

AN ORDINANCE 2009-09-17-0744

AUTHORIZING A CONTRACT WITH PARENT/CHILD INCORPORATED WHICH WILL PROVIDE UP TO \$21,056.00 TO THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT - DENTAL DIVISION TO PROVIDE, ORAL HEALTH EVALUATIONS, PREVENTIVE CARE AND CASE MANAGEMENT SERVICES TO ENROLLEES OF THE EARLY HEAD START PROGRAM.

* * * * *

WHEREAS, Parent/Child Incorporated (PCI), a nonprofit organization, is funded by Early Head Start to provide to low-income Bexar County families with children under age 3 and expectant mothers with a variety of services, including day care, child development, nutrition and social services, health and disability assessment, and parent involvement training; and

WHEREAS, since 1993, the San Antonio Metropolitan Health District (Metro Health) has provided fee-for-service dental screenings and clinical treatment for children enrolled in PCI programs; and

WHEREAS, families that utilize these services do not have the financial resources to obtain health care on their own; and

WHEREAS, under a grant-funded demonstration project, recently awarded to the City of San Antonio, Metro Health's Dental Division has assisted in the development of dental health education messages for children and their families; and

WHEREAS, Metro Health has collaborated with PCI and the University of Texas Health Science Center at San Antonio, School of Dental Hygiene, to implement a fluoride varnish program for all PCI enrollees; and

WHEREAS, this collaboration has also resulted in establishing a network of private and non-profit dental providers that provide services beyond the scope of Metro Health's Dental Division and serve as the dental homes for children beyond their experience in Early Head Start; and

WHEREAS, funding generated through this contract will be utilized to purchase program supplies and fund associated professional services contractors; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee, or the Director of the San Antonio Metropolitan Health District or his designee, is authorized to execute a contract with Parent/Child Incorporated (PCI) for the provision of oral health evaluations, preventive care and case management services to enrollees of the Early Head Start Program by the San Antonio Metropolitan Health District - Dental Division for the period August 1, 2009 through January 31,

2010, and payment for said services by PCI in an amount up to \$21,056.00. A copy of the contract is attached hereto and incorporated herein for all purposes as **Attachment I**.

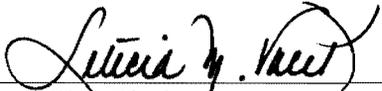
SECTION 2. The City Manager, or her designee, or the Director of the San Antonio Metropolitan Health District or his designee is further authorized to execute any and all necessary documents to effectuate said contract and acceptance.

SECTION 3. Fund 26012000 entitled "Misc. Grant" is hereby designated for use in the accounting for the fiscal transaction in the acceptance of this contract and the sum of up to \$21,056.00 from PCI will be appropriated in said fund. The proposed budget, which is attached hereto and incorporated herein for all purposes as **Attachment II**, is approved. A formal final budget which will include a department specific Fund, an Internal Order number, and General Ledger numbers will be submitted by the department upon award.

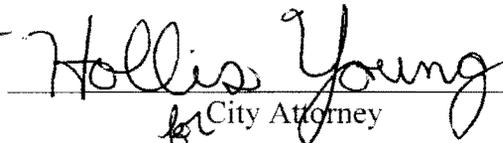
SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance shall become effective immediately upon passage by eight (8) or more affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND APPROVED this 17th day of September 2009.

ATTEST: 
City Clerk


M A Y O R
JULIÁN CASTRO

APPROVED AS TO FORM: 
for City Attorney

Agenda Item:	19 (in consent vote: 9, 10, 11, 12, 14, 15, 16, 17, 19, 20, 21, 22A, 22B, 22C, 22D, 25, 26, 27, 29, 30, 31)						
Date:	09/17/2009						
Time:	10:28:28 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance ratifying a contract with Parent/Child Incorporated (PCI) in an amount up to \$21,056.00 for the San Antonio Metropolitan Health District Dental Division to provide, on a fee for service basis, oral health evaluations, preventive care and case management services to children between the ages of six weeks to age three who are enrolled in PCI Early Head Start programs. [Frances A. Gonzalez, Assistant City Manager; Dr. Fernando A. Guerra, Director, Health]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				x
John G. Clamp	District 10		x				

- 2.5 To enroll each pregnant enrollee in the SAMHD maternity program and waive all fees.
- 2.6 To provide each participating enrollee a minimum of 2 applications of fluoride varnish.
- 2.7 To implement a pilot program for all enrolled children utilizing the "First Dental Home" resources provided by the Department of State Health Services. Through this program, certified SAMHD dentists will travel to each PCI site and provide examination, preventive care and educational materials for parents and caregivers. Topics to be discussed include: effective oral hygiene techniques, recommended feeding practices and nutritional guidelines and anticipatory guidance. Case management services for children that require specialty care by a pediatric dentist will be coordinated by a SAMHD registered dental hygienist.
- 2.8 To provide scheduled First Dental Home visits to all Early Head Start enrollees in PCI. Each First Dental Home visit will be performed by a SAMHD dentist with a First Dental Home Certification and utilize culturally-competent materials produced by the Department of State Health Services. (www.dshs.state.tx.us/dental/firstdentalhomemats.shtml)
- 2.9 To bill Medicaid, CHIP or other third-party payers, and retain proceeds for all applicable dental services provided to children who are Medicaid or CHIP recipients, or who are covered by other third-party payers.
- 2.10 To comply with any and all other conditions, covenants, provisions and/or requirements contained herein requiring performance by City.

III. PERFORMANCE BY PCI

PCI agrees:

- 3.1 To refer PCI enrollees to SAMHD to receive dental services.
- 3.2 To schedule First Dental Home visits with caregivers for PCI enrollees in assigned Head Start centers To conduct basic administrative functions regarding PCI enrollees including but not limited to providing PCI dental charts, name, Medicaid/CHIP number, home address, home telephone number, and parent's work number at least five (5) working days prior to scheduled exam and providing monthly reports on follow-up of referrals and allowing regular audits of dental charts as determined to be necessary by SAMHD to verify that follow-up care was performed.
- 3.3 To defer to the dentist for determination of the appropriate timeframe for follow-up as indicated in the referral information.
- 3.4 To obtain the required consent form(s) including but not limited to consent for Fluoride Varnish Program participation, and consent for dental examination and care from the parent or legal guardian of PCI enrollees, enabling SAMHD to administer the dental services required, and to have these forms present at the time of the exam or treatment.
- 3.5 To obtain from each PCI enrollee's parent or legal guardian pertinent medical history for SAMHD's use and reference at the time of exam or treatment, including record of any current medical conditions for which the child is being followed, and a record of any medications the child is currently taking prior to the time services are rendered by SAMHD.
- 3.6 To provide Medicaid, CHIP or other third-party insurance information on PCI enrollees to the SAMHD, and to make every effort to encourage enrollment of potentially eligible children to

third-party funding program. For children who are not enrolled in Medicaid, CHIP, or other third-party insurance, provide social security number for identification purposes.

- 3.7. To certify that all costs herein provided for reimbursement to SAMHD are allowable costs under the grant guidelines under which PCI operates.
- 3.8. To pay for services rendered by SAMHD, on a monthly basis, in accordance with the provisions contained in Section VI.
- 3.10. To designate a staff member of PCI to coordinate appointments with SAMHD staff. PCI will notify SAMHD staff at least 48 hours in advance of any cancellations or changes in scheduling.
- 3.11. To comply with all conditions, covenants, provisions and requirements contained herein requiring performance by PCI.
- 3.12. To provide adequate staff, as outlined by the Texas Department of Family and Protective Services (TDFPS) guidelines for adult-to-child ratio for field trips, to supervise children while they are in the SAMHD clinic waiting room, and to provide one PCI staff person per screening station to supervise children in the station during the exams and/or dental clinic visits. For the safety of the children, the clinic will stop services until adequate supervision is provided.
- 3.13. PCI will provide PCI staff assistance and supplies for dental screenings at PCI facilities.

IV. TERM

- 4.1. This contract shall commence on August 1, 2009, and shall terminate January 31, 2010 unless extension or earlier termination shall occur pursuant to the terms of this contract.

V. LOCATION

- 5.1. Services to be provided under this agreement will be provided at the appropriate PCI Early Head Start Centers or SAMHD Clinic facility as agreed upon by mutual consent of the City and PCI. The type of services to be provided by SAMHD shall dictate at which location said services are to be administered.
- 5.2. In the event that a PCI enrollee needs to be transported to a specific location to receive a certain service, PCI shall arrange for said transportation.

VI. BILLING

- 6.1. PCI shall pay City five dollars (\$5.00) per dental screening.
- 6.2. Fees will be waived for prenatal patients enrolled for Early Head Start services with PCI for services covered by the SAMHD Maternity Program, including all periodontal care and available restorative care one year post partum.
- 6.3. Fees will be waived for all participants that are uninsured or underinsured for First Dental Home visits.
- 6.4. The City will bill PCI on a monthly basis for services provided.

- 6.5 The City will bill Medicaid, CHIP or other third-party payers and retain proceeds for all dental services performed on children who are Medicaid recipients, CHIP recipients, or who are covered by other third-party payers.
- 6.6 PCI shall remain liable for the payment of services rendered under this agreement until all such payments are made and received by City. PCI's liability is not reduced or diminished by any amount by a third party's failure to pay for services rendered hereunder.

VII. COMPLIANCE

- 7.1 City and PCI agree to comply with all federal and state laws regarding nondiscrimination in the execution of this agreement. In accordance therewith, City and PCI shall ensure that no person is denied benefits hereunder on the basis of race, color, national origin, religion, gender, age, handicap or political affiliation.

VIII. AMENDMENT

- 8.1 Amendments or modifications to this agreement may be initiated by either party hereto provided a ten (10) day written notice is given to the other party. No amendment, modification or alteration of the terms of this agreement shall be binding unless same be in writing, dated subsequent to the date hereof and duly executed and mutually agreed to by the parties to this agreement.

IX. ASSIGNING INTEREST

- 9.1 Both parties shall not transfer or assign any interest in this agreement without the prior written consent of the other party and approval by the San Antonio City Council by means of an ordinance.

X. INDEMNITY

- 10.1 PCI covenants and agrees to **FULLY INDEMNIFY , DEFEND and HOLD HARMLESS**, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to PCI's activities under this Contract, including any acts or omissions of PCI, any agent, officer, director, representative, employee, consultant or subcontractor of PCI, and their respective officers, agents, employees, directors and representatives while in the exercise of the rights or performance of the duties under this Contract, all without however, waiving any governmental immunity available to the City under Texas Law and without waiving any defenses of the parties under Texas Law. **IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS CONTRACT.** The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or

entity. PCI shall promptly advise the City in writing of any claim or demand against the City or PCI known to PCI related to or arising out of PCI's activities under this Contract and shall see to the investigation and defense of such claim or demand at PCI's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving PCI of any of its obligations under this paragraph.

- 10.2 It is the EXPRESS INTENT of the parties to this Contract, that the INDEMNITY provided for in this section, is an INDEMNITY extended by PCI to INDEMNIFY, PROTECT and HOLD HARMLESS, the City from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the City is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. PCI further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

XI. RELATIONSHIP OF THE PARTIES

- 11.1 City and PCI mutually agree that PCI acts in the capacity as an independent contractor and that nothing contained herein shall be construed by either party hereto or by any third party as creating the relationship of principal and agent, partners, joint venture or any other similar such relationship between the parties hereto.
- 11.2 City and PCI understand and agree that neither party to this agreement has authority to bind the other or to hold out to third parties that it has the authority to bind the other.

XII. TERMINATION

- 12.1 City and PCI understand and mutually agree that this agreement may be terminated by either party upon giving thirty (30) days' written notice, by certified mail, to the other party. Notice is said to be given when the written notice is received by the other party.
- 12.2 Termination of this agreement for any cause shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination.

XIII. INSURANCE

13.1 Prior to the commencement of any work under this Contract, PCI shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the San Antonio Metropolitan Health District, which shall be clearly labeled "PCI Contract for Dental Services" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Contract until such certificate and endorsements have been received and approved by the San Antonio Metropolitan Health District. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

13.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will City allow modification whereupon City may incur increased risk.

13.3 PCI's financial integrity is of interest to the City; therefore, subject to PCI's right to maintain reasonable deductibles in such amounts as are approved by the City, PCI shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at PCI's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

TYPE	AMOUNT
1. Workers Compensation Employers' Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Personal Injury c. Contractual Liability d. Independent Contractor	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate or its equivalent in Umbrella or Excess Liability Coverage
3. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence

13.4 The City shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). PCI shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. PCI shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: San Antonio Metropolitan Health District
P.O. Box 839966
San Antonio, Texas 78283-3966

13.5 PCI agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name the City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;

- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

13.6 Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, PCI shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend PCI's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

13.7 In addition to any other remedies the City may have upon PCI's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order PCI to stop work hereunder, and/or withhold any payment(s) which become due to PCI hereunder until PCI demonstrates compliance with the requirements hereof.

13.8 Nothing herein contained shall be construed as limiting in any way the extent to which PCI may be held responsible for payments of damages to persons or property resulting from PCI's or its subcontractors' performance of the work covered under this agreement.

13.9 It is agreed that PCI's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this contract.

13.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

13.11 City agrees to provide evidence of self-insurance in liability amounts required under the Texas Tort Claims Act.

13.12 PCI will be responsible for all damage to their own equipment and/or property.

XIV. ACCESS TO RECORDS

14.1 Subject to federal, state and local laws, PCI, City or any duly authorized representative of each shall have access to any records, data or other information directly related to or generated as a result of the services provided hereunder for the purpose of conducting audits or examination.

XV. RETENTION OF RECORDS

15.1 City agrees to maintain financial records of or concerning the services provided hereunder for a period of three (3) years from the date of termination of this agreement.

15.2 City agrees to maintain health records on PCI enrollees served hereunder until said person's twenty-first birthday.

XVI. CONFIDENTIAL INFORMATION

- 16.1 Both parties agree to maintain confidentiality of client records in accordance with all City, State, and Federal laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA). City and PCI will enter into a business associate agreement concerning transfer of client medical record information which is attached hereto and incorporated herein for all purposes as Attachment II.
- 16.2 PCI shall establish a method to secure the confidentiality of records and other information relating to clients in accordance with the applicable Federal and State laws, regulations, and rules. This provision shall not be construed as limiting the CITY's right of access to recipient case records or other information relating to clients served under this AGREEMENT.

XVII. SUBSTANTIAL INTEREST

- 17.1. PCI acknowledges that it is informed that Texas law prohibits contracts between City and any local public official such as a City officer or employee, and that the prohibition extends to any officer or employee of City boards and commissions and to contracts involving a business entity in which the official has a substantial interest, as defined by Texas law, if it is reasonably foreseeable that an action on the matter would confer an economic benefit on the business entity.
- 17.2. PCI certifies, and this agreement is made in reliance thereon, that neither it, its individual officers, employees or agents, nor any person having a substantial interest in this agreement is an officer or employee of the CITY or any of its agencies, boards or commissions.

XVIII. DEBARMENT

- 18.1. PCI certifies that PCI is not debarred from entering into this agreement as defined by federal debarment guidelines.

XIX. NOTICES

- 19.1 For purposes of this agreement, all official communications and notices between the parties shall be deemed sufficient if in writing, mailed, certified mail, postage prepaid, to the addresses set forth below:

CITY

City of San Antonio
San Antonio Metropolitan Health District
332 W. Commerce, Suite 307
San Antonio, Texas 78205

and

City of San Antonio
City Clerk
P.O. Box 839966
San Antonio, Texas 78283-3966

PCI

Parent/Child Incorporated
Attention: Dr. Sharon Small
P.O. Box 830407
San Antonio, Texas 78283-0407

XX. FULL AGREEMENT

- 20.1 This agreement constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the

subject matter of this agreement shall be deemed to exist or to bind the parties hereto unless same be in writing, dated subsequent to the date hereof and duly executed by the parties.

XXI. AUTHORITY

21.1 The signers of this agreement, by placing their signature below, represent and warrant that they have full authority to execute this agreement on behalf of the respective party each represents.

XXII. SEVERABILITY

22.1 In case any one or more of the provisions contained this agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The parties further agree that in lieu of each clause or provision of this agreement that is invalid, illegal, or unenforceable, there be added as a part of the agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XXIII. CAPTIONS

23.1 The captions contained in this agreement are for convenience of reference only, and in no way limit or enlarge the terms or conditions of this agreement.

IN WITNESS OF WHICH THIS AGREEMENT HAS BEEN EXECUTED ON THIS THE _____ DAY OF _____, 2009 to be effective August 1, 2009.

CITY OF SAN ANTONIO

PARENT/CHILD INCORPORATED

Fernando A. Guerra, M.D., M.P.H.
Director of Health


Dr. Sharon Small
Chief Executive Officer

Date

8/13/09
Date

ATTEST:

Leticia M. Vacek
City Clerk

APPROVED AS TO FORM:

Michael Bernard
City Attorney

Business Associate Agreement

This Business Associate Agreement ("Agreement") dated August 1, 2009, (the "Effective Date"), is entered into by and between the City of San Antonio ("Health Care Provider") and Parent/Child Incorporated Business Associate".

WHEREAS, Health Care Provider is receiving and Business Associate is providing services ("Business Arrangement") that may require Business Associate to access health information that is protected by state and/or federal law;

WHEREAS, Business Associate and Health Care Provider desire that Business Associate obtain access to such information in accordance with the terms specified herein;

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise specified in this Business Associate Agreement, all capitalized terms not otherwise defined shall have the meanings established for purposes of Title 45, Parts 160 and 164, of the United States Code of Federal Regulations, as amended from time to time. For purposes of clarification, the following terms shall have the definitions as set forth herein below:

"Privacy Standards" shall mean the Standards for Privacy of Individually Identifiable Health Information as codified in 45 CFR Parts 160 and 164.

"Security Standards" shall mean the Security Standards for the Protection of Electronic Protected Health Information as codified in 45 CFR Parts 160 and 164.

"Protected Health Information" or "PHI" shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual, or with respect to which there is reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term in the Privacy Standards and in the Security Standards.

2. **Business Associate Obligations.** Business Associate may receive from Health Care Provider health information that is protected under applicable state and/or federal law, including without limitation, Protected Health Information. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards or the Security Standards if the PHI were used or disclosed by Health Care Provider in the same manner. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement.
3. **Use of PHI.** Business Associate may use PHI only (i) for the purpose of performing services for Health Care Provider as such services are defined in Business Arrangement, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Health Care Provider shall retain all rights in the PHI not granted herein.
4. **Disclosure of PHI.** Business Associate may disclose PHI as necessary to perform its obligations under the Business Arrangement and as permitted by law, provided that Business Associate shall in such case: (a) obtain reasonable assurances from any person to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law

or for the purpose for which it was disclosed to the person or entity; (b) agree to immediately notify Health Care Provider of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the Privacy Standards or the Security Standards; and (c) obtain reasonable assurances that all disclosures of PHI are subject to the principle of "minimum necessary use and disclosure," i.e., only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed. In addition, Business Associate may disclose PHI as required by law. If Business Associate discloses PHI received from Health Care Provider, or created or received by Business Associate on behalf of Health Care Provider, to agents, including a subcontractor (collectively, "Recipients"), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Health Care Provider any use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within five (5) days of the Business Associate becoming aware of such use or disclosure. Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Health Care Provider in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI in violation of this Agreement.

5. Individual Rights. If Business Associate maintains a Designated Record Set on behalf of Health Care Provider, Business Associate shall (a) permit an individual to inspect or copy PHI contained in that set about the individual under conditions and limitations required under 45 CFR § 164.524, as it may be amended from time to time, and (b) amend PHI maintained by Business Associate as requested by Health Care Provider. Business Associate shall respond to any request from Health Care Provider for access by an individual within five (5) days of such request and shall make any amendment requested by Health Care Provider within ten (10) days of such request. The information shall be provided in the form or format requested, if it is readily producible in such form or format, or in summary, if the individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying PHI may be charged. Business Associate shall accommodate an individual's right to have access to PHI about the individual in a Designated Record Set in accordance with the Privacy Standards set forth at 45 CFR § 164.526, as it may be amended from time to time, unless the regulation provides for a denial or an exception expressly applies. Health Care Provider shall determine whether a denial is appropriate or an exception applies. Business Associate shall notify Health Care Provider within five (5) days of receipt of any request for access or amendment by an individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set.
6. Accounting of Disclosures. Business Associate shall make available to Health Care Provider in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFR § 164.528, as it may be amended from time to time, incorporating exceptions to such accounting designated under the regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within thirty (30) days of Health Care Provider's request. Such accounting must be provided without cost to the individual or to Health Care Provider if it is the first accounting requested by an individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Health Care Provider and the Health Care Provider informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting shall be provided as long as Business Associate maintains PHI.

(i) the individual revokes such consent or authorization in writing, (ii) the effective date of such authorization has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Standards expressly applies.

8. Records and Audit. Business Associate shall make available to Health Care Provider and to the United States Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Health Care Provider for the purpose of determining Health Care Provider's compliance with the Privacy Standards and the Security Standards or any other health oversight agency, in a timely a manner designated by Health Care Provider or the Secretary. Except to the extent prohibited by law, Business Associate agrees to notify Health Care Provider immediately upon receipt by Business Associate of any and all requests served upon Business Associate for information or documents by or on behalf of any and all government authorities.
9. Notice of Privacy Practices. Health Care Provider shall provide to Business Associate its Notice of Privacy Practices ("Notice") when adopted and any amendments thereafter. Business Associate agrees that it will abide by the limitations of any Notice published by Health Care Provider of which it has knowledge. An amended Notice shall not affect permitted uses and disclosures on which Business Associate has relied prior to the receipt of such Notice.
10. Confidentiality. Business Associate shall take any steps required to (i) protect PHI from unauthorized uses or disclosures and (ii) maintain the confidentiality and integrity of PHI. Prior to any permitted disclosure of PHI, Business Associate shall require the person or entity to which it intends to disclose PHI to assume all of the same duties with respect to PHI that Business Associate has under this Agreement.
11. Security. Business Associate will: implement administrative, physical, and technical safeguards that reasonably and appropriate protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Health Care Provider; ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect the information; and report any security incidents to the Health Care Provider, in accordance with the Security Standards.
12. Term and Termination.
 - 12.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this section 12, provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.
 - 12.2 Health Care Provider shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Business Associate.
 - 12.3 Health Care Provider, at its sole discretion, may immediately terminate this Agreement and shall have no further obligations to Business Associate hereunder if any of the following events shall have occurred and be continuing:

- (a) Business Associate shall fail to observe or perform any material covenant or agreement contained in this Agreement for ten (10) days after written notice thereof has been given to Business Associate by Health Care Provider; or
- (b) A violation by Business Associate of any provision of the Privacy Standards; Security Standards, or other applicable federal or state privacy law.

12.4 Upon the termination of the Business Arrangement, either party may terminate this Agreement by providing written notice to the other party.

12.5 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Health Care Provider or to destroy all PHI received from Health Care Provider or otherwise through the performance of services for Health Care Provider, that is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy," Business Associate shall continue to comply with the covenants in this Agreement with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this Agreement shall be cause for Health Care Provider to terminate the Business Arrangement.

13. Miscellaneous.

13.1 Notice. All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; or (c) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below:

HEALTH CARE PROVIDER:	BUSINESS ASSOCIATE:
City Clerk	Parent/Child Incorporated
City of San Antonio	Attention: Dr. Sharon M. Small
P.O. Box 839966	Chief Executive Officer
San Antonio, Texas 78283-3966	P.O. Box 830407
	San Antonio, TX 78283-0407
AND	(210) 475-5013
City of San Antonio	
San Antonio Metropolitan Health District	
Director	
332 W. Commerce, Suite 307	
San Antonio, Texas 78205	

13.2 Waiver. No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

13.3 Assignment. Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Health Care Provider shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Health Care Provider, without the prior approval of Business Associate.

- 13.4 Entire Agreement. This Agreement constitutes the complete agreement between Business Associate and Health Care Provider relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangement or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangement comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.
- 13.5 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.
- 13.6 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 document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

14. **Indemnification**

14.1 BUSINESS ASSOCIATE WILL INDEMNIFY, DEFEND AND HOLD HEALTH CARE PROVIDER AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BUSINESS ASSOCIATE OR SIMILAR BREACH BY RECIPIENTS ("CLAIM"). IF BUSINESS ASSOCIATE ASSUMES THE DEFENSE OF A CLAIM, HEALTH CARE PROVIDER SHALL HAVE THE RIGHT, AT ITS EXPENSE, TO PARTICIPATE IN THE DEFENSE OF SUCH CLAIM, AND BUSINESS ASSOCIATE SHALL NOT TAKE ANY FINAL ACTION WITH RESPECT TO SUCH CLAIM WITHOUT THE PRIOR WRITTEN CONSENT OF HEALTH CARE PROVIDER.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Health Care Provider:
CITY OF SAN ANTONIO on behalf of
San Antonio Metropolitan Health District

Fernando A. Guerra, MD. MPH.
Director of Health

ATTEST:

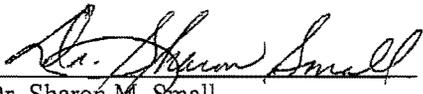
Leticia M. Vacek
City Clerk

Date

APPROVED AS TO FORM:

Michael D. Bernard
City Attorney

Business Associate:



Dr. Sharon M. Small
Chief Executive Officer

8/13/09

Date

Early Head Start Dental Budget
 Fund xxx
 Budget for Period: 8/1/09 to 1/31/2010
 PROPOSED BUDGET

ESTIMATED REVENUES	GL	CURRENT BUDGET
PCI Contract-Dental	4501160	585
Health Insurance Reimbursements - Medicaid Dental	4402162	20,471
TOTAL ESTIMATED REVENUES:	\$	<u>21,056</u>

APPROPRIATIONS

Cost Center 360823xxxx
 Internal Order 136000000xxx

Fees to Professional Contractors	5201040	20,471
Chemicals, Medical & Drugs	5304040	585

TOTAL APPROPRIATIONS: \$ 21,056

PERSONNEL COMPLEMENT

Class No. Title
 Cost Center 360823xxxx
 Internal Order 136000000xxx

CURRENT ADD/REDUCE APPROVED
 POSITIONS POSITIONS POSITIONS

Total Personnel:

0 0 0