

APPROVED

200138

**CONTRACT REVIEW FORM ("CRF")**

BOARD MEETING DATE:

6/25/2020

WHEN BOARD APPROVAL IS REQUIRED DO NOT PLACE ITEM ON AGENDA UNTIL REVIEW IS COMPLETED

Date Submitted: 6-01-20

Contract Initiator (Name of Person Overseeing the Contract): Kristin Kiebe Telephone Number: 904-336-6889

School/Department Submitting Contract: Climate & Culture

Vendor/Contractor Name: Health Hero Florida

Contract Title: Healthcare Services Agreement

Contract Type: New  Renewal  Amendment  Extension  Date Original Contract Approved:

Contract Term: 3 years Renewal Option(s):

Contract Cost: N/A Payment Schedule (Monthly? Upon delivery? When finished?):

Funding Source: N/A Purchase Requisition No.:

Strategic Plan Tie-in Explanation:

Pre-Approved by Superintendent or Designee? Yes  No  Mr. Bickner reviewed

Additional Information:  
Health Hero company to provide vaccines to our students. The vaccines include ~~Flu~~<sup>Flu</sup> Flu, Tdap

**CONTRACT REQUIRED DOCUMENTS ("CRD") PACKAGE ATTACHED?**

Completed Contract Review Form

SBAO Template Contract or other Contract (with all basic and mandatory terms)

SIGNED 2018 Addendum A (if not an SBAO Template Contract)\*

\*This Statement MUST BE included in the body of the Contract: "The terms and conditions of Addendum A are hereby incorporated into this Agreement and the same shall govern and prevail over any conflicting terms and/or conditions herein stated."

Certificate of Insurance (COI) for General Liability & Workers' Compensation that meet these requirements:

COI must list the School Board of Clay County, Florida as an Additional Insured and Certificate Holder. Insurer must be rated as A- or better.

General Liability = \$1,000,000 Each Occurrence & \$2,000,000 General Aggregate.

Auto Liability = \$1,000,000 Combined Single Limit (\$5,000,000 for Charter Buses).

Workers' Compensation = \$100,000 Minimum

[If exempt from Workers' Compensation Insurance, vendor/contractor must sign a Release and Hold Harmless Form. If not exempt, vendor/contractor must provide Workers' Compensation coverage].

<u>Approvals</u>		<u>Comments</u>	
<b>Purchasing Department</b>	Approved	Denied	<u>NO Cost</u>
Review Date: <u>6/1/2020</u>	<u>BK</u>		
<b>Risk Management Department</b>	Approved	Denied	
Review Date:			
<b>School Board Attorney</b>	Approved	Denied	<u>Approved with Changes Made per Email Dated 5/28/2020</u>
Review Date: <u>5/28/2020</u>	<u>Bickner</u>		
<b>Information &amp; Technology Dept.</b>	Approved	Denied	
Review Date:			
<b>Business Affairs Division</b>	Approved	Denied	
Review Date:			

## HEALTHCARE SERVICES AGREEMENT

THIS HEALTHCARE SERVICES AGREEMENT (the "Agreement") is entered into this 27 day of May, 2020 (the "Effective Date") by and between MAXVAX, LLC, a Florida limited liability company, d/b/a Health Hero Florida (the "Provider") and the THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA (the "District").

### WITNESSETH:

WHEREAS, the Provider's primary objective is to provide vaccines to students in order to promote the public health; and

WHEREAS, the District is interested in creating partnerships with organizations that provide high quality programs that promote the health, safety, wellbeing, and academic success of all students and welcomes this particular focus on the health of its students and their families; and

WHEREAS, the Provider shall provide influenza vaccinations administered by licensed healthcare workers to students who have furnished a signed consent to receive a vaccination from Provider; and

WHEREAS, the Provider shall provide such support staff and supplies as may be required for the delivery of the Services as hereinafter described.

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth in this Agreement, and intending to be legally bound, the Provider and the District agree as follows:

1. Recitals. The recitals set forth hereinabove are accurate, correct, and true, and are incorporated herein by this reference.

2. Term and Termination.

a. Term. The initial term of this Agreement shall commence on the Effective Date and expire three (3) years thereafter (the "Initial Term"). Following the Initial Term, this Agreement shall automatically renew for additional terms of one (1) year each (each a "Renewal Term") unless either party gives written notice to the other party of its intent not to renew this Agreement at least sixty (60) days prior to the end of the Initial Term or any Renewal Term. The Initial Term and all Renewal Terms shall collectively be referred to as the "Term".

b. Termination. The Term of this Agreement may be terminated by either party: (i) at any time upon not less than sixty (60) days written notice prior to the end of a Term; or (ii) immediately upon written notice to the other party in the event such party has materially breached this Agreement and failed to cure such breach (to

the extent curable) within thirty (30) days of receipt of the non-breaching party's notice of such breach.

3. Provider Obligations. During the Term, Provider shall provide vaccinations and immunizations at various Locations (as defined below) designated by the District (the "Services"). Provider's provision of the Services shall include the following obligations:

a. Program Overview. Provider's plan for performing the Services has been or shall be reviewed and approved by a physician licensed to practice medicine in the State of Florida who is in good standing with the Board of Medicine. Provider shall ensure that all nurses administering vaccinations are properly licensed to practice in the State of Florida and will follow the national Centers for Disease Control and Prevention ("CDC") protocols for administering vaccinations.

b. Administration of Vaccine. Provider shall administer the Services according to the recommendations and guidance issued by the CDC and applicable vaccine manufacturers. Provider acknowledges that vaccines, syringes, and needles cannot be reused. Provider shall administer all vaccines requested by a medically eligible student's parent or guardian regardless of age or insurance.

c. Vaccines. Provider shall supply all vaccines required for the Services. Provider shall have exclusive ownership and control over its vaccine supply. Provider shall transport, store, and handle the vaccines in accordance with the Vaccine Storage and Handling Recommendations and Prevention Recommendations for Storage and Handling of Selected Biologicals promulgated by the United States Department of Health and Human Services and the CDC. Provider shall handle the vaccines in accordance with the vaccine package inserts. Provider will supply all other needed medical supplies for the Services, including any sharps biohazard containers required for proper and safe disposal of medical supplies.

d. Consent. Provider shall only provide Services to any person who has delivered a signed vaccination consent form (or, in the case of any student under the age of eighteen (18), their parent or guardian shall have signed a vaccination consent form) (the "Consent"). The Consent shall be available in both English and Spanish.

e. Information Sheet. Provider shall furnish a current Vaccine Information Sheet to each person receiving a vaccine and answer questions about the benefits and risks of vaccination along with the Consent. Provider may furnish other informational sheets with respect to the Services.

f. Records. Provider shall keep a record of the administration of Services by individual name, date, site, vaccine type, lot number, and the name of the health care providers for the vaccines it administers. Provider shall record the administration of vaccines into the "Florida SHOTS" statewide online immunization

registry (or any replacement for such registry). Provider shall maintain records of each Consent.

g. Provision of Services. The Provider shall only provide Services in those Locations designated by the District. District staff need not be present for Provider to provide Services, but **under no circumstances** shall the Provider provide Services or interact with students in any non-public location.

h. Background Screenings. Provider shall comply with all applicable laws and regulations regarding background screenings for all Provider staff administering and supporting the Services as Provider's sole expense. Provider represents and warrants to the District that it shall comply with Sections 1012.32, 1012.321, 1012.465, 1012.467, and 1012.468 of the Florida Statutes regarding background screenings.

i. Conduct of Staff. All Provider staff who are present at any Location shall wear professional attire. All such staff shall follow any guidelines for conduct and interactions with students, faculty, and administration issued by the District. Provider shall train all staff and establish a code of conduct for such staff that governs their behavior and interactions with students, faculty and administration; prohibits fraternization, harassment, and bullying; sets high expectations for ethical and moral conduct; and prohibits violations of applicable Florida law or any policies implemented by the District with respect to the Services.

j. Publicity. Provider shall obtain the written approval of the District prior to distributing any consent forms, announcements, e-mails, advertising posters, or other documents regarding any Services or events related to the Services. Provider shall, in connection with any such documents, furnish its contact information to parents and guardians.

#### 4. District Obligations.

a. Coordination with Provider. The District shall determine school locations for the provision of Services in its sole discretion (each a "Location") and provide a list of such Locations to the Provider no later than thirty (90) days prior to the provision of Services at such Locations. The District shall distribute Consents and related vaccine information forms to students in both English and Spanish as requested by Provider prior to the provision of Services. The District shall provide an estimated number of participants at each Location at least fourteen (14) days prior to the Provider's provision of Services at such Location, as well as notification of all Consents received by the District.

b. Facilities. The District shall provide adequate space and furniture at each Location for the provision of Services which shall include at least six (6) four foot

(4') tables, ten (10) chairs, three (3) large, and two (2) small trash cans for use during the provision of Services. If COVID-19 protocols are still in effect, the space shall be arranged in accordance with the CDC's social distancing guidelines. Provider shall not be responsible for any costs for the use of a Location so long as Provider complies with the hours previously selected by the District and causes no damage to the facility.

c. District Personnel. The District shall designate a single contact person to coordinate the provision of the Services with Provider (the "Coordinator"). The District shall provide a current contact list, including e-mails, for all personnel (including school nurses and principals or administrators) participating in the Services. The District shall provide sufficient volunteers or school personnel at each Location to manage the flow of students receiving Services ensure that students arrive in a timely manner.

d. Promotion. The District will use existing assets to educate and promote services to students and their families. The District shall use school reminder systems to remind students and families of the availability of the Services and the need for a signed Consent in advance of such Services.

5. Treatment Eligibility and Financial Matters.

a. Eligibility. Provider will only administer Services to persons who present a signed Consent. Minors must have said consent forms signed by a parent or legal guardian. Provider will deliver Services in accordance with CDC guidelines and accepted standards of medical practice. Students will not be refused services due to lack of insurance or inability to pay an administrative fee under Florida's Vaccines for Children Program.

b. No Financial Liability. The District shall have no financial responsibility to Provider for any Services delivered under this Agreement, and Provider assumes all risks regarding such Services.

c. Billing for Services. To the extent permitted by state and federal law, Provider may contact and bill any appropriate third-party payor, including, but not limited to those identified in the Consent.

6. Other Matters.

a. Confidentiality and Compliance with Privacy Laws. Each party hereto shall comply (and shall cause their respective elected or appointed officials, managers, officers, employees, contractors, and agents to comply) with the Health Insurance Portability and Accountability Act ("HIPAA"), the Family Educational Rights and Privacy Act ("FERPA"), the Florida Statutes, and all other applicable laws protecting students' and parents' rights to privacy and confidentiality, particularly as they pertain to individually identifiable education and health records, in connection with this Agreement and the provision of Services hereunder.

b. Public Records. Except as may be limited by HIPAA, FERPA, or other similar laws, Provider and its agents are required to comply with the Florida Public Records Law, Chapter 119, Florida Statutes, with respect to public records (as that term is defined by Chapter 119) that are received or created in connection with this Agreement.

c. Compliance with Federal and State Health Care Laws and Regulations. Each party hereto shall comply (and shall cause their respective elected or appointed officials, managers, officers, employees, contractors, and agents to comply) with and have therefore structured this Agreement so as to comply with all applicable federal and state health care laws ("Laws") rules and regulations ("Regulations") affecting, resulting or governing this Agreement including, but not limited to the Medicare/Medicaid Anti-Kickback Statute 42 U.S.C. 1320a-7b(b), Safe Harbor Regulations 42 C.F.R. Part 1001, the Stark Statute, 42 U.S.C 1395nn and 42 C.F.R Part 411.350 et. seq., and Fla. Stat. §§ 456.053, 456.054, 817.505.

i. If at any time this Agreement is found to violate the Laws or the Regulations or if either party has a reasonable belief that this Agreement creates a material risk of violating the Laws or the Regulations, such party shall notify the other in writing and shall describe the violation or potential violation with particularity. Within thirty (30) days of such notice the parties shall commence the re-negotiation of this Agreement in good faith in light of the issues raised. If the parties fail to reach agreement within sixty (60) days of the written notice, the Term of this Agreement shall automatically terminate.

ii. This Agreement is not intended to induce the referral of patients. The parties acknowledge that there is no obligation or compensation under this Agreement or any Agreement between Provider and the District that requires Provider or the District to refer, recommend or arrange for, any items or services paid for by Medicare, Medicaid, any other federal benefit program, or any private insurance carrier.

d. Good Standing Representation. Provider represents to the District that neither Provider nor Provider's managers, officers, employees, or agents have ever: (i) been convicted of, or indicted for, a crime related to health care, or listed by a federal agency as debarred, excluded, or otherwise ineligible for participation in a federally-funded health care program (or notified of such action); or (ii) otherwise engaged in conduct for which a person can be so convicted, indicted, or listed. Provider agrees not to employ or engage any person in connection with the Services who has been so convicted, indicted, listed, or notified.

e. Independent Contractor. Provider's relationship to the District is that of an independent contractor. No employer/employee, principal/agent, or any other special relationship or association between the Parties shall be created by this Agreement. The Parties agree that they will not act for or on behalf of each other or represent to any third party or person that they are acting as an agent of the other, nor

shall either party incur any obligations on behalf of the other party, except to the extent otherwise state herein.

f. Indemnification. Provider agrees to indemnify, defend, and hold harmless the District and its elected or appointed officials, officers, employees, and agents from any claim, action, suit, loss, damage, penalty, or liability (together, "Damages") arising from (i) the negligent acts, omissions, misfeasance, malfeasance, or intentionally wrongful conduct of Provider, its employees, or agents relating to the performance of its duties under this Agreement, and (ii) the failure of Provider to comply with any applicable law relating to the Services. The foregoing indemnification provisions shall not apply if the Damages arise from the gross negligence or willful misconduct of the District or any of its officials, officers, employees, or agents.

g. Waiver of Punitive and Consequential Damages. To the fullest extent permitted by law, the District waives any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages and agree that in the event of a dispute, recovery shall be limited to actual damages. If any other term of this Agreement is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions shall continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.

h. Insurance. During the Term, Provider shall obtain and maintain the following insurance coverage with respect to the Services: (i) workers' compensation insurance at the statutory amounts required by the State of Florida; (ii) Commercial General Liability insurance with a limit of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate; and (iii) Professional Liability insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate. Upon the execution of this Agreement, Provider shall provide certificates of insurance to the District evidencing such insurance and naming the District as an additional insured. Provider shall give the District at least thirty (30) days written notice of any policy modifications, cancellations, or terminations.

7. Assignability. Neither party may assign its rights or duties under this Agreement without the consent of the other party hereto.

8. Severability. If any provision of this Agreement is deemed to be invalid, unenforceable, or is prohibited by the laws of the state or jurisdiction where it is to be performed, this Agreement shall be considered divisible as to such provision; and such provision shall be inoperative in such state or jurisdiction, and shall not be part of the consideration moving from either of the parties to the other. The remaining provisions of this Agreement shall be valid and binding and of like effect as though such provision was not included.

9. Force Majeure. Neither Party shall be liable hereunder for any failure or delay in the performance of its obligations under this Agreement if such failure or delay

is on account of causes beyond its reasonable control, which shall include, but are not limited to: acts of God (including reasonable preparation therefor); acts of war, civil unrest, terrorism, cyberattacks (which shall be any action, physical or electronic, taken to intentionally damage or disrupt a computer system), or other hostilities; disasters; epidemics or pandemics; fire, flood or other casualty; hazardous weather; labor disputes, strikes, or work stoppages (except for a dispute, stoppage, or strike involving either party hereto); or government action, regulation or restriction (a "Force Majeure Event"). A Force Majeure Event shall not include changes in economic or market conditions, financial or internal problems of the non-performing party, or an event that renders performance uneconomical or unprofitable for the non-performing party. A Force Majeure Event shall not excuse the payment of any money due hereunder except in the event of the failure or governmental closure of a party's bank.

A party suffering a Force Majeure Event shall use reasonable efforts to notify the other party in writing within ten (10) days following the occurrence of such Force Majeure Event. The exception from liability due to a Force Majeure Event shall continue for so long as such Force Majeure Event is in effect. If a party's performance is delayed more than thirty (30) days due to a Force Majeure Event, the other party shall have the option of terminating this Agreement for Cause upon written notice to the non-performing party.

10. Notices and Addresses. All notices, offers, acceptances and any other acts under this Agreement (except payment) shall be in writing, and shall be deemed to be sufficiently given: (i) at the time of receipt if delivered by hand or communicated by electronic transmission, with confirmation of receipt thereof; (ii) if mailed, three (3) days after deposit in the United States mail, whether express, registered or certified, return receipt requested, in each such instance with postage prepaid; or (iii) if by nationally recognized overnight courier service, one (1) business day after dispatch, and in each case addressed to the party to receive same, as follows:

If to the Provider: MaxVax, LLC  
ATTN: Jeff Lott, President  
320 1st Street North, Suite 101  
Jacksonville Beach, Florida 32250  
E-mail: jeff.lott@healthheroflorida.com

If to the District: The School Board of Clay County, Florida  
ATTN: \_\_\_\_\_  
\_\_\_\_\_  
E-mail: \_\_\_\_\_

or to such other address as either of them, by notice to the other may designate from time to time.



11. Waivers. The terms of this Agreement may be waived only by a written instrument signed by the party waiving compliance. No waiver of any term, provision or condition of this Agreement in any one or more instances, shall be deemed to be or be construed as a further or continuing waiver, or a waiver of any subsequent breach, of any such term, provision, or condition of this Agreement. No delay on the part of any party in exercising any right, power, or privilege hereunder shall operate as a waiver hereof; nor shall any waiver nor any single or partial exercise on the part of any party of any right, power or privilege, preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.

12. Governing Law and Venue. This Agreement has been executed and delivered, and shall be interpreted, construed, and enforced, pursuant to and in accordance with the laws of the State of Florida with venue for all disputes concerning enforcement or interpretation of this agreement being in state courts within Clay County, Florida.

13. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written agreements between the parties relating hereto. Neither this Agreement nor any provision hereof may be changed, discharged, or terminated orally, except by a statement in writing signed by both parties.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Each counterpart may consist of two copies hereof, each signed by one of the parties hereto. The execution of this Agreement may be by actual, electronic, or facsimile signature.

15. Section and Paragraph Headings. The section and paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the Provider and the District have executed this Agreement as of the date and year first above written.

**PROVIDER:**

**DISTRICT:**

**MAXVAX, LLC**

**THE SCHOOL BOARD OF CLAY  
COUNTY, FLORIDA**

\_\_\_\_\_  
By: Jeff Lott

\_\_\_\_\_  
By: \_\_\_\_\_

Its: President

Its: \_\_\_\_\_