

FINANCIAL CONTRACT FOR LOCAL FUNDS

Fiscal Year 2010-2011

BETWEEN

FLORIDA HEALTHY KIDS CORPORATION

AND

LEON COUNTY, FLORIDA

This Contract is entered into between Florida Healthy Kids Corporation (FHKC), a Florida not-for-profit corporation under Chapter 617, F.S. and **Leon County, Florida (Leon County)**.

Section 1 Definitions

- 1-1 "Applicant" means a parent or guardian of a child or a child whose disability of nonage has been removed under Chapter 743, who applies for determination of eligibility for health benefits coverage under ss. 409.810-409.820 F.S.
- 1-2 "Enrollee" means an individual who meets FHKC standards of eligibility and has been enrolled in the Program.
- 1-3 "Florida Statutes" (F.S.) means the Florida Statutes as amended from time to time by the Florida Legislature during the term of this Contract.
- 1-4 "Local Funds" means funds provided pursuant to the policy developed and implemented by FHKC as directed by law for the provision of local funds from each participating county for the continuation of enrollment of Non-Title XXI Eligible Enrollees in the FHKC program.
- 1-5 "Program" means the program administered by FHKC as created by and governed under section 624.91, F.S. and related state and federal laws.
- 1-6 "State Children's Health Insurance Program (CHIP)" or "Title XXI" shall mean the program created by the federal Balanced Budget Act of 1997 as Title XXI of the Social Security Act and as further amended by the Children's Health Insurance Program Re-Authorization Act of 2009 ("CHIPRA").

Section 2 Effective Dates; Term

- 2-1 This Contract shall be effective upon execution by both Parties ("the Effective Date"). The term of this Contract shall commence July 1, 2010 or the date of execution, whichever occurs later ("the Commencement Date").
- 2-2 Prior to the execution of this Contract, FHKC has provided services relying upon ENTITY's assurances that this Contract would be executed and payment would be forthcoming within the first quarter of FHKC's 2010-2011 fiscal year. Therefore, ENTITY further agrees, due to FHKC's good faith provision of services in accordance with Section 4 despite delays in the execution of this Contract, to remit the total amount due through the end of the month in which this Contract is executed within thirty (30) calendar days of the execution of this Contract.

Section 3 Local Funds

- 3-1 ENTITY agrees, as an inducement to FHKC to continue a FHKC program for non-Title XXI eligible Enrollees in Leon County, to provide a Local Funds of Three thousand seven hundred seventy-seven dollars (\$3,777) for the period of July 1, 2010 through June 30, 2011. The Parties agree that this amount is the maximum that will be due from ENTITY to FHKC under this Contract and that the actual amount owed by ENTITY will be determined on a month by month basis under the terms of Section 4 of this Contract.
- 3-2 ENTITY agrees to remit payment for the total amount due within thirty (30) calendar days of receipt of each invoice from FHKC.

Section 4 Enrollment

- 4-1 FHKC agrees to provide comprehensive health insurance coverage to each Non-Title XXI Eligible Enrollee who has met all eligibility standards for enrollment established by FHKC.
- 4-2 FHKC agrees to invoice ENTITY on a monthly basis for the actual costs of enrollment less any family contribution for each non-Title XXI eligible Enrollee under this Contract in Leon County. This amount shall not exceed Three hundred fourteen dollars and seventy-five cents (\$314.75) per month which is 1/12 (one-twelfth) of the entire fiscal year Local Funds agreed to by ENTITY under Section 3.

Invoices will be sent to:

Lorraine Austin
Leon County Health and Human Services
918 Railroad Avenue
Tallahassee, FL 32310
Austinl@leoncountyfl.gov
(850) 606-1900

The invoices shall contain at a minimum the following information:

- Monthly expenditures reports showing the total enrollment of non-Title XXI eligible children in Leon County for each month, by health plan and the costs of that coverage, and the costs after application of any family premium payments.
- Monthly expenditures reports showing the total enrollment of non-Title XXI eligible children in Leon County for each month, by dental plan and the costs of that coverage, and the net costs after application of the family premium payments.
- The administrative costs incurred on behalf of these enrollees, which is \$8.54 per member per month for the period commencing July 1, 2010 and ending June 30, 2011.

Section 5 Records Retention and Accessibility

- 5-1 ENTITY shall have the records used or produced in the course of the performance of this Contract available at all reasonable times for inspection, review, audit or copying to FHKC, any vendor contracted with FHKC or any state or federal regulatory agency as authorized by law or FHKC. Access to such records will be during normal business hours and will be either through on-site review of records or through the mail. These records shall be retained for a period of at least five (5) years following the term of this Contract, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all tasks are completed.
- 5-2 ENTITY agrees to cooperate in any evaluative efforts conducted by FHKC or an authorized subcontractor of FHKC both during and for a period of at least five (5) years following the term of this Contract. These efforts may include a post-Contract audit.

It is expressly understood that evidence of ENTITY's refusal to substantially comply with this provision or such failure by ENTITY's subcontractors, assignees or affiliates performing under this Contract shall constitute a material breach and renders this Contract subject to unilateral cancellation by FHKC.

Section 6 General Terms and Conditions

6-1 Amendment: This Contract may be amended by mutual written consent of the Parties at any time. This Contract shall automatically be amended to the extent necessary from time to time to comply with state or federal laws or regulations upon notice by FHKC to ENTITY to that effect.

6-2 Assignment: This Contract and the monies that may become due under it may not be assigned by ENTITY without the prior written consent of FHKC. Any purported assignment without such consent shall be deemed null and void.

6-3 Attorney Fees: In the event of any legal action, dispute, litigation or other proceeding with relation to this Contract, FHKC shall be entitled to recover from ENTITY its attorney fees and costs incurred, whether or not suit is filed, and if filed, at both trial and appellate levels. Legal actions are defined to include administrative proceedings. It is understood that the intent of this provision is to protect the Enrollees who receive health insurance benefits through the Program and rely upon the continuation of the Program.

6-4 Confidentiality: ENTITY shall treat all information, particularly personal or identifying information relating to Applicants or Enrollees that is obtained through its performance under this Contract, as confidential information to the extent confidential treatment is provided under state and federal laws including section 409.821, F.S. regarding confidentiality of information held by FHKC and the Florida KidCare Program. ENTITY shall not use any information obtained in any manner except as necessary for the proper discharge of its obligations and to secure its rights under this Contract. Such information shall not be divulged without written consent of FHKC, the Applicant or the Enrollee. This provision does not prohibit the disclosure of information in summary, statistical or other form which does not identify particular individuals.

ENTITY and FHKC mutually agree to maintain the integrity of all proprietary information to the extent provided under the law. Neither party will disclose or allow others to disclose proprietary information as determined by law by any means to any person

without prior written approval of the other party. All proprietary information will be so designated. This requirement does not extend to routine reports and membership disclosure necessary for efficient management of the Program.

ENTITY understands that FHKC may be subject to the Florida Public Records Act, Section 119.07, F.S. and therefore all such information may be considered a public record and open to inspection. Thus, unless otherwise confidential or exempted by law, ENTITY shall allow public access to all documents, papers, letters, electronic correspondence or other material subject to the provisions of Chapter 119, F.S. and made or received by ENTITY in conjunction with this Contract. However, ENTITY agrees to advise FHKC prior to the release of any such information.

6-5 Conflicts of Interest; Non-Solicitation: ENTITY confirms that to the best of its knowledge, the responsibilities and duties assumed pursuant to this Contract are not in conflict with any other interest to which the ENTITY is obligated or from which ENTITY benefits. Further, ENTITY agrees to inform FHKC immediately after becoming aware of any conflicts of interest which it may have with the interests of FHKC, as set forth in this Contract and which may occur in the future.

ENTITY recognizes and acknowledges that as a result of this Contract ENTITY will come into contact with employees of FHKC and that these employees have received considerable training by FHKC. ENTITY agrees not to solicit, recruit or hire any individual who is employed by FHKC during the term of this Contract. This prohibition shall be in effect for both the term of this Contract and twelve (12) months immediately following its termination.

6-6 Entire Understanding: This Contract with all Attachments incorporated by reference embodies the entire understanding of the Parties relating to the subject matter of this Contract, and supersedes all other agreements, negotiations, understanding, or representations, verbal or written, between the parties relative to the subject matter hereof.

6-7 Force Majeure: Neither Party shall be responsible for delays or failure in performance of its obligations under this Contract resulting from acts beyond the control of the party. Such acts shall include, but are not limited to, blackouts, riots, acts of war, terrorism, epidemics, government regulations on statutory amendments adopted following the date of execution of this Contract, fire communication line failure, computer hardware failure, computer executive software failure, power failure or shortage, fuel shortages, hurricanes or other natural disasters.

6-8 Governing Law; Venue: This Contract shall be governed by applicable state and federal laws and regulations as such may be amended during the term of the Contract, whether or not expressly included or referenced in this Contract.

6-9 Unless otherwise provided for in this Agreement, each party shall be responsible for, and provide its own defense against, any and all liabilities, losses, interest, damages, costs or expenses arising from or out of this Agreement.

ENTITY agrees to comply with the following provisions as such may from time to time be amended during the term of this Contract:

- A. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color or national origin.
- B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap.
- C. Title XI of the Education Amendments of 1972, as amended 29, U.S.C. 601 et seq., which prohibits discrimination on the basis of sex.
- D. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age.
- E. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9848, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.
- F. The American Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires accommodation for persons with disabilities.
- G. Section 274A (e) of the Immigration and Nationalization Act, FHKC shall consider the employment by any contractor of unauthorized aliens a violation of this Act.
- H. OMB Circular A-110 (Appendix A-4) which identifies procurement procedures which conform to applicable federal law and regulations with regard to debarment, suspension, ineligibility, and involuntary exclusion of contracts and subcontracts and as contained in Attachment A of this Contract. Covered transactions include procurement contracts for services equal to or in excess of one hundred thousand dollars (\$100,000.00) and all non-procurement transactions.
- I. Title XXI of the federal Social Security Act.
- J. All applicable state and federal laws and regulations governing FHKC.
- K. All regulations, guidelines and standards as are now or may be lawfully adopted under the above statutes.

ENTITY agrees that compliance with this assurance constitutes a condition of continued receipt of or benefit from funds provided through this Contract and such compliance is binding upon ENTITY, its successors, transferees and assignees for the period during which services are provided. ENTITY further agrees that all contractors, subcontractors, subgrantees or others with whom it arranges to provide goods, services or benefits in connection with any of its programs and activities are not discriminating against either those whom they employ nor those to whom they provide goods, services or benefits in violation of the above statutes, regulations, guidelines and standards.

It is expressly understood that evidence of ENTITY's refusal or failure to substantially comply with this section or such failure by ENTITY's subcontractors or anyone with whom ENTITY affiliates in performing under this Contract shall constitute a material breach and renders this Contract subject to unilateral cancellation by FHKC.

Any legal action with respect to the provisions of this Contract shall be brought in federal or state court in Leon County, Florida.

6-10 Notice and Contact: All notices required under this section shall be in writing and may be delivered by certified mail with return receipt requested, by facsimile with proof of receipt, by electronic mail with proof of receipt or in person with proof of delivery.

Notice required or permitted under this Contract shall be directed as follows:

For FHKC:

Jennifer Kiser Lloyd
Florida Healthy Kids Corporation
661 East Jefferson Street, 2nd Floor
Tallahassee, FL 32301
lloydj@healthykids.org

For Leon County:

Candice M. Wilson, Director
Leon County Health and Human Services
918 Railroad Avenue
Tallahassee, FL 32310
WilsonCa@leoncountyfl.gov
(850) 606-1900

In the event that different contact persons are designated by either party after execution of this Contract, notice of the name and address of the new contact will be sent to the other Party and be attached to the originals of this Contract.

6-11 Severability: If any of the provisions of this Contract are held to be inoperative by a court of competent jurisdiction, such a provision shall be severed from the remaining provisions of the Contract which shall remain in full force and effect.

6-12 Survival: The provisions of the following sections: Records Retention and Accessibility; Attorney Fees; Confidentiality; Conflicts of Interest; Non-Solicitation and Governing Law; Venue shall survive any termination of this Contract.

6-13 Termination of Contract

- A. Termination for Lack of Funding: This Contract is subject to the continuation and approval of funding to FHKC from state, federal and other sources. FHKC shall have the absolute right, in its sole discretion, to terminate this Contract if funding for the Program is to be changed or terminated such that this Contract should not be sustained. FHKC shall send ENTITY notice of termination and include a termination date of not less than thirty (30) calendar days from the date of the notice.
- B. Termination for Lack of Payment: If ENTITY fails to make timely payments under this Contract in the time and manner prescribed, FHKC may terminate this Contract on not less than thirty (30) calendar days notice. At its discretion, FHKC may allow ENTITY to cure any performance deficiencies prior to final termination.
- C. Termination for Material Breach: In the event ENTITY materially breaches this Contract, FHKC shall give ENTITY notice of such breach

and ENTITY shall have thirty (30) calendar days from receipt of this notice to cure the breach. In the event cure is not made within thirty (30) calendar days, then unless waived by FHKC in writing, FHKC may terminate this Contract upon no less than twenty-four (24) hours notice to ENTITY.

Waiver of breach of any provision of this Contract shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Contract.

- D. Termination upon Revision of Applicable Law: FHKC and ENTITY agree if federal or state revisions of any applicable laws or regulations restrict FHKC's ability to comply with the Contract, make such compliance impracticable, frustrate the purpose of the Contract or place the Contract in conflict with FHKC's ability to adhere to its statutory purpose, FHKC may unilaterally terminate this Contract. FHKC shall send ENTITY notice of termination and include a termination date of not less than thirty (30) calendar days from the date of notice.

[TWO SIGNATURE PAGES FOLLOWS]

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IN WITNESS WHEREOF, the Parties have caused this Contract, to be executed by their undersigned officials as duly authorized.

This Contract is effective upon the date of the last signature ("Effective Date).

LEON COUNTY, FLORIDA

BY: _____
Parwez Alam
County Administrator

ATTEST:
Bob Inzer, Clerk of the Court
Leon County, Florida

BY: _____

Approved as to Form:
Leon County Attorney's Office

BY: _____
Herbert W. A. Thiele, Esq.
County Attorney

FOR
FLORIDA HEALTHY KIDS CORPORATION:

NAME: Rich Robleto
TITLE: Executive Director
DATE SIGNED:

STATE OF FLORIDA)

COUNTY OF LEON)

The foregoing instrument was acknowledged to me before this _____ day of _____, 2010, by Rich Robleto, as Executive Director on behalf of the Florida Healthy Kids Corporation. He is personally known to me or has produced _____ as identification.

Signature
Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

WITNESS #1 SIGNATURE

WITNESS #1 PRINT NAME

WITNESS #2 SIGNATURE

WITNESS #2 PRINT NAME

Reviewed By:

_____ Date: ____ \ ____ 2010
Jennifer Kiser Lloyd
Chief External Affairs Officer

_____ Date: ____ \ ____ 2010
Joan Humphrey Anderson
General Counsel; Florida Bar Number: 0294063