

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 \_\_\_\_\_, 2015, and Family Service Association of San Antonio, Inc., (hereinafter referred to as "FAMILY SERVICE").

**I. STATEMENT OF PURPOSE**

- 1.1 FAMILY SERVICE provides services in connection with the Early Head Start Program.
- 1.2 Early Head Start is a federally-funded program whereby FAMILY SERVICE 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.
- 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 "FAMILY SERVICE 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, through the SAMHD, will provide each participating child with an on-site limited oral health assessment 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 and referral services for all children identified with "urgent" dental needs (Class I cases), special circumstances that make dental access more difficult, and those with inadequate funding sources.
- 2.3 The SAMHD will provide oral health education and training for the FAMILY SERVICE Early Head Start Program staff including: Teachers, Center Directors, Family Service Workers, and Health Coordinators.
- 2.4 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.
- 2.5 Through leverage of Title V Child Dental Health Services funding and collaborative agreements with the UT Health Science Center Department of Developmental Dentistry, the SAMHD will facilitate care for Early 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.

- 2.6 The SAMHD will provide FAMILY SERVICE Early Head Start Center Directors and Family Service Workers with an Oral Health Training Manual, outlining all oral health performance standards, internal policies and protocols, and Oral Health Program forms.
- 2.7 To complete a Dental Evaluation Form attached hereto and incorporated herein for all purposes as Attachment I for each participating child.
- 2.8 To provide written referral and/or correspondence to the enrollee's parent explaining findings of the dental evaluation. This document of the child's oral health status, along with contact information for the SAMHD dental staff, will be given to the appropriate staff to be forwarded to parents/care giver.
- 2.9 To comply with any and all other conditions, covenants, provisions and/or requirements contained herein requiring performance by SAMHD.
- 2.10 The SAMHD will make best efforts to provide each participating enrollee with parental consent, two on-site dental evaluations and fluoride varnish applications during the school year.
- 2.12 The SAMHD will provide data entry for all dental evaluations and records related to services provided and case management for those children that need immediate care.

### **III. PERFORMANCE BY FAMILY SERVICE**

FAMILY SERVICE 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 providing 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 evaluation and care from the parent or legal guardian of enrollees, enabling the SAMHD 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 certify that all costs herein provided for reimbursement to the SAMHD are allowable costs under the grant guidelines.
- 3.8. To pay for services rendered by the City within 30 calendar days of receiving a valid and approved Request for Payment.

- 3.9 To designate a FAMILY SERVICE staff member to schedule and coordinate on-site clinics in all Early Head Start Centers.
- 3.10 To notify SAMHD staff at least 48 hours in advance of any cancellations or changes in scheduling.
- 3.11 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 November 1, 2015, and shall terminate June 30, 2016 unless extension or earlier termination shall occur pursuant to the terms of this contract. This Agreement may be renewed by mutual consent of the parties for up to two successive, one year terms. Any renewals shall be in writing, and signed by the parties. The City Manager, her designee, or the Director of SAMHD shall have authority to execute renewals on behalf of the City without further City Council action.

#### **V. LOCATION**

- 5.1 Services to be provided under this agreement will be provided at the appropriate FAMILY SERVICE Early Head Start Centers or SAMHD Clinic facility as agreed upon by mutual consent of the City and FAMILY SERVICE. 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 FAMILY SERVICE enrollee needs to be transported to a specific location to receive a certain service, FAMILY SERVICE shall arrange for said transportation.

#### **VI. BILLING**

- 6.1 FAMILY SERVICE agrees that it will pay up to an amount of ONE THOUSAND FIVE HUNDRED DOLLARS AND NO/100THS (\$1,500.00) to City for services provided under this agreement.
- 6.2 The City will bill FAMILY SERVICE on a monthly basis for expenses incurred.
- 6.3 The City will provide in-kind services in an amount up to \$300.00 for the period of this agreement.
- 6.4 FAMILY SERVICE shall remain liable for the payment of services rendered under this agreement until all such payments are made and received by City. FAMILY SERVICE'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 FAMILY SERVICE agree to comply with all federal and state laws regarding nondiscrimination in the execution of this agreement. In accordance therewith, City and FAMILY SERVICE 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 Any alterations, additions or deletions to the terms hereof shall be by amendment in writing executed by both City and FAMILY SERVICE and evidenced by passage of a subsequent City ordinance as to City's approval; provided, however, during the term of the Agreement and subject to funding availability, the Director of SAMHD shall have authority to execute an amendment to this Agreement without further action by the San Antonio City Council to 1) increase the amount of funding under this Agreement to an amount no greater \$2,000.00 during a renewal term and 2) increase the in-kind amount provided by the City to an amount no greater than \$400.00 during a renewal term.

#### 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 **FAMILY SERVICE 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 FAMILY SERVICE's activities under this Agreement, including any acts or omissions of FAMILY SERVICE, any agent, officer, director, representative, employee, consultant or subcontractor of FAMILY SERVICE, 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, it s officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT FAMILY SERVICE 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. FAMILY SERVICE shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or FAMILY SERVICE known to FAMILY SERVICE related to or arising out of FAMILY SERVICE's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at FAMILY SERVICE's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving FAMILY SERVICE 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 FAMILY SERVICE in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. FAMILY SERVICE 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 FAMILY SERVICE fails to retain Counsel within such

time period, City shall have the right to retain defense counsel on its own behalf, and FAMILY SERVICE 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 FAMILY SERVICE, 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 FAMILY SERVICE or any subcontractor under worker's compensation or other employee benefit acts.

## **XI. RELATIONSHIP OF THE PARTIES**

- 11.1 City and FAMILY SERVICE mutually agree that FAMILY SERVICE 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 FAMILY SERVICE 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 FAMILY SERVICE 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. The parties agree that the failure to secure adequate funding by FAMILY SERVICE to meet the obligations set out within this agreement shall be grounds for immediate termination of this agreement by the City.
- 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. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations *b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability f. Damage to property rented by you	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage          f. \$100,000

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, FAMILY SERVICE, 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 FAMILY SERVICE 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 FAMILY SERVICE 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 FAMILY SERVICE 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. FAMILY SERVICE 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. FAMILY SERVICE 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. FAMILY SERVICE certifies that FAMILY SERVICE 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

##### **FAMILY SERVICE**

Family Service Association of San Antonio, Inc.  
Attn: Nancy L. Hard  
702 San Pedro Avenue  
San Antonio, TX 78212



**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**

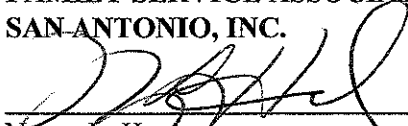
23.1 The captions contained in this agreement are for convenience of reference only, and in no way limit or enlarge the terms or conditions of this agreement.

IN WITNESS OF WHICH THIS AGREEMENT HAS BEEN EXECUTED ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015 to be effective November 1, 2015.

**CITY OF SANANTONIO**

**FAMILY SERVICE ASSOCIATION OF SAN ANTONIO, INC.**

\_\_\_\_\_  
Vincent R. Nathan, PhD, MPH  
Interim Health Director  
San Antonio Metropolitan Health District

  
\_\_\_\_\_  
Nancy L. Hard  
President/ CEO

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Martha G. Sepeda  
Acting City Attorney