

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>49,123</u>	_____	_____	_____	_____
External Revenue	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>49,123</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No _____
 Budget Account No.: 1002 Dept. 147 Unit 1459 Object 3401
 Program Code VP16 G407

B. Recommended Sources of Funds/Summary of Fiscal Impact:

County Ad Valorem Funding

C. Departmental Fiscal Review.

REB

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

Jim Oml 4/7/08
 OFMB
LD 4/1/08 MM 04/02 ON 3/31/08

Jim J. Javel 4/17/08
 Contract Dev and Control
6/2/08 4/17/08

B. Legal Sufficiency:

J. P. [Signature] 4/9/08
 Assistant County Attorney

This Contract complies with our contract review requirements.

the effective date is retroactive.

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

FOUR YEAR OLD CHILD CARE PROVIDER HEAD START/VPK ENHANCEMENT AGREEMENT

This Agreement is made and effective as of the ____ day of _____, 2008, between the parties, Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, herein referred to as the COUNTY, and Florence Fuller Child Development Centers, Inc., a corporation authorized to do business in the State of Florida whose Federal I.D. Number is 59-1312245 herein referred to as the CHILD CARE PROVIDER.

WHEREAS additional funds have become available for the Head Start/VPK Enhancement Initiative, and WHEREAS the CHILD CARE PROVIDER has the necessary facilities and personnel available to provide the appropriate services;

NOW THEREFORE IN CONSIDERATION of the mutual promises contained herein, the COUNTY and the CHILD CARE PROVIDER agree as follows:

ARTICLE 1 - SERVICES

The parties agree that this supplemental Agreement shall apply to additional services to be provided by the CHILD CARE PROVIDER for Full Day Comprehensive Child Development HEAD START/VPK services for approximately 22 children and families within the geographical area in accordance with the Palm Beach County HEAD START/VPK Enhancement Agreement at its facilities for the period of March 1, 2008, through August 19, 2008. Compensation for services rendered by the CHILD CARE PROVIDER for this period shall be in accordance with Article 3 of this Agreement.

The County's representative/liason during the performance of this Agreement shall be Dr. Carmen A. Nicholas, telephone number (561) 233-1611.

The CHILD CARE PROVIDER'S representative/liason during the performance of this Agreement shall be Lorraine Herdeen, Executive Director, telephone number (561) 391-7274

ARTICLE 2 - SCHEDULE

The CHILD CARE PROVIDER shall commence services on March 1, 2008, and complete all services by August 19, 2008. During this period, child development and family support services shall be provided Monday thru Friday during the hours 7:30a.m. – 5:30p.m.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A."

ARTICLE 3 - PAYMENTS TO CHILD CARE PROVIDER

The COUNTY shall pay to the CHILD CARE PROVIDER for providing the services hereunder up to the maximum amount of Forty-nine Thousand One Hundred Twenty-three Dollars (\$49,123). Payments shall be made by the COUNTY, on a monthly basis commencing March 1, 2008, based upon invoices submitted by the CHILD CARE PROVIDER by the tenth (10th) working day of each month following the month in which services were delivered in accordance with the schedule detailed in Exhibit "B". Failure to submit monthly reimbursement requests in a manner deemed correct and acceptable by the COUNTY, by the tenth (10th) working day of each month following the month in which services were delivered shall deem the CHILD CARE PROVIDER in non-compliance with this covenant and at the option of the COUNTY, the CHILD CARE PROVIDER will forfeit its claim to any reimbursement for that specific month's payment request or the COUNTY may invoke the termination provision in this Agreement.

The CHILD CARE PROVIDER cannot submit requests for the same expenses to more than one funding source or under more than one program.

Prior to the 10th day of the month following the last month of services under this Agreement, the CHILD CARE PROVIDER will provide the COUNTY with a final invoice, in sufficient detail and with supporting documentation satisfactory to the COUNTY'S Finance Department, based on the actual costs incurred by the CHILD CARE PROVIDER in providing the services in accordance with the budget set forth in Exhibit "B" hereof. Any other charges not properly included on this final invoice are waived by the CHILD CARE PROVIDER. In the event payments previously made by the COUNTY are greater than the final total expenses, the CHILD CARE PROVIDER shall promptly repay such amount to the COUNTY.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by the CHILD CARE PROVIDER shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of the Agreement and no higher than those charged by the CHILD CARE PROVIDER for most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this Article 4 within three (3) years following final payment.

ARTICLE 5 - TERMINATION

This Agreement may be terminated by the CHILD CARE PROVIDER upon sixty (60) days' prior written notice to the COUNTY'S representative in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Agreement through no fault of the CHILD CARE PROVIDER. It may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the CHILD CARE PROVIDER. Unless the CHILD CARE PROVIDER is in breach of this Agreement, the CHILD CARE PROVIDER shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the COUNTY the CHILD CARE PROVIDER shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 - PERSONNEL

The CHILD CARE PROVIDER represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required herein-under shall be performed by the CHILD CARE PROVIDER or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CHILD CARE PROVIDER'S key personnel, as may be listed in Exhibit "A", must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY'S representative

before said change or substitution can become effective. The CHILD CARE PROVIDER warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

All of the CHILD CARE PROVIDER'S personnel while on County premises will comply with all COUNTY requirements governing conduct, safety and security.

ARTICLE 7 - SUBCONTRACTING

Subcontracting all or any significant portion of the Head Start services is not authorized.

ARTICLE 8 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CHILD CARE PROVIDER. The CHILD CARE PROVIDER shall not be exempt from paying sales tax, unless exempt pursuant to its own tax exemption number, to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CHILD CARE PROVIDER authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CHILD CARE PROVIDER shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

ARTICLE 9 - AVAILABILITY OF FUNDS

The COUNTY'S performance and obligation to pay under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners. **This funding is currently approved for one year only.**

ARTICLE 10 - INSURANCE

- A. CHILD CARE PROVIDER shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverage and limits (including endorsements), as described herein. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by CHILD CARE PROVIDER are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CHILD CARE PROVIDER under this Agreement.
- B. **Commercial General Liability** CHILD CARE PROVIDER shall maintain Commercial General Liability at a limit of liability not less than \$500,000 each occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. CHILD CARE PROVIDER shall provide this coverage on a primary basis.
- C. **Business Automobile Liability** CHILD CARE PROVIDER shall maintain Business Automobile Liability at a limit of liability not less than \$500,000 each occurrence for all owned, non-owned and hired automobiles. If the CHILD CARE PROVIDER doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CHILD CARE PROVIDER to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CHILD CARE PROVIDER shall provide this coverage on a primary basis.
- D. **Worker's Compensation Insurance & Employers Liability** CHILD CARE PROVIDER shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CHILD CARE PROVIDER shall provide this coverage on a primary basis.

- E. **Professional Liability** CHILD CARE PROVIDER shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than \$1,000,000 per occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACT PROVIDER'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CHILD CARE PROVIDER shall maintain a retroactive date prior to or equal to the effective date of this Agreement. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CHILD CARE PROVIDER shall purchase a SERP with a minimum reporting period not less than 3 years. CHILD CARE PROVIDER shall provide this coverage on a primary basis.
- F. **Additional Insured** CHILD CARE PROVIDER shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." CHILD CARE PROVIDER shall provide the Additional Insured endorsements coverage on a primary basis.
- G. **Waiver of Subrogation** The CHILD CARE PROVIDER hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CHILD CARE PROVIDER shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CHILD CARE PROVIDER enter into such an agreement on a pre-loss basis.
- H. **Certificate(s) of Insurance** immediately following notification of the award of this Agreement, CHILD CARE PROVIDER shall deliver to the COUNTY a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage.
- I. **Umbrella or Excess Liability** If necessary, CHILD CARE PROVIDER may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "each occurrence" limit for Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- J. **Right to Review** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement, COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

ARTICLE 11 - INDEMNIFICATION

The CHILD CARE PROVIDER shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or