 each Occurrence, \$50,000 Fire Damage Liability and \$5,000 Medical Expense.

AUTOMOBILE LIABILITY

Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$1,000,000 Combined Single limit each accident.

WORKERS COMPENSATION AND EMPLOYER’S LIABILITY

Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act.

Employer’s Liability limits for not less than \$100,000 each accident; \$500,000 disease policy limit and \$100,000 disease each employee must be included.

OTHER PROVISIONS

Indemnification Clause: Each party agrees that it shall be solely responsible for the negligent acts or omissions of its employees, contractors and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity and the limitation set forth in Section 768.28, Florida Statutes.