

AN ORDINANCE 2012-09-06-0680

AUTHORIZING AGREEMENTS FOR THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT TO PROVIDE DENTAL SERVICES FOR CHILDREN FROM BIRTH TO THREE YEARS OF AGE AND EXPECTANT MOTHERS ENROLLED IN THE PARENT/CHILD INCORPORATED & CENTER FOR NEW COMMUNITIES EARLY HEAD START PROGRAMS FOR RESPECTIVE AMOUNTS UP TO \$11,194.00 AND \$12,611.00 FOR TERMS BEGINNING SEPTEMBER 1, 2012 THROUGH JANUARY 31, 2014.

* * * * *

WHEREAS, Parent/Child Incorporated (PCI) and Center for New Communities (CFNC), are funded by the federal Early Head Start program to provide a variety of services, including early childhood education, child development, nutrition and social services, health and disability assessment and parent involvement training to low-income Bexar County families with children under age 3 years of age and to expectant mothers; and

WHEREAS, since 1993, the San Antonio Metropolitan Health District (Metro Health) has provided dental services for children enrolled in local Early Head Start 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, Metro Health, Early Head Start and the University of Texas Health Science Center Dental School developed a comprehensive oral health program for Early Head Start children; 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 oral health program and serve as the dental homes for children once they complete the Early Head Start program; and

WHEREAS, under these agreements, Metro Health will provide two on-site dental exams and fluoride varnish applications for each child at PCI and CFNC campuses throughout the school-year; and

WHEREAS, in addition, Metro Health will provide direct case management for children with urgent dental needs, on-going training and technical assistance to the health coordinator, home educators, and family service workers providing case management for children requiring non-urgent dental treatment or a referral to a dental home; and

WHEREAS, approximately 422 Early Head Start participants will be served through these agreements; **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 (Metro Health) or his designee is authorized to execute agreements with Parent/Child Incorporated (PCI) in an amount up to \$11,194.00 and Center for New Communities (CFNC) in an amount up to \$12,611.00 for Metro Health to provide dental services for children from birth to three years of age and expectant mothers enrolled in the PCI & CFNC Early Head Start programs for a term beginning September 1, 2012 through January 31, 2014. Copies of the agreements are attached hereto and incorporated herein for all purposes as **Attachments I and II**.

SECTION 2. Upon approval of this ordinance, a new fund and internal order number will be created, upon which the above sums will be appropriated from the respective agencies. The proposed budgets, which are attached hereto and incorporated herein for all purposes as **Attachments III and IV**, are approved and adopted for entry in the City books.

SECTION 3. 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 4. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 6th day of September, 2012.

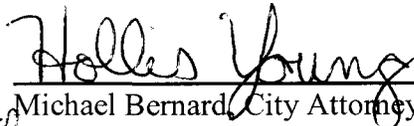

M A Y O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



for Michael Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 20

Name:	4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15A, 15B, 15C, 17, 19, 20, 21, 22						
Date:	09/06/2012						
Time:	09:35:08 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing agreements with Parent/Child Incorporated for an amount up to \$11,194.00 and Center for New Communities for an amount up to \$12,611.00 for the San Antonio Metropolitan Health District to provide dental services for children from birth to three years of age and expectant mothers enrolled in the PCI & Center for New Communities Early Head Start programs for the term September 1, 2012 through December 31, 2013. [Erik Walsh, Deputy City Manager; Dr. Thomas L. Schlenker, Director of Public Health]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor	x					
Diego Bernal	District 1		x				x
Ivy R. Taylor	District 2	x					
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4	x					
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x			x	

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

**CONTRACTUAL DENTAL SERVICES
AGREEMENT**

This AGREEMENT is entered into by and between the City of San Antonio (hereinafter referred to as "City") acting by and through the San Antonio Metropolitan Health District (hereinafter referred to as SAMHD), pursuant to Ordinance No. _____ passed and approved on September 6, 2012, and Parent/Child Incorporated, (hereinafter referred to as "PCI"), acting by and through its designated representative, Dr. Sharon Small, Chief Executive Officer, both of which may be referred to collectively as "Parties" or singularly as "Party".

I. STATEMENT OF PURPOSE

1.1. PCI, is a non-profit community agency formed to provide community day care services for residents of San Antonio and Bexar County. The Board of Directors of the corporation is composed of residents of the community, and the Chief Executive Officer is selected to administer the services and programs of PCI.

1.2 PCI provides services in connection with the Early Head Start Program.

Early Head Start is a federally-funded program whereby PCI provides day care, education, child development, nutrition and social services, health and disability assessment and parent involvement, both on a full and part-time basis. These programs are designed to serve children ages 0 to 3 years whose parents' income meets Administration for Child, Youth and Families Guidelines.

1.3 The City, through the SAMHD, will provide dental services including dental screenings for children enrolled in the various programs described above (referred to hereinafter as PCI enrollees). These screenings are required by federal guidelines for such day care and child development service programs. These assessments are necessary to ensure that the children evaluated are channeled into an appropriate health care resource to resolve any health complications found in the assessment. Families utilizing the programs and services described above do not have the financial resources to obtain such health evaluation services through the private medical community.

II. PERFORMANCE BY CITY

City agrees:

2.1 The City will provide each enrollee with an on-site limited oral health examinations performed by a dentist, which will be conducted within 90 calendar days of the initial start up of the Early Head Start program school year.

2.2 The SAMHD dental staff will provide case management services for all children identified with "urgent" dental needs (Class I cases). As needed, staff will provide additional support to program staff to ensure that all children with unmet dental needs are connected to a dental home in the community.

2.3 Through leverage of Title V Maternal Child Health funding and collaborative agreements with the UT Health Science Center Department of Developmental Dentistry, the SAMHD will facilitate care for Head Start children who are uninsured or underinsured for necessary dental

treatment. The SAMHD will provide all required documentation to the UT Health Science Center Dental School to ensure enrolled children have access to designated services.

- 2.4 To complete a Dental Examination Form attached hereto and incorporated herein for all purposes as Exhibit "A" for each participating child.
- 2.5 To provide written referral and/or correspondence to the enrollee's parent explaining findings of the dental examination. This document of the child's oral health status, along with contact information for the DEPARTMENT dental staff, will be given to the appropriate PCI staff to be forwarded to parents/care giver.
- 2.6 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.
- 2.7 To comply with any and all other conditions, covenants, provisions and/or requirements contained herein requiring performance by SAMHD.
- 2.8 SAMHD will make best efforts to provide each participating enrollee with a minimum of two (2) fluoride varnish applications during the Early Head Start 2012-2013 and 2013-2014 school years.

III. PERFORMANCE BY PCI

PCI agrees:

- 3.1 To coordinate with SAMHD to ensure children enrolled in the program receive dental services.
- 3.2 To conduct basic administrative functions to support program services and objectives including but not limited to the following patient information: name, home address, home telephone number, and parent's work number medical history, and Medicaid/CHIP number,
- 3.3. Providing monthly reports on status of follow-up of referrals and allowing regular audits of dental charts as determined to be necessary by the SAMHD to verify that follow-ups were performed.
- 3.4. To defer to the dentist for determination of the appropriate timeframe for follow-up care as indicated in the referral information.
- 3.5. To obtain required consent forms for program participation including, but not limited to, the General Consent and Disclosure and Consent for Dental Services consent for dental examination and care from the parent or legal guardian of enrollees, enabling the to administer the dental services required, and to have these forms present at the time of the exam or treatment.
- 3.6. To obtain from each enrollee's parent or legal guardian pertinent documentation of the child's medical history, including a history of all past and current illness, current medications and any allergies to food, drugs or latex prior to the time services are rendered by the SAMHD.
- 3.7. To provide Medicaid, CHIP or other third-party insurance information on 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 numbers for identification purposes.

- 3.8. To certify that all costs herein provided for reimbursement to the SAMHD are allowable costs under the grant guidelines.
- 3.9. To pay for services rendered by the City within 30 calendar days of receiving a valid and approved Request for Payment.
- 3.10 To designate a PCI staff member to schedule and coordinate on-site clinics in all Early Head Start Centers.
- 3.11 To notify SAMHD staff at least 48 hours in advance of any cancellations or changes in scheduling.
- 3.12 To provide adequate staff, as outlined by the Texas Department of Family and Protective Services (TDFPS) guidelines for adult-to-child ratio, and to provide one staff person per clinic to supervise children during delivery of care.

IV. TERM

- 4.1 This contract shall commence on September 1, 20012, and shall terminate January 31, 2014 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 agrees that it will pay up to an amount of ELEVEN THOUSAND ONE HUNDRED NINETY FOUR DOLLARS AND NO/100THS (\$11,194.00) TO City for services provided under this agreement.
- 6.2 The City will bill PCI on a monthly basis for expenses incurred.
- 6.3 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.
- 6.4 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 and 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 Agreement, 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 Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT PCI AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**
- 10.2 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 advise the CITY in writing within 24 hours of any claim or demand against the CITY or PCI known to PCI related to or arising out of PCI's activities under this AGREEMENT 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.
- 10.3 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by PCI in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. PCI shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If PCI fails to retain Counsel within such time period, City shall have the right to retain defense

counsel on its own behalf, and PCI shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

- 10.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of PCI, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for PCI or any subcontractor under worker’s compensation or other employee benefit acts.

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 A) Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the San Antonio Metropolitan Health District, which shall be clearly labeled “*Public Health Dentist*” in the Description of Operations block of the Certificate. The 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 a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent’s signature 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 Agreement until such certificate and endorsements have been received and approved by the City’s Risk Manager and the San Antonio Metropolitan Health District. No officer or employee, other than the City’s Risk Manager, shall have authority to waive this requirement.
- B) The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement 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 Agreement. In no instance will City allow modification whereby City may incur increased risk.
- C) A Contractor’s financial integrity is of interest to the City; therefore, subject to Contractor’s right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall

obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized 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 below:

TYPE	AMOUNTS
1. Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	\$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

D) Contractor agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Contractor herein, and provide a certificate of insurance and endorsement that names the Contractor and the CITY as additional insureds. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

E) As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto 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). Contractor 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. Contractor 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

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

- Name the City, 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, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide 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 notice for nonpayment of premium.

G) Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor'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 Agreement.

H) In addition to any other remedies the City may have upon Contractor'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 Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

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

J) It is agreed that Contractor'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 Agreement.

K) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

L) Contractor and any Subcontractors are 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 _____, 2012 to be effective September 1, 2012.

CITY OF SAN ANTONIO

PARENT/CHILD INCORPORATED

Thomas Schlenker, M.D., M.P.H.
Director of Health

Dr. Sharon Small
Chief Executive Officer

Date

Date

APPROVED AS TO FORM:

Michael Bernard
City Attorney

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

**CONTRACTUAL DENTAL SERVICES
AGREEMENT**

This AGREEMENT is entered into by and between the City of San Antonio (hereinafter referred to as "City") acting by and through the San Antonio Metropolitan Health District (hereinafter referred to as SAMHD), pursuant to Ordinance No. _____ passed and approved on September 6, 2012, and Center for New Communities, (hereinafter referred to as "CNC"), both of which may be referred to collectively as "Parties" or singularly as "Party".

I. STATEMENT OF PURPOSE

- 1.1. CNC, is a non-profit community agency formed to provide community day care services for residents of San Antonio and Bexar County.
- 1.2 CNC provides services in connection with the Early Head Start Program.

Early Head Start is a federally-funded program whereby CNC provides day care, education, child development, nutrition and social services, health and disability assessment and parent involvement, both on a full and part-time basis. These programs are designed to serve children ages 0 to 3 years whose parents' income meets Administration for Child, Youth and Families Guidelines.

- 1.3 The City, through the SAMHD, will provide dental services including dental screenings for children enrolled in the various programs described above (referred to hereinafter as CNC enrollees). These screenings are required by federal guidelines for such day care and child development service programs. These assessments are necessary to ensure that the children evaluated are channeled into an appropriate health care resource to resolve any health complications found in the assessment. Families utilizing the programs and services described above do not have the financial resources to obtain such health evaluation services through the private medical community.

II. PERFORMANCE BY CITY

City agrees:

- 2.1 The City will provide each enrollee with an on-site limited oral health examinations performed by a dentist, which will be conducted within 90 calendar days of the initial start up of the Early Head Start program school year.
- 2.2 The SAMHD dental staff will provide case management services for all children identified with "urgent" dental needs (Class I cases). As needed, staff will provide additional support to program staff to ensure that all children with unmet dental needs are connected to a dental home in the community.
- 2.3 Through leverage of Title V Maternal Child Health funding and collaborative agreements with the UT Health Science Center Department of Developmental Dentistry, the SAMHD will facilitate care for Head Start children who are uninsured or underinsured for necessary dental treatment. The SAMHD will provide all required documentation to the UT Health Science Center Dental School to ensure enrolled children have access to designated services.

- 2.4 To complete a Dental Examination Form attached hereto and incorporated herein for all purposes as Exhibit "A" for each participating child.
- 2.5 To provide written referral and/or correspondence to the enrollee's parent explaining findings of the dental examination. This document of the child's oral health status, along with contact information for the DEPARTMENT dental staff, will be given to the appropriate CNC staff to be forwarded to parents/care giver.
- 2.6 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.
- 2.7 To comply with any and all other conditions, covenants, provisions and/or requirements contained herein requiring performance by SAMHD.
- 2.8 SAMHD will make best efforts to provide each participating enrollee with a minimum of two (2) fluoride varnish applications during the Early Head Start 2012-2013 and 2013-2014 school years.

III. PERFORMANCE BY CNC

CNC agrees:

- 3.1 To coordinate with SAMHD to ensure children enrolled in the program receive dental services.
- 3.2 To conduct basic administrative functions to support program services and objectives including but not limited to the following patient information: name, home address, home telephone number, and parent's work number medical history, and Medicaid/CHIP number,
- 3.3. Providing monthly reports on status of follow-up of referrals and allowing regular audits of dental charts as determined to be necessary by the SAMHD to verify that follow-ups were performed.
- 3.4. To defer to the dentist for determination of the appropriate timeframe for follow-up care as indicated in the referral information.
- 3.5. To obtain required consent forms for program participation including, but not limited to, the General Consent and Disclosure and Consent for Dental Services consent for dental examination and care from the parent or legal guardian of enrollees, enabling the to administer the dental services required, and to have these forms present at the time of the exam or treatment.
- 3.6. To obtain from each enrollee's parent or legal guardian pertinent documentation of the child's medical history, including a history of all past and current illness, current medications and any allergies to food, drugs or latex prior to the time services are rendered by the SAMHD.
- 3.7. To provide Medicaid, CHIP or other third-party insurance information on 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 numbers for identification purposes.
- 3.8. To certify that all costs herein provided for reimbursement to the SAMHD are allowable costs under the grant guidelines.

- 3.9. To pay for services rendered by the City within 30 calendar days of receiving a valid and approved Request for Payment.
- 3.10. To designate a CNC staff member to schedule and coordinate on-site clinics in all Early Head Start Centers.
- 3.11. To notify SAMHD staff at least 48 hours in advance of any cancellations or changes in scheduling.
- 3.12. To provide adequate staff, as outlined by the Texas Department of Family and Protective Services (TDFPS) guidelines for adult-to-child ratio, and to provide one staff person per clinic to supervise children during delivery of care.

IV. TERM

- 4.1. This contract shall commence on September 1, 20012, and shall terminate January 31, 2014 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 CNC Early Head Start Centers or SAMHD Clinic facility as agreed upon by mutual consent of the City and CNC. 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 CNC enrollee needs to be transported to a specific location to receive a certain service, CNC shall arrange for said transportation.

VI. BILLING

- 6.1. CNC agrees that it will pay up to an amount of TWELVE THOUSAND SIX HUNDRED ONE DOLLARS AND NO/100THS (\$12,601.00) TO City for services provided under this agreement.
- 6.2. The City will bill CNC on a monthly basis for expenses incurred.
- 6.3. 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.
- 6.4. CNC shall remain liable for the payment of services rendered under this agreement until all such payments are made and received by City. CNC'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 CNC agree to comply with all federal and state laws regarding nondiscrimination in the execution of this agreement. In accordance therewith, City and CNC 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 **CNC 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 and 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 CNC'S activities under this Agreement, including any acts or omissions of CNC, any agent, officer, director, representative, employee, consultant or subcontractor of CNC, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CNC AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**
- 10.2 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. CNC shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CNC known to CNC related to or arising out of CNC's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CNC's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CNC of any of its obligations under this paragraph.
- 10.3 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by CNC in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. CNC shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If CNC fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and CNC shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

- 10.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of CNC, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CNC or any subcontractor under worker’s compensation or other employee benefit acts.

XI. RELATIONSHIP OF THE PARTIES

- 11.1 City and CNC mutually agree that CNC 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 CNC 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 CNC 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 A) Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the San Antonio Metropolitan Health District, which shall be clearly labeled “*Early Head Start Dental Services*” in the Description of Operations block of the Certificate. The 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 a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent’s signature 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 Agreement until such certificate and endorsements have been received and approved by the City’s Risk Manager and the San Antonio Metropolitan Health District. No officer or employee, other than the City’s Risk Manager, shall have authority to waive this requirement.
- B) The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement 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 Agreement. In no instance will City allow modification whereby City may incur increased risk.
- C) A Contractor’s financial integrity is of interest to the City; therefore, subject to Contractor’s right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor’s sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized 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 below:

TYPE	AMOUNTS
1. Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	\$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

D) Contractor agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Contractor herein, and provide a certificate of insurance and endorsement that names the Contractor and the CITY as additional insureds. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

E) As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto 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). Contractor 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. Contractor 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

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

- Name the City, 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, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.

- Provide 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 notice for nonpayment of premium.

G) Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor'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 Agreement.

H) In addition to any other remedies the City may have upon Contractor'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 Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

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

J) It is agreed that Contractor'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 Agreement.

K) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

L) Contractor and any Subcontractors are responsible for all damage to their own equipment and/or property.

XIV. ACCESS TO RECORDS

- 14.1 Subject to federal, state and local laws, CNC, 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 CNC 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 CNC 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 CNC 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. CNC 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. CNC 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. CNC certifies that CNC 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

CNC

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 _____, 2012 to be effective September 1, 2012.

CITY OF SAN ANTONIO

CENTER FOR NEW COMMUNITIES

Thomas Schlenker, M.D., M.P.H.
Director of Health

Title:

Date

Date

APPROVED AS TO FORM:

Michael Bernard
City Attorney

**Early Headstart PCI
Contract xxxxxxxxxxxxxxxx
Budget for Period: 09/01/2012-01/31/2014
BUDGET**

ESTIMATED REVENUES	GL	CURRENT BUDGET
Grants Revenue	4501000	11,194
TOTAL ESTIMATED REVENUES:		\$ <u>11,194</u>

APPROPRIATIONS

Cost Center xxxxxxxx
Internal Order 136000000xxx

Fees to Professional Contractors	5201040	11,044
Binding & Printing	5203060	75
Travel - Official	5207010	0
Office Supplies	5302010	75
Food	5304010	0
Chems. Meds & Drugs	5304040	0

TOTAL APPROPRIATIONS: \$ 11,194

PERSONNEL COMPLEMENT

Class No. **Title**
Cost Center xxxxxxxx
Internal Order 136000000xxx

**CURRENT ADD/REDUCE APPROVED
POSITIONS POSITIONS POSITIONS**

None

Total Personnel:

0 0 0

Attachment IV

**Early Headstart Center for New Communities
 Contract xxxxxxxxxxxxxxxx
 Budget for Period: 09/01/2012-01/31/2014
 BUDGET**

ESTIMATED REVENUES	GL	CURRENT BUDGET
Grants Revenue	4501000	12,611
TOTAL ESTIMATED REVENUES:		\$ <u>12,611</u>

APPROPRIATIONS

Cost Center xxxxxxxx
 Internal Order 136000000xxx

Fees to Professional Contractors	5201040	10,563
Binding & Printing	5203060	75
Travel - Official	5207010	0
Office Supplies	5302010	75
Food	5304010	0
Chems. Meds & Drugs	5304040	1,898

TOTAL APPROPRIATIONS: \$ 12,611

PERSONNEL COMPLEMENT

Class No. **Title**
 Cost Center xxxxxxxx
 Internal Order 136000000xxx

**CURRENT ADD/REDUCE APPROVED
 POSITIONS POSITIONS POSITIONS**

None

Total Personnel:

0 0 0