

DENTAL CARE SERVICES AGREEMENT -- WVHA-VCHD 2016-2017

This is an INTERLOCAL AGREEMENT -- WVHA-VCHD 2016-2017 (the "Agreement") between the WEST VOLUSIA HOSPITAL AUTHORITY, an independent special tax district in Volusia County, Florida (the "Authority"), created and existing under and by virtue of Chapter 57-2085, Laws of Florida, as amended (the "Enabling Legislation"), and the STATE OF FLORIDA, DEPARTMENT OF HEALTH, VOLUSIA COUNTY HEALTH DEPARTMENT (the "VCHD" or "Grantee"), a county public health unit established between County of Volusia, a political subdivision of the State of Florida and the Florida Department of Health, (collectively "the parties").

RECITALS:

The Authority is an independent special tax district encompassing the western portion of Volusia County, Florida (the "District"), created by a special act of the Florida Legislature, Chapter 57-2085, Laws of Florida, as amended (the "Enabling Legislation"), for the purpose of establishing, operating, and maintaining hospitals and other health care facilities for the care of indigents of the District and for pay patients and to participate in other activities to promote the general health of the District.

The State of Florida, Department of Health, Volusia County Health Department ("VCHD"), is a public agency charged with and empowered to preserve and improve the public health in Volusia County, including the District. The VCHD directly addresses public health by identifying health risks; detecting, understanding and preventing the spread of disease; providing basic personal health care services to needy persons and monitoring sewage, water and group living facilities. VCHD services include: immunizations; treatment and control of sexually transmitted diseases, tuberculosis, and HIV/AIDS; family planning services; nutrition services; dental services; and school health services.

Pursuant to the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes, as amended (the "Interlocal Cooperation Act"), public agencies, as defined in the Interlocal Cooperation Act ("Public Agencies"), are authorized to enter into agreements with one another in order to make the most efficient use of their powers by enabling them to cooperate with other Public Agencies on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

The Interlocal Cooperation Act provides that a Public Agency may, pursuant to contract, exercise jointly with any other Public Agency any power, privilege or authority which such Public Agencies share in common and which each might exercise separately. The Authority and the VCHD are each a Public Agency.

The VCHD intends to provide outpatient general dental care to eligible participants of West Volusia County, save those conditions that require immediate hospitalization, regardless of race, color, religion, sex, national origin, age, disability or marital status.

For applicants that are not Medicaid recipients, eligibility will be based on the poverty guidelines, with income verified by the VCHD as provided herein.

The "Program" as specified herein in Paragraph 5 is intended to minimize otherwise unsatisfactory health care alternatives that may be used by the indigent population of the District, such as the use of emergency rooms for non-emergency care, which is frequently a preferred choice, or not receiving health care when truly needed or to allow unattended health conditions to exacerbate in severity until hospitalization becomes necessary; such alternatives generally prove far more costly in terms of expense and human condition than the Program.

The Authority and the VCHD find that it is in the best interest of the residents of the District, and proper and expedient in carrying out the purposes of the Enabling Legislation, for the Authority and the VCHD to enter into this Agreement.

Therefore, in order to implement the Program and in consideration of the covenants expressed in this Agreement, the Authority and VCHD are entering into this Agreement and accordingly agree as follows:

1. General Covenants. All parties agree:

A) to mutually resolve any questions or concerns related to the provision of services; and

B) to observe and comply with all applicable federal, state, regional, and local laws, orders, rules, and regulations; and

C) that the services provided for herein are in the public interest of the VCHD and Authority, and based upon the specific needs of the facilities involved, and the greater health care needs of the residents of the District; and

D) that the personnel involved in the Program are employees of the VCHD and not employees of the Authority; the Authority has no responsibility or liability regarding the personnel involved in the Authority Sponsored Program. The Authority's sole responsibility under this Agreement is limited to funding up to the Funding Level for the Program pursuant to the terms of this Agreement.

E) that the parties hereto each constitute a "public agency" within the meaning of Section 163.01, Florida Statutes, as amended

(the "Interlocal Act"), and are each authorized under the Interlocal Act to enter into interlocal agreements providing for them to jointly exercise any power, privilege or authority which each of them could exercise separately. Each party has the power to undertake the Program separately, however by joining together the parties may make more efficient use of their resources to achieve their mutual goal of preserving and improving the public health.

2. **Effective Date.** This Agreement shall be effective as of October 1, 2016.

3. **Funding Period.** This Agreement shall provide funding for the Program operations during the remainder of the Authority's fiscal year ending the 30th day of September, 2017.

4. **Funding.** The Authority agrees to provide up to \$300,000.00 (Three Hundred Thousand Dollars) in Funding for the Program operations during the Funding Period ("Funding Limit"); provided however, the parties' obligations under this Agreement are subject to the Authority's appropriation of the Funding; appropriation of the Funding is at the Authority Board of Commissioners' sole discretion. *VCHD acknowledges that the Authority has not approved additional funding, and there is no obligation of any kind on the part of the Authority to provide additional funding, for the Program, however Grantee may apply for additional funding consistent with Authority practices. Grantee agrees to continue to seek additional third party funding for all of its programs, including this Program.*

5. **Program.** The Program are those parts of Grantee's Application for Funding dated 3/09/2016 which describe its administration of a program to provide general dental care to medically indigent residents of the District; the routine and preventive dental

services described therein are excluded from reimbursement (the "Program"). For each "visit" as defined in Paragraph 6(b), Grantee shall be reimbursed for a bundle of services (from those listed by CDT codes in the attached Exhibit A) that Grantee's health care professionals deem necessary to provide general dental care. In the event of conflict between the terms of Grantee's Application for Funding and this Agreement, terms of this Agreement shall govern.

6. Disbursements. The Authority shall reimburse Grantee at an agreed upon Reimbursement Rate for some of the Allowable Costs Grantee incurs for the Program in accordance with the following provisions:

a. Funding Disbursements will be made in monthly installments based upon the presentation of invoices within 60 days of the date services are provided with de-identified client listing, their zip code and CDT codes and other supporting information acceptable to the Authority. Undisputed invoices submitted by Grantee shall be paid by the Authority within sixty (60) days of presentment. In no event shall the annual aggregate Funding Disbursements provided to Grantee by the Authority under this Agreement be required to exceed the Funding Limit (as defined above).

b. Reimbursement Rate. Grantee shall be reimbursed a fee-per-visit basis of \$170.59 for each "visit" by an Eligible Participant (as defined in Paragraph 7) who receives health care services from a health care professional working at the Facility. A visit as used herein shall mean the same as defined by the Florida Medicaid County Health Department Clinic Services Coverage and Limitations Handbook (January 2007), is a single-day, face-to-face visit between a patient and any one or more of the following health care professional(s) for general dental care as defined in Paragraph 5:

dentists, dental hygienists, dental assistants and dental clerks. Specialty dental care such as Dentures, Complex Extractions, Root Canal Therapy and Crowns, is excluded from reimbursement.

c. The Authority shall only reimburse Grantee at the agreed Reimbursement Rate for some of the Program's Allowable Costs up to the Funding Limit. "Allowable Costs" shall include the Grantee's actual expenses (currently estimated at \$170.59 per visit) for providing general dental services to Eligible Participants; provided however, Allowable Costs shall be reduced by any Program income earned (e.g. co-pays, Medicare or Medicaid reimbursements); third party reimbursement earned, whether or not received; and any other sources of income or contributions received that is applicable to the Program's Eligible Participants. Except as expressly agreed in Paragraphs 6(b) and 6(d) herein, in order to qualify as "Allowable Costs", no cost or rate of reimbursement, charged to the Authority may exceed that charged to any other funding entity, public or private, for the same or substantially the same services.

d. A Final Report ["Report"] shall be made to the Authority no later than thirty (30) days after the end of each fiscal year (October 1-September 30), which shall present the total Allowable Costs Grantee incurred for the Program; Program income earned; contributions received applicable to the Program; third party reimbursement earned, whether or not received; and a consolidated statement detailing Program utilization. This Report and other materials shall be the basis for determining whether Funding Disbursements to the Grantee exceed Allowable Costs during each fiscal year. Funding Disbursements exceeding Allowable Costs shall be repaid to the Authority, by Grantee, within 120 days of the Grantee's receipt of the Authority's written determination that Funding Disbursements exceeded Allowable Costs. Grantee

may repay the amount that Funding Disbursements exceeded Allowable Costs by providing healthcare services to Eligible Participants, calculated at \$170.59 for each visit (as defined in Paragraph 6(b)). Repayment of the amount that Funding Disbursements exceeded Allowable Costs shall bear interest at the statutory rate as provided in Section 55.03, Florida Statutes, from the date Grantee receives the written determination of the excess Disbursement amount. However said interest shall be waived if Grantee repays the funds to the Authority within 90 days from issuance of the Authority's written determination that Disbursements exceeded Allowable Costs.

7. Program Participants. "Eligible Participants" are those persons utilizing the Program:

A) Residing within the District; and

B) Whose family income level is 150% or less than the then applicable Federal Poverty Guidelines Level.

All persons must be screened and certified by the VCHD, or a referring entity, as meeting the Screening Requirements in order to qualify as an Eligible Participant for the Program. The Program is to operate in, and benefit the health of residents of, the District with an emphasis on providing care to, and improving the health of, indigent residents. VCHD shall also provide information regarding other Authority programs and encourage Participants to apply for a WVHA Health Card or any other federal or state health care program that Eligible Participants may be eligible.

8. Screening. In order to meet income qualification under this Agreement, Program Participants must have a currently active WVHA Health Card on the date of service. Grantee shall encourage potentially eligible program participants to apply for the WVHA Health Card by submitting a completed application along with the required supporting documentation to The House Next Door, Inc., which is responsible for prescreening the application before it is electronically submitted by House Next Door to WVHA's Enrollment Certifying Agent and Third Party Administrator (currently POMCO of Florida LTD, Inc.) for a determination of eligibility based on the applicant's residency, identification, income and assets based on guidelines in the WEST VOLUSIA HOSPITAL AUTHORITY HEALTHCARD PROGRAM ELIGIBILITY GUIDELINES AND PROCEDURES, Effective June 16, 2016 ("Screening Requirements"). The Authority reserves the right to require additional reasonable qualification procedures in the event that it finds Grantee's testing materially insufficient.

9. Utilization Reports and Review. Grantee shall provide Utilization Reports to the Authority by the 10th of each month detailing Program utilization by Tax District residents during the previous month. These Utilization Reports shall include information concerning number of clients served, de-identified client listing, their zip code, CDT codes; the number of encounters by each Program Participant; and such other information to which the parties mutually agree. A Final Utilization Report shall be made to the Authority within sixty (60) days of the end of the Funding Period, which shall contain all of the information presented in the monthly Utilization Reports and, additionally, a summary of the Program. The VCHD shall also provide the Authority with copies of reports and reviews submitted or received by the VCHD that are materially related to the Program, within (30) days of the submission or receipt of the report or review.

Further, the VCHD shall provide to a member of the Authority or its appointed agent, or allow a member of the Authority, or its appointed agent, to review and examine the internal records of the VCHD pertaining to the Program, excluding Protected Health Information as defined in 45 CFR Section 164.501. [45 CFR §§160.103 and 164.501], to ensure that VCHD has complied with the requirements of this Agreement and in order to compile a Compliance Report on the VCHD regarding the terms of this Agreement. The Compliance Report shall include a statement of the total amount received by the VCHD from the Authority, and an opinion as to VCHD compliance with the requirements of this Agreement, and shall report any and all instances of non-compliance discovered. If the VCHD receives an independent audit for a fiscal year that includes the Term of this Agreement, then it shall provide the Authority a copy of the audit within thirty (30) days of the audit's delivery to the VCHD.

10. **Liability.** The parties shall be separately liable for the performance of their respective obligations or responsibilities under this Agreement. Grantee, a state agency or subdivision, is self-insured through the State of Florida Risk Management Trust Fund, established pursuant to Section 284.30, Florida Statutes, and administered by the State of Florida, Department of Financial Services. Grantee certifies that it maintains, and agrees to continue to maintain during the term this Agreement, general and professional liability protection coverage through the Risk Management Trust Fund, and that this protection extends to Department of Health, its officers, employees, and agents, and covers statutory liability exposure to the limitations described in Section 768.28, Florida Statutes. Grantee will convey a copy of its current Certificate of Coverage upon request. Grantee agrees to be fully responsible for acts of negligence by its officers, employees or agents, when acting within the scope of their employment or agency, and agrees to be liable for any damages resulting from said negligence, as provided in Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to whom sovereign

immunity may be applicable. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties or to indemnify any parties.

11. Termination For Breach. Upon breach by a party hereto, the non-breaching party may, by written notice to the other party, terminate this Agreement upon no less than thirty (30) days notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. This provision shall not be in limitation of, but in addition to, any other rights the parties may have in law or equity. Unless otherwise specified herein, all remedies of a party for a breach of this Agreement are cumulative.

12. Nonwaiver of Breach. The failure of a party hereto to enforce any of its rights arising by reason of any default or breach of covenant on the part of the other shall not constitute a waiver thereof, nor shall any custom or practice between the parties in the course of administering this Agreement be construed to waive or to lessen their rights to insist upon the performance by the other of any term, covenant or condition hereof, or to exercise any rights given it on the account of any such default. A waiver of a particular breach or default shall not be deemed to be a waiver of the same or any other subsequent breach or default.

13. Delays in Enforcement. No delay by Authority or Grantee in enforcing any right or remedy accorded to Authority or Grantee under this Agreement, nor any number of recoveries thereon, shall diminish or otherwise affect any such right or remedy.

14. Non-discrimination. Grantee shall not discriminate on the basis of race, color, religion, sex, national origin, age, disability or marital status.

15. **Notices.** All notices, requests, consents and other communications hereunder shall be in writing and shall be made by hand delivery, first class registered or certified mail, postage paid, address:

If to the VCHD:

Patricia Boswell, MPH

Administrator, Volusia County Health Department

1845 Holsonback Drive

P.O. Box 9190, Bin #120

Daytona Beach, Florida 32120

If to the Authority:

West Volusia Hospital Authority

Attn: Chairman

c/o DREGGORS, RIGSBY & TEAL, PA

1006 N. Woodland Blvd.

DeLand, Florida 32720

or such other address which may have been furnished by one party to the other in writing.

16. **Counterparts.** This Agreement may be signed in counterparts, each of which shall be deemed an original.

17. **Other Documents and Acts.** Each party shall, at the request of the other, execute, acknowledge and deliver whatever additional instruments and do such other acts as may be required or convenient in order to accomplish and carry forward the intent

and purposes of this Agreement.

18. Conformity with Law. The parties' actions hereunder are to conform to all applicable state, federal, and local laws and are intended to be consistent with the intents and purposes of the Authority's Enabling Legislation. The funding provided to the Grantee shall be used for the benefit of the residents of the Tax District.

19. Headings. The various headings used in this Agreement as headings for paragraphs, sub-paragraphs and otherwise are for convenience only and shall not be used in interpreting the text of the section or sub-section in which they appear.

20. Governing Law. The Agreement shall be governed by the laws of the State of Florida. Venue shall be in western Volusia County.

21. Assignability. This Agreement shall bind and enure to the benefit of the parties hereto, and their successors and assigns. Notwithstanding the foregoing, neither party may assign any of its rights nor obligations under this Agreement without the prior express written consent of the other party.

22. Agreement not a Joint Venture. Nothing contained in this Agreement is intended, or shall be construed, as in any way creating or establishing the relationship of partners or joint venturers among the parties or as constituting any party as the agent or representative of another party for any purpose or in any manner. The Grantee, its officers, agents, and employees, in performance of this Agreement, shall act in the capacity of any independent contractor and not as an officer, employee, or agent of the Authority. The Grantee is responsible for Social Security and Income Tax withholdings. The Authority will not furnish services or support (e.g., office space, office supplies, telephone service,

secretarial, or clerical support). The Grantee agrees to take such actions as may be necessary to ensure that each subcontractor of the Grantee will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the Authority.

23. Entire Agreement. This Agreement, including any addendum, exhibits and schedules hereto, constitutes the full and entire understanding and agreement between the parties concerning the subject matter of this Agreement, and supersedes all other prior agreements and negotiations, oral or written, concerning that subject matter, all of which are merged into this Agreement. Nothing herein, express or implied, is intended to confer upon any party, other than the parties hereto and their respective successors and permitted assigns, any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

24. Amendment. This Agreement may be amended to extend the term for a period not to exceed six (6) months, upon mutual written agreement of the parties. The program components, funding and payment method for the extension period will be subject to negotiation and agreement by the parties.

IN WITNESS WHEREOF, the Authority and the VCHD, through their approved representatives, have hereunto entered into this Agreement.

WEST VOLUSIA HOSPITAL AUTHORITY

By:

Barbara E. Girtman, Its Chair

Date: _____

ATTEST:

By: _____

Kathie D. Shepard, Its Secretary

STATE OF FLORIDA, DEPARTMENT OF HEALTH
VOLUSIA COUNTY HEALTH DEPARTMENT

By: Patricia Boswell

Patricia Boswell, MPH, Its Administrator

Date: 11/1/16