

Alachua County Office of Management and Budget

Richard C. Mills
John D. Johnson

Interim Director
Grants/Contracts Administrator

November 28, 2012

MEMORANDUM

To: Bob Bailey, CHOICES Program
Community Support Services

From: John Johnson, Grants/Contracts Administrator
Office of Management & Budget

Subject: **Grants/Contracts Approved by the Board of County Commissioners
on November 13, 2012 & Received in Contracts November 16, 2012**

Please find attached a scan of the original document referenced below which was approved by the Board on the date referenced above.

ALACHUA COUNTY HEALTH DEPARTMENT

**Professional Services Agreement for long-term Administration of the Flu-
Mist Vaccine for the School-Based Program thru the CHOICES Program**

Term: October 1, 2013 – September 30, 2028

Amount: \$1,500,000.00 Not to Exceed Account: 010-2926-562.34-10

Please forward the original to the vendor and keep a copy for your files.

Thank you for your assistance.

Attachment

cc: F&A
Purchasing
Risk

JDJ/amp



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

This agreement is entered into this 13 day of November, 2012 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 Florida Department of Health, Alachua County Health Department, doing business at 224 SE 24 Street, Gainesville, Florida, hereinafter referred to as "Health Department".

WITNESSETH

WHEREAS, The Alachua County Health Department has partnered with various community partners 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 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 should protect Alachua County citizens from influenza; and,

WHEREAS, the County also wishes to protect its citizens from unexpected infectious diseases; 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 October 1, 2013, and will continue through September 30, 2028 ("Fifteen Fiscal Years Term").
2. Representations. By executing this Contract, the Health Department makes the following express representations to the County:

- a. The Health Department is professionally qualified to act as the professional for the provisions of services required by this Agreement for the Program.
 - b. The Health Department shall maintain all necessary licenses, permits or other authorizations necessary to act as professional for the Project until the Health Department's duties hereunder have been fully satisfied;
 - c. The Health Department 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 laws, codes and regulations and standards of practice;
3. Duties of the Health Department. The Health Department shall have and perform the following duties, obligations, and responsibilities to the County:
- a. Vaccinate students in the Alachua County Public School system, Alachua County Charter schools, Alachua County private schools, and being home schooled using Flu-Mist vaccine.
 - 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.
 - f. Provide all vaccine necessary to immunize Alachua County students.
 - g. Make a presentation to the County Commission in an annual report by February 1 of each fiscal year. The report shall include the number of students in each category in paragraph 3(a) above; the number of students vaccinated in each category in 3(a); the percentage vaccinated in each group and for the total of all students in Alachua County; a comparison of number of students vaccinated and vaccination rates in all years of County Funding of the School-Located Vaccination Program; an estimate of students receiving flu vaccine at private physician offices and other non-school locations; an explanation of how this estimate was calculated; and a discussion of variation in vaccination rates for current year and prior years.

4. Duties of the County. The County shall have and perform the following duties, obligations, and responsibilities to the Health Department:
- a. Pay the Health Department \$10.00 for each vaccination administered.
 - b. Place \$1,500,000 of revenue collected pursuant to Section 212.055(7), Florida Statutes, and County Ordinance 04-05, in a Trust Fund title "CHOICES Flu Mist Trust Fund," to be administered by the Clerk of the Court as the custodian of County funds.
 - c. Budget and appropriate in its annual budget for each Fiscal Year, by amendment, if necessary, during the term of this contract from funds collected pursuant to Subsection 212.055(7), Florida Statutes, and lawfully available in each Fiscal Year, amounts necessary to make the payments required in Section 4(a), above, for such Fiscal Year.
 - d. The foregoing covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Funds, nor does it preclude the County from pledging its Non-Ad Valorem Funds in the future, nor does it give the parties to this Agreement a prior claim on the Non-Ad Valorem Funds as opposed to claims of general creditors of the County. The covenant to appropriate Non-Ad Valorem Funds is subject in all respects to the payment of obligations secured by a pledge of or covenant to budget such Non-Ad Valorem Funds heretofore or hereafter entered into (including the payment of debt service on bonds, loans and other debt instruments). No provision of this Agreement shall be considered a general obligation of the County within the meaning of any constitutional or statutory provision or limitation. Amounts payable hereunder are limited obligations of the County and neither the property, the full faith and credit nor the taxing power of the County is pledged as security for the obligations due hereunder.
5. Method of Payment. For its assumption and performance of the duties, obligations and responsibilities set forth herein, the Health Department shall be paid in accordance with this section.
- a. The Health Department shall be paid for those services required by this Contract an annual fiscal year amount not to exceed one hundred thousand dollars (\$100,000) for each year during the term of this agreement allocated as follows:
 - b. Ten dollars (\$10.00) for each Flu-mist vaccination administered.
 - c. As a condition precedent for any payment, the Health Department 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 Health Department, which signature shall constitute the Health Department's

representation to the County that the services have been provided. The invoice shall contain sufficient information to support the number of Flu-mist vaccinations administered to students in the Alachua County Public Schools, Alachua County charter schools, private schools in Alachua County, and students being home-schooled in Alachua County and claimed for payment by County. Submission of the Health Department's invoice for final payment shall further constitute the Health Department's representation to the County that, upon receipt by the County of the amount invoiced, all obligations of the Health Department to others, including its consultants, incurred in connection with the Project, will be paid in full. The Health Department shall submit invoices to the County at the following address:

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

- d. In the event that the County becomes credibly informed that any representations of the Health Department relating to payment are wholly or partially inaccurate, the County may withhold payment of sums then or in the future otherwise due to the Health Department until the inaccuracy, and the cause thereof, is corrected to the County's reasonable satisfaction.
- e. The County shall pay the Health Department 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: Administrator/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, Health Department's and County representative are:

County

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

Health Department

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

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

J. K. Irby
Clerk of the Court
201 E University Avenue
Gainesville, FL 32601
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.

- a. Default. The failure of the Health Department to comply with any provision of this Contract will place the Health Department in default. Prior to terminating the Contract, the County will notify the Health Department in writing. This notification will make specific reference to the provision which gave rise to the default. The County will give the Health Department thirty (30) days to cure the default. The Community Support Services Assistant 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 Health Department.
- b. Termination for any reason. The County or the Health Department may terminate the Contract for any reason after the agreement is signed by providing sixty (60) days written notice to the other party. The County Manager is authorized to provide written notice of termination on behalf of the County. The Administrator of the Alachua County Health Department is authorized to provide written notice of termination on behalf of the Health Department. Upon such notice, from either party, Health Department 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 Health Department in performing this Agreement, whether completed or in process. In the event of such termination for any reason, Health Department's recovery against County shall be limited to that portion of the Contract amount earned through the date of termination, but Health Department 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.

- c. Termination for lack of funds. 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 Health Department. The County will be the final authority as to the availability of funds. The County will pay the Health Department for all work completed prior to any notice of termination.
8. Project Records. All records relating in any manner whatsoever to the project, which are in the possession of Health Department, 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 seven (7) years after the completion of all work to be performed under this contract, 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 Health Department will obtain and pay for all necessary permits, permit application fees, licenses or any fees required.
11. Laws & Regulations. The Health Department will comply with all laws, ordinances, regulations, and building code requirements applicable to the work required by this agreement. The Health Department 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 Health Department is not familiar with state and local laws, ordinances, code rules and regulations, the Health Department remains liable for any violation and all subsequent damages or fines.
12. HIPAA Compliance. Both Health Department 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 Health Department 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.

Health Department 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 Health Department or County of sovereign immunity or the provisions of §768.28, Florida Statutes. Furthermore, the parties agree that any duty of the Health Department 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.

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

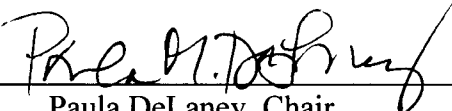
14. Assignment of Interest. Neither party will assign or transfer any interest in this agreement without prior written consent of the other party.
15. Successors and Assigns. The County and Health Department each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this agreement
16. Independent Contractor. In the performance of this agreement, the Health Department is acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of the County. The Health Department is solely responsible for the means, method, technique, sequence, and procedure utilized by the Health Department in the full performance of the agreement.
17. Collusion. By signing this agreement, the Health Department 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 Health Department warrants that it nor any of its employees have any financial or personal interest that conflicts with the execution of this agreement. The Health Department shall notify the County of any conflict of interest due to any other clients, contracts, or property interests.
19. Prohibition Against Contingent Fees. The Health Department warrants that he or she has not employed or retained any company or person, other than a bona fide employee

working solely for the Health Department 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 Health Department 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.
30. Liability. 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.
IN WITNESS WHEREOF, the parties have caused this 11-page Agreement to be executed for the uses and purposes therein expressed on the day and year first above-written.

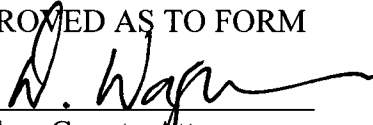
ALACHUA COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

By: 
Paula DeLaney, Chair

ATTEST:



J. K. Irby, Clerk

APPROVED AS TO FORM


Alachua County Attorney

(SEAL)

ALACHUA COUNTY HEALTH DEPARTMENT

By: 
Print: PAUL D. MYERS
Title: ADMINISTRATOR

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.



Alachua County eAgenda

ALACHUA COUNTY BOARD OF COUNTY COMMISSIONERS

November 13, 2012 Regular BoCC Meeting
Agenda Item #16

Title

FluMist: Contract for long-term FluMist support using CHOICES Funds (Amended)

Amount

\$1,500,000.00

Description

This agreement will set aside \$1,500,000 of the current CHOICES Fund Balance for use in the Alachua County annual Flumist program.

Recommendation

Approve the agreement for the long-term FluMist support using CHOICES Funds.

Alternative(s)

Do not approve the agreement.

Requested By

Elmira K. Warren

Originating Department

Community Support Services

Attachment(s) Description

1. FluMist Contract

Documents Requiring Action

Flumist Contract

Executive Summary

At the September 25, 2012 BoCC Meeting the CHOICES staff was instructed to develop a recommendation regarding the long-term use of CHOICES funds to support the Alachua County Flumist Program. The CHOICES staff met with the County Manager and County Attorney to develop a proposal. The CHOICES staff then met with representatives of the Alachua County Health Department and the UF Emerging Pathogens Institute. The attached contract is the result and is supported by all parties involved in the discussions. The agreement sets aside \$1.5M of the CHOICES Fund Balance for use in this program with a limitation of expending \$100,000 per year, thus funding the Flumist program for 15 years. The \$1.5M will be held by the County Clerks Office and dispersed by the Clerk according to the terms of the agreement. The Flumist program will bill the County at a rate of \$10 per dose administered up to the agreement annual limit (this is the same method of reimbursement that has funded FluMist for the past three years). The Flumist program will also report various data to the County Commission after each year's program concerning the doses administered and percentage of school children vaccinated and other information.

Background

For the past three years the CHOICES Program has been the main funder of the Alachua County Flumist Program. Current CHOICES funding will carry the program through FY 2013. The attached agreement would begin in FY 2014. This will fund the program through FY 2028.

Issues

Funding will be for medical services rendered in accordance with the CHOICES Surtax Use Plan.

Fiscal Recommendation

The CHOICES Fund Balance has sufficient funds to make the \$1.5M available to the Flumist Program.

Fiscal Alternative(s)

If agreement is not approved no funds are necessary.

Funding Sources

CHOICES Fund Balance

Account Code(s)

010-2926-562.34-10

Attachment: [AHD FluMist Final.pdf](#)