

**CITY OF EL PASO, TEXAS  
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Department of Public Health – Administration

**AGENDA DATE:** CCA 03/29/11

**CONTACT PERSON/PHONE:** Michael Hill, 771-5702

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

That the City Manager be authorized to sign a Services Agreement between the City of El Paso and Staff Car, Inc. for temporary dental staffing services.

**BACKGROUND / DISCUSSION:**

Contractor and the City entered into a contract for temporary dental staffing services on 04/20/09.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

**BOARD / COMMISSION ACTION:**

N/A

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\*\*\*\*\*AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



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**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Services Agreement between the City of El Paso and Staff Care, Inc. for temporary dental staffing services in an amount not to exceed TWENTY-FIVE THOUSAND SIX HUNDRED NINETY DOLLARS AND 02/100 (\$25,690.02).

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

THE CITY OF EL PASO

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Michael Hill, Director  
Department of Public Health

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO    )       **SERVICES AGREEMENT FOR**  
  )       **STAFF CARE**

This Services Agreement (hereinafter "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of El Paso, a Texas municipal corporation located in El Paso, Texas, referred to in this Agreement as "CITY," and Staff Care, Inc., a Texas corporation authorized to do business in Texas, referred to in this Agreement as "CONTRACTOR."

**RECITALS**

**WHEREAS**, the CONTRACTOR and the CITY entered into a contract for temporary dental staffing services on April 20, 2009, which contract was automatically extended for a one-year period;

**WHEREAS**, the CONTRACTOR has provided unpaid temporary dental staffing services to the City of El Paso Department of Public Health from May 2010 through June 2010 in the amount of \$25,690 for said services; and

**WHEREAS**, the Texas Local Government Code Section 252.022(a)(2) permits the CITY to contract for these services because it is necessary to preserve or protect the public health or safety of the municipality's residents; and

**NOW THEREFORE**, in consideration of the promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties hereby agree to the following terms and conditions:

**ARTICLE 1. TERM OF AGREEMENT**

**Section 1.1 Term.** This Agreement will be in effect for a period not to exceed two (2) months, commencing May 1, 2010 and ending June 30, 2010.

**Section 1.2 Termination.** Either party may terminate this Agreement at any time, with or without cause, by providing at least thirty (30) days advance written notice of the termination date to the other party. Such termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.

## **ARTICLE 2. RESPONSIBILITIES OF CONTRACTOR**

**Section 2.1 Services.** CONTRACTOR has provided temporary dental staffing services, more specifically described in Exhibit A, Scope of Services, attached hereto and incorporated into this Agreement for all purposes. The contract is non-exclusive, as the City reserves the right to contract with other entities for these or similar services.

**Section 2.2 Insurance.** CONTRACTOR was required to provide and maintain insurance in the amounts required by the contract existing between the parties pursuant to the parties' contract dated April 20, 2009.

**Section 2.3 Use of Independent Contractors and Subcontractors.** Personnel provided to CITY are independent contractors of CONTRACTOR and are subject to CONTRACTOR'S standard screening process, as well as additional qualifications as required in this Agreement. If CONTRACTOR deems it necessary to obtain the services of a subcontractor to fulfill its requirements under this Agreement, CONTRACTOR will notify CITY in writing of its intent to use subcontractors and will obtain written approval from CITY. CONTRACTOR will ensure that any subcontractor will comply with all applicable terms of this Agreement. CONTRACTOR will provide written notification to CITY if it becomes necessary for CONTRACTOR to utilize independent contractors to fulfill its staffing obligations to CITY. Any Personnel provided to CITY by an independent contractor will be subject to the same qualifications as CONTRACTOR's independent contractors employees.

**Section 2.4 Employment and Taxes.** CONTRACTOR will follow its standard policies and procedures to verify that all Personnel meet all applicable legal requirements. CONTRACTOR, or its subcontractor if applicable, will maintain direct responsibility for its independent contractors placed under the Agreement. The CITY acknowledges that Contractor's Personnel are not Contractor's employees but are independent contractors. As the Personnel are not Contractor's employees, Contractor represents that it does not provide benefits including but not limited to health insurance, purchase worker's compensation insurance, provide unemployment insurance, or make payments or deductions from, the Locum Tenens Providers' compensation for state or federal government taxes.

### **ARTICLE 3. MUTUAL RESPONSIBILITIES**

**Section 3.1 Non-discrimination.** Neither CONTRACTOR nor CITY will discriminate on the basis of age, race, color, national origin, religion, sex, disability, being a qualified disabled veteran, being a qualified veteran of the Vietnam era, or any other category protected by law.

### **ARTICLE 4. COMPENSATION**

**Section 4.1 Invoicing.** CONTRACTOR will supply Personnel under this Agreement in the amount listed in Exhibit B, Compensation. CONTRACTOR has submitted or will submit invoices to CITY for the services rendered to the CITY. Invoices will be submitted to the following address:

City of El Paso Department of Public Health  
ATTN: Administrative Services Manager  
5115 El Paso  
El Paso, Texas 79905

**Section 4.2 Payment.** The Contractor shall be paid for the services under this Agreement a total amount not to exceed TWENTY-FIVE THOUSAND SIX HUNDRED NINETY AND 02/100 DOLLARS (\$25,690.02) as set forth in the fee schedule attached hereto as Attachment B.

All amounts due to CONTRACTOR are due and payable within thirty (30) days from date of the full execution of this Agreement. CITY will send all payments to the address set forth on the CONTRACTOR'S invoice.

All payments by the CITY under this Agreement are payable only out of current City of El Paso revenues. In the event that funds relating to this Agreement do not become available, such as by City Council not appropriating the funds, the CITY shall have no obligation to pay or perform any services related herein to CONTRACTOR for the City's fiscal year during which time such funding is not available or appropriated. Should CITY experience a funding unavailability, either party may choose to terminate the Agreement subject to Section 1:2 above.

**Section 4.3 Late Payment.** Any payment not paid by CITY to CONTRACTOR within thirty (30) days from the date of the full execution of this Agreement will incur a late payment fee equal to five percent of the amount past due and will accrue interest in an amount equal to the rate computed pursuant to the provisions of Texas Government Code Section 2251.025 (Payment of Goods and Services) which governs the City of El Paso.

## ARTICLE 5. GENERAL TERMS

**Section 5.1 Independent Contractors.** CONTRACTOR and CITY are independent legal entities. Nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither CONTRACTOR nor CITY nor any of their

respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement.

**Section 5.2 Assignment.** Neither party may assign this Agreement without the prior written consent of the other party, and such consent will not be unreasonably withheld. No such consent will be required for assignment to an entity owned by or under common control with assignor or in connection with any acquisition of all of the assets or capital stock of a party; provided however, the assigning party will provide notice of such transaction to the other party and remain fully responsible for compliance with all of the terms of this Agreement.

**Section 5.3 Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY: City of El Paso  
Attn: City Manager  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

COPY TO: City of El Paso  
Department of Public Health  
Attention: Director  
5115 El Paso Drive  
El Paso, TX 79905

CONTRACTOR: Staff Care  
ATTN: Regional Vice President  
5001 Statesman Drive  
Irving, Texas 75063

**Section 5.4 Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation

of this Agreement.

**Section 5.5 Entire Contract; Counterparts.** This Agreement constitutes the entire contract between CITY and CONTRACTOR regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document. No amendments to this Agreement will be effective unless made in writing and signed by duly authorized representatives of both parties.

**Section 5.6 Compliance with Laws.** CONTRACTOR agrees that all services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, CONTRACTOR reserves the right to notify CITY in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.

**Section 5.7 Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.

**Section 5.8 Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its principles of conflict of laws.

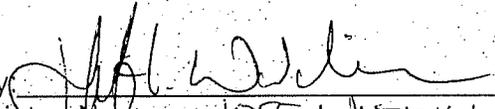
(signatures follow on next page)

IN WITNESS WHEREOF, the parties have hereunto set their hands this \_\_\_\_\_  
day of \_\_\_\_\_, 2011.

CITY OF EL PASO

\_\_\_\_\_  
Joyce A. Wilson  
City Manager

STAFF CARE, INC.

By:   
Printed Name: JEFF WADDILL  
Title: DIVISIONAL VICE PRESIDENT

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Michael Hill, Director  
Department of Public Health

**EXHIBIT A**  
**Scope of Work**

Services/Items Included by Staff Care, Inc.

1. Use its best efforts to identify Locum Tenens Providers acceptable to the City;
2. Screen and obtain references for all Locum Tenens Providers including verification of licensure;
3. Arrange a complete travel and accommodation itinerary in conjunction with the City;
4. Arrange malpractice insurance coverage through Staff Care's insurance carrier for Locum Tenens Providers;
5. Pay Providers on behalf of the City for services rendered by Providers and at rates agreed to by Client and Provider facilitated by Staff Care.

**EXHIBIT B**  
**Contractor Rates/Compensation**

The Contractor is expecting the amount of \$25,690.02 from the City for the period of May, 2010 through June, 2010. The Contractor has issued a credit to the City for said period in the amount of \$24,320 and is not seeking the amount of said credit from the City.