

AN ORDINANCE 2008-04-10-0298

APPROVING THE SUBMISSION OF A GRANT APPLICATION AND AUTHORIZING ACCEPTANCE OF FUNDS IN AN AMOUNT UP TO \$339,844.00 FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES FOR THE TOBACCO PREVENTION AND CONTROL COALITION PROGRAM OF THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT FOR THE PERIOD FEBRUARY 15, 2008 THROUGH AUGUST 31, 2008; AND AUTHORIZING THE EXECUTION OF PROFESSIONAL SERVICE CONTRACTS WITH THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER SAN ANTONIO, AMERICAN CANCER SOCIETY, AMERICAN LUNG ASSOCIATION, SOUTH CENTRAL AREA HEALTH EDUCATION CENTER, TEXAS DIABETES INSTITUTE, SAN ANTONIO COUNCIL ON ALCOHOL AND DRUG ABUSE, AND FLANAGAN CONSULTATION FOR THE PROVISION OF GRANT REQUIRED SERVICES.

* * * * *

WHEREAS, the Texas Department of State Health Services (TDSHS) is offering a grant contract in an amount up to \$339,844.00, in new funding for the initiation of the Tobacco Prevention and Control Coalition Program for an initial period beginning February 15, 2008 and ending August 31, 2008; and

WHEREAS, this beginning phase of the grant will be used to assess and plan, followed by another round of funding for the period September 1, 2008 through August 31, 2009, for intervention and evaluation; and

WHEREAS, in 1998, Texas and other states reached court settlements with the tobacco industry over the costs incurred to treat illnesses caused by tobacco use; and

WHEREAS, as a result, the Texas Tobacco Prevention Initiative was established; and

WHEREAS, the Texas 80th Legislature required the TDSHS to create a statewide comprehensive tobacco prevention community grant program (TPCC Project) allowing health departments and school districts to apply for funds; and

WHEREAS, the San Antonio Metropolitan Health District (SAMHD) successfully applied for these funds through a competitive Request for Proposals; and

WHEREAS, funds must be used to conduct an in-depth needs assessment regarding community tobacco use and tobacco-related health consequences among young people and adults; build capacity to address these needs; and plan, implement and evaluate evidence-based tobacco prevention and control strategies; and

WHEREAS, the goal of comprehensive tobacco prevention and control programs is to reduce disease, disability, and death related to tobacco use by preventing the initiation of tobacco use, promoting quitting, eliminating nonsmokers' exposure to secondhand smoke, and identifying and addressing the disparities related to tobacco use and its effects among different population groups; and

WHEREAS, the TDSHS intends to fund the SAMHD to organize and manage a community-based TPCC Project to conduct culturally appropriate tobacco prevention and control strategies through a comprehensive program; and

WHEREAS, to meet the assessment nature of the first grant phase, professional service contracts will be entered into with the University of Texas Health Science Center San Antonio the American Cancer Society, American Lung Association, South Central Area Health Education Center, the Texas Diabetes Institute, the San Antonio Council on Alcohol and Drug Abuse, and Flanagan Consultation; **NOW THEREFORE:**

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

SECTION 1. The submission of a grant application to the Texas Department of State Health Services (TDSHS) for the Tobacco Prevention and Control Coalition Program is approved. The City Manager or her designee, or the Director of the San Antonio Metropolitan Health District or his designee, is authorized to accept funds in an amount up to \$339,844.00 from the TDSHS for the Tobacco Prevention and Control Coalition Program of the San Antonio Metropolitan Health District for the period February 15, 2008 through August 31, 2008. A copy of the grant application is on file with the San Antonio Metropolitan Health District. The City Manager or her designee, or the Director of the San Antonio Metropolitan Health District or his designee, is further authorized to execute any and all necessary documents to effectuate acceptance of this grant including the grant contract which is attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 2. The City Manager or her designee or the Director of the San Antonio Metropolitan Health District or his designee, is further authorized to execute professional service agreements in accordance with Ordinance No. 93760 and Administrative Directive 1.6 with the University of Texas Health Science Center San Antonio, American Cancer Society, American Lung Association, South Central Area Health Education Center, Texas Diabetes Institute, San Antonio Council on Alcohol and Drug Abuse, and Flanagan Consultation in order to address the grant's objectives as identified in Attachment II and which is attached hereto and incorporated herein for all purposes.

SECTION 3. Fund 2601636020 entitled "Tobacco Prevention & Control Coalition" and Internal Order 136000000387, are hereby designated for use in the accounting for the fiscal transaction in the acceptance of this grant.

SECTION 4. The budget which is attached hereto and incorporated herein for all purposes as Attachment III is approved and adopted for entry in the City books.

SECTION 5. A personnel complement of four (4) employees which is attached hereto and incorporated herein for all purposes as Attachment III is approved.

SECTION 6. 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 7. This ordinance shall be effective on and after April 20, 2008.

PASSED AND APPROVED this 10th day of April, 2008.

Mary Alice Cisneros

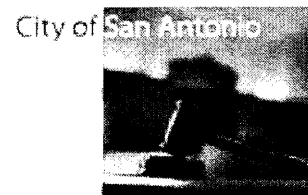
for M A Y O R
PHIL HARDBERGER

ATTEST: *Leticia M. Vaca*
City Clerk

APPROVED AS TO FORM: *Hollis Young*
for City Attorney



Request for
COUNCIL
ACTION



Agenda Voting Results - 19

Name:	7, 8, 9, 10, 11, 13, 14, 17, 18, 19, 20, 21, 22, 24, 25						
Date:	04/10/2008						
Time:	10:04:30 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving the submission of a grant application and authorizing acceptance of funds in an amount up to \$339,844.00 from the Texas Department of State Health Services for the Tobacco Prevention and Control Coalition Program of the San Antonio Metropolitan Health District for the period February 1, 2008 through August 31, 2008; and authorizing the execution of professional service contracts with the University of Texas Health Science Center San Antonio, American Cancer Society, American Lung Association, South Central Area Health Education Center, Texas Diabetes Institute, San Antonio Council on Alcohol and Drug Abuse, and Flanagan Consultation for the provision of grant required services. [Frances A. Gonzalez, Assistant City Manager; Dr. Fernando A. Guerra, Director, Health]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5	x					
Delicia Herrera	District 6		x			x	
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				x
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				



CMS or Ordinance Number: CN0040002595

TSLGRS File Code:1025-08-A

Document Title:

CONT - TDSHS 2008-025614 Tobacco Coalition 2/15/08-8/31/08

Commencement Date:

2/15/2008

Expiration Date:

8/31/2008

DEPARTMENT OF STATE HEALTH SERVICES



This contract, number 2008-025614 (Contract), is entered into by and between the Department of State Health Services (DSHS or the Department), an agency of the State of Texas, and SAN ANTONIO METROPOLITAN HEALTH DISTRICT (Contractor), a Government Entity, (collectively, the Parties).

1. **Purpose of the Contract.** DSHS agrees to purchase, and Contractor agrees to provide, services or goods to the eligible populations as described in the Program Attachments.
2. **Total Amount of the Contract and Payment Method(s).** The total amount of this Contract is \$339,844.00, and the payment method(s) shall be as specified in the Program Attachments.
3. **Funding Obligation.** This Contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or health and human services agencies, amendment to the Appropriations Act, health and human services agency consolidation, or any other disruptions of current appropriated funding for this Contract, DSHS may restrict, reduce, or terminate funding under this Contract.
4. **Term of the Contract.** This Contract begins on 02/15/2008 and ends on 08/31/2008. DSHS has the option, in its sole discretion, to renew the Contract as provided in each Program Attachment. DSHS is not responsible for payment under this Contract before both parties have signed the Contract or before the start date of the Contract, whichever is later.
5. **Authority.** DSHS enters into this Contract under the authority of Health and Safety Code, Chapter 1001.
6. **Documents Forming Contract.** The Contract consists of the following:
 - a. Core Contract (this document)
 - b. Program Attachments:

2008-025614-001 Tobacco Community Coalition
 - c. General Provisions (Sub-recipient)
 - d. Solicitation Document(s), and
 - e. Contractor's response(s) to the Solicitation Document(s).
 - f. Exhibits

Any changes made to the Contract, whether by edit or attachment, do not form part of the Contract unless expressly agreed to in writing by DSHS and Contractor and incorporated herein.

7. **Conflicting Terms.** In the event of conflicting terms among the documents forming this Contract, the order of control is first the Core Contract, then the Program Attachment(s), then the General Provisions, then the Solicitation Document, if any, and then Contractor's response to the Solicitation Document, if any.

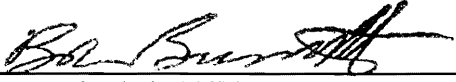
8. **Payee.** The parties agree that the following payee is entitled to receive payment for services rendered by Contractor or goods under this Contract:

Name: CITY OF SAN ANTONIO
Address: P O BOX 839966 DIRECT DEPOSIT
SAN ANTONIO, TX 78283
Vendor Identification Number: 17460020708024

9. **Entire Agreement.** The Parties acknowledge that this Contract is the entire agreement of the Parties and that there are no agreements or understandings, written or oral, between them with respect to the subject matter of this Contract, other than as set forth in this Contract.

By signing below, the Parties acknowledge that they have read the Contract and agree to its terms, and that the persons whose signatures appear below have the requisite authority to execute this Contract on behalf of the named party

DEPARTMENT OF STATE
HEALTH SERVICES

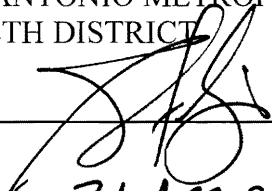
By: 
Signature of Authorized Official
05-05-08
Date

Bob Burnette, C.P.M., CTPM
Director
Client Services Contracting Unit
1100 WEST 49TH STREET
AUSTIN, TEXAS 78756

(512) 458-7470

Bob.Burnette@dshs.state.tx.us

SAN ANTONIO METROPOLITAN
HEALTH DISTRICT

By: 
Signature
21 APR 2008
Date

f Fernando A. Guerra, MD MPH, Director of Health
Printed Name and Title

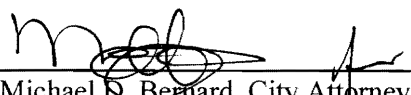
332 West Commerce, Suite 307
Address

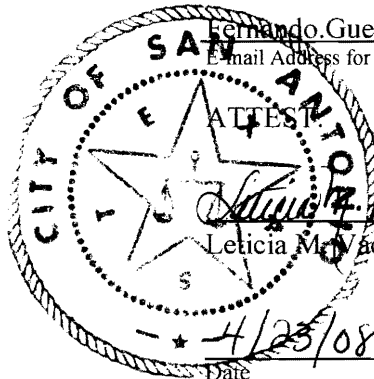
San Antonio, Texas 78205
City, State, Zip

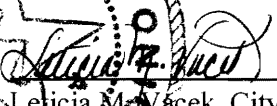
210-207-8730
Telephone Number

Fernando.Guerra@sanantonio.gov
E-mail Address for Official Correspondence

APPROVED AS TO FORM:


Michael D. Bernard, City Attorney
City of San Antonio




Leticia Mrazek, City Clerk
4/23/08
Date

CONTRACTOR: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

DSHS PROGRAM: Tobacco Community Coalition (SA/TCC)

TERM: 02/15/2008 THRU: 08/31/2008

SECTION I. STATEMENT OF WORK:

PURPOSE:

The Tobacco Program Community coalitions prevent and reduce the illegal and harmful use of tobacco products in communities across Texas (with a particular emphasis on reduction in youth use) by promoting and conducting community-based and environmental universal prevention strategies that have an impact on the social, cultural, political and economic processes of the community. Coalitions broaden support for projects and increase credibility, provide volunteers for activities, and maximize the power of participating groups through joint action. Coalitions are especially important when engaging in broad community actions to change public policy. The Centers for Disease Control and Prevention (CDC) document, *Best Practices for Comprehensive Tobacco Control Program*, August 1999, specified that the community coalition programs include activities that increase the number of organizations and individuals involved in planning education and training programs, use State and local counter-marketing campaigns to place pro-health messages on tobacco control, promote the adoption of public and private tobacco control policies, and monitor program implementation. Contractor shall provide a 5% match (in kind or monetary) for programmatic activities such as local media, administration or operating costs. Contractor shall serve as a member of, and manage, the Tobacco Prevention and Control Coalition and shall ensure that the Coalition implements the activities funded under this Program Attachment.

The Contractor shall ensure that the Coalition conducts activities in the Program Service Area that meet the following goals:

GOAL(S):

Prevent tobacco use among young people

Promote compliance and support adequate enforcement of federal, state and local tobacco laws

Increase cessation among young people and adults

Eliminate exposure to secondhand smoke

Reduce tobacco use among populations with the highest burden of tobacco-related health disparities

Develop and maintain statewide capacity for comprehensive tobacco prevention and control

SERVICE REQUIREMENTS:

Contractor shall ensure that the Coalition conducts the following activities:

- Conduct an annual needs assessment that determines the tobacco use and related health consequences and tobacco-related health disparities within the targeted community in the Program Service Area stated below.
- Conduct a community resource assessment that identifies existing strengths and assets of community tobacco prevention and control and substance abuse prevention programs and other services in the targeted community in the Program Service Area stated below.
- Conduct tobacco prevention mobilization strategies to include key tasks that may include, but are not limited to, convening meetings of community leaders and stakeholders; building coalitions by entering into written community agreements concerning cooperative efforts for preventing and reducing tobacco use; training community stakeholders, coalitions, and service providers; organizing agency networks; leveraging resources; and engaging stakeholders to help sustain the activities.
- Include representatives from community social and ethnic
- Involve and assist community groups or coalitions that are representative of the ethnic, geographic and socio-economic diversity in the target community.
- Ensure that multiple sectors of the community are involved to enhance community efforts to promote and deliver comprehensive effective tobacco prevention and cessation services.
- Involve youth ages 9- 24 for planning and implementation of Coalition comprehensive tobacco prevention and control activities.
- Involve local institutions of higher learning, junior colleges, and trade schools for planning and implementation of Coalition comprehensive tobacco prevention and control activities.
- Develop and implement a culturally appropriate strategic plan that outlines and details a plan for the comprehensive community-based tobacco prevention and control activities, including prevention, enforcement, cessation, tobacco-related health disparities and secondhand smoke strategies.
- Develop measurable project goals and objectives for the strategic plan that are directly related to the target community in the Program Service Area stated below, that impact those goals and are designed to prevent and reduce the prevalence and incidence of the use of tobacco products and related consequences.
- Conduct effective tobacco cessation activities as part of a comprehensive approach to reduce community tobacco use to include the following strategies: (Cessation services can be provided by Contractor or through a local Area Health Education Center (AHEC) or similar community-based organization.)
 - Consult with health care professionals in local wellness centers, Women, Infant and Children (WIC) clinics and/or prenatal clinics, health care organizations, Medicaid/Medicare providers, and health insurers to promote cessation services provided in accordance with the Health and Human Services (HHS) Clinical Practice Guidelines on Treating Tobacco Use and Dependence (June 2000)
 - Consult with health care professionals concerning the cessation clinical toolkit, “Yes, You Can,” supplied by DSHS.
 - Consult with community worksites to bring awareness, availability and access to cessation resources, including the American Cancer Society’s Quitline and pharmacotherapy.
 - Educate youth and adults on benefits of quitting tobacco and resources for cessation assistance.
 - Mobilize youth-serving organizations, including non-school based, to promote tobacco cessation activities.

- Conduct one activity to educate the public on the benefits of remaining tobacco-free during Texas Tobacco-Free Kids Day (Kick Butts Day).
- Conduct local media activities (i.e. radio, television, cable, billboards, newspaper, promotional items or merchandise) that raise awareness of the Coalition and reinforce the DSHS statewide media campaign messages. (Contractor shall not conduct individual media campaigns).

TRAINING:

Contractor shall ensure that Coalition staff and members of the Coalition participate in training and technical assistance provided by the state. Contractor shall make travel arrangements for, and send, Coalition staff and/or Coalition members, and youth participants and sponsors (a minimum of 5 adults and 14 youths) to the annual Tobacco Conference at The Woodlands in July, 2008. Contractor shall pay for, or obtain scholarships for, the participants' travel expenses.

Contractor shall ensure that the Coalition evaluator participate in the quarterly evaluation team training provided by the state. Contractor shall make travel arrangements for, and send, the evaluator to the trainings in Austin.

OTHER REQUIREMENTS:

CONTRACTOR shall comply with the following:

- Education Code, §38.006;
- Government Code, §403.105;
- Health & Safety Code, §12.011, 161.081-161.0901, 161.251-161.257,161.301-302; and
- Penal Code, §§48.01-48.015

SECTION II. PERFORMANCE MEASURES

The following Performance Measures will be used to assess in part, the Contractor's effectiveness in conducting the activities described in Program Attachment. The Contractor shall submit all reports monthly on performance measures in the Behavioral Health Integrated Provider System (BHIPS). For each month's performance, the Contractor must submit the reports in BHIPS by the 20th day of the following month:

KEY PERFORMANCE MEASURE(S):

	<u>Sep-Nov</u>	<u>Dec-Feb</u>	<u>Mar- May</u>	<u>Jun-Aug</u>	<u>Annual Goal</u>
Number of media awareness activities	0	5	30	150	185
Youth involved in alternative activities	0	0	75	75	150
Adults involved in alternative activities	0	0	100	100	200
Number of Work Site Cessation Services Consultations	0	0	25	25	50
Proposed net increase in written community	0	10	20	20	50

agreements					
Number of cessation consultations with Health Care Providers	0	0	150	150	300
Number of Medicaid Cessation Services Consultations with Health Care Providers	0	0	45	45	90

The Contractor shall submit to DSHS for DSHS approval the needs and resources assessment report by June 15, 2008 and the strategic plan and project goals and objectives by August 15, 2008.

SECTION III. PROGRAM SERVICE AREA

Contractor shall conduct tobacco prevention and control program activities in the following identified and approved target community:

Bexar

SECTION IV. ELIGIBLE POPULATIONS:

Male
Female

SECTION V. SOLICITATION DOCUMENT:

Department of State Health Services Tobacco Prevention and Control Coalition Program issued September 26, 2007. RFP #SA-TCC-240.1

SECTION VI. RENEWALS:

The Coalition is funded through 80th Texas Legislature appropriations for the current biennium which began September 1, 2007 and ends August 31, 2009. Contract renewals will be for one 12-month budget period (September 1, 2008 to August 31, 2009).

SECTION VII. PAYMENT METHOD:

Cost Reimbursement

SECTION VIII. BILLING INSTRUCTIONS:

Contractor shall submit all bills and reports to the Department through BHIPS at least monthly.

Contractor shall submit all reports, documentation, and other information required to be furnished by Contractor to DSHS at the following address:

Cheryl Purnell, Lead Contract Manager
Department of State Health Services
Mental Health and Substance Abuse Contracts Management Unit (MC2058)
909 West 45th Street, Bldg. 4
Austin, TX 78751

P.O. Box 12668
Austin, TX 78711
Email: cheryl.purnell@dshs.state.tx.us
Phone: (512) 206-5959
Fax: (512) 206-5782

SECTION IX. PROGRAM STRATEGIES

The following strategies are approved and must be maintained through this Contract:

<u>Program</u>	<u>Percentage of Funds</u>
Tobacco Com & Local Coalitions	100.00%

SECTION X.FUNDING:

Funding Source: State

Program Amount: \$339,844.00

Match Required: \$16,992.00

Program Income: \$0.00

Total: \$356,836.00

SECTION XI. SPECIAL PROVISIONS:

Not Applicable

2008-025614-001

Categorical Budget:

PERSONNEL	\$102,900.00
FRINGE BENEFITS	\$42,981.00
TRAVEL	\$11,296.00
EQUIPMENT	\$9,473.00
SUPPLIES	\$9,679.00
CONTRACTUAL	\$105,200.00
OTHER	\$35,470.00
TOTAL DIRECT CHARGES	\$316,999.00
INDIRECT CHARGES	\$22,845.00
TOTAL	\$339,844.00
DSHS SHARE	\$339,844.00
CONTRACTOR SHARE	\$16,992.00
OTHER MATCH	\$16,992.00

Total reimbursements will not exceed \$339,844.00

Financial status reports are due: 03/20/2008, 04/21/2008, 05/20/2008, 06/20/2008, 07/21/2008, 08/20/2008, 09/22/2008

Equipment List Attached.

Equipment List

Equipment Total: \$ 9,473.00

Item #	Equipment Description	Units	Unit Cost	Total
1	Computer Workstation - Dell 830 Laptop	4	\$2,031.00	\$8,124.00
2	Projector	1	\$1,349.00	\$1,349.00



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

CERTIFICATION REGARDING LOBBYING

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE

AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or an employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Fernando A. Guerra, MD, MPH
Director of Health

Print Name of Authorized Individual

2008-025614

Application or Contract Number

SAN ANTONIO METROPOLITAN
HEALTH DISTRICT

Organization Name

Date

24 APR 2008

CONTRACTUAL SERVICES

Tobacco Prevention and Control Coalition Program

Agency/Organization	Amount	Description of Services
University of Texas Health Science Center at San Antonio (UTHSCSA) – Institute for Health Promotion Research	\$24,000	Community assessment and evaluation services will include direction of the Community Evaluation Workgroup, data analysis and reporting, a TDSHS evaluation team representative, and travel to state evaluation team meetings. Spanish media campaign planning services will include testing of existing DSHS media products for use in San Antonio, and development of a media campaign plan.
American Cancer Society	\$24,000	The American Cancer Society will train grant personnel and coalition members to deliver ACS programs. ACS staff will participate in the community coalition, expand its tobacco cessation services to further serve the target populations, and promote cessation services to area healthcare providers. ACS services include- Quitline: ACS can assist in the promotion of the state Quitline. Freshstart: a structured smoking cessation program that consists of four 1-hour sessions held during a two-week period. Nicotine replacement therapy: ACS can help provide low-cost access to nicotine replacement therapy medications. Making Yours a Freshstart Family: a comprehensive program to assist healthcare providers counsel pregnant women and mothers to stop smoking.
American Lung Association	\$15,000	The American Lung Association will train grant personnel and coalition members to deliver ACS programs. ALA staff will participate in the community coalition, and expand its tobacco cessation services to further serve the target populations. ALA services include- Freedom From Smoking: ALA's premier smoking cessation program offered online. This program helps smokers in a supportive group setting. Not On Tobacco (N-O-T): a ten-week gender-specific, smoking cessation program specifically

		for teenagers, age 14-19, who are regular smokers and who want to quit smoking using a group program. The primary goals of the program are to help teens quit smoking or to reduce the number of cigarettes used by those who cannot quit.
South Central Area Health Education Center	\$15,000	SC-AHEC members and local professional students will assist the grant personnel and coalition members in the delivery and dissemination of Phase I educational activities. They will be involved in delivery of the Clinical Toolkits to healthcare providers, promote the availability of community cessation resources, recruit community participants for activities, participate in the community coalition, and assist in the community assessment.
Texas Diabetes Institute – University Health System	\$15,000	The Texas Diabetes Institute provides adult smoking cessation services. TDI will promote and expand its smoking cessation services to further serve the target populations. TDI staff will participate in the community coalition and assist in delivery of Clinical Toolkits to healthcare providers.
San Antonio Council on Alcohol and Drug Abuse/ Prevention Resource Center	\$5,000	SACADA provides an array of services designed for the diverse community of San Antonio, which includes state-of-the-art programs, education, training, employee assistance, a state-funded substance abuse Prevention Resource Center, and 24-Hour Access to help. Educational materials will be purchased from SACADA/PRC and its staff will train grant personnel and coalition members to use the materials and programs. SACADA/PRC will also help identify and recruit youth populations in need of the services.
Flanagan Consultation	\$7,200	Flanagan Consultation provides professional facilitators who will lead coalition meetings and strategic planning sessions to maximize the outcomes of the meetings and allow grant personnel to participate in the sessions rather than moderate.
TOTAL	\$105,200	

TDSHS Contract No. 2008-025614-001
 Fund 2601636020
 Functional Area 3600300000030010
 Proposed Budget for Period: 2/01/2008 to 8/31/2008

<u>ESTIMATED REVENUES</u>	<u>SAP GL</u> <u>No.</u>	<u>CURRENT</u> <u>BUDGET</u>
TDSHS Contract 2008-025614-001	4501100	\$ 339,844
Total Estimated Revenues		<u>\$ 339,844</u>

APPROPRIATIONS

Tobacco Prevention & Control Program
 Period: 2/01/2008 - 8/31/2008 (7 months)
 Cost Center 3609020001
 Internal Order 136000000387

Regular Salaries & Wages	5101010	102,900
Language Skill Pay	5101050	1,400
Social Security	5103005	7,872
Life Insurance	5103010	226
Personal Leave Buy Back Pay	5103035	0
Transportation Allowance	5103056	1,260
Education	5103065	3,695
Group Health Insurance	5104030	19,320
TMRS	5105010	12,904
Fees to Professional Contractors	5201040	105,200
Advertising and Publication	5203040	12,000
Binding, Printing, and Reproduction	5203060	5,000
Mail and Parcel Post Service	5205010	1,400
Transportation Fees	5203090	1,358
Travel - Official	5207010	9,938
Office Supplies	5302010	4,200
Computer Software	5304075	0
Other Commodities	5304080	3,940
Communications and Telephones	5403010	4,380
Cellphone Service	5403040	1,575
Furniture and Fixtures	5501065	5,920
Machinery and Equipment	5709060	1,500
Software Licensing	5404520	1,086
Workers' Disability Comp.	5405020	0
Indirect Cost	5406530	22,845
Computer Equipment	5501000	9,925
Total 36-xx-xx		<u>\$ 339,844</u>

PERSONNEL COMPLEMENT:

<u>Class No.</u>	<u>Title</u>	<u>Current</u> <u>Positions</u>	<u>Add/Reduce</u> <u>Positions</u>	<u>Approved</u> <u>Positions</u>
Activity 36-09-02				
Cost Center 3609020001				
Internal Order 136000000387				
0206	Health Program Manager (1.0 FTE)	0	1	1
0999	Sr. Management Analyst (1.0 FTE)	0	1	1
0041	Administrative Assistant II (1.0 FTE)	0	1	1
0282	Health Program Specialist (1.0 FTE)	0	1	1
Total 36-xx-xx		0	4	4



CMS or Ordinance Number: OR00000200804100298

TSLGRS File Code: 1000-05

Document Title:

ORD - TDSHS 2008-025614 Tobacco Coalition 2/15/08-8/31/08

Ordinance Date:
4/10/2008



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2/15/2008

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8/31/2008

**PROFESSIONAL SERVICES AGREEMENT
FOR THE SAN ANTONIO TOBACCO PREVENTION AND CONTROL COALITION
WITH SOUTH CENTRAL AREA HEALTH EDUCATION CENTER, INC.**

STATE OF TEXAS § CITY OF SAN ANTONIO
 §
COUNTY OF BEXAR § PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City"), on behalf of the San Antonio Metropolitan Health District ("SAMHD"); acting by and through its City Manager, pursuant to Ordinance No. 2008-04-10-0298 passed and approved on April 10, 2008, and the South Central Area Health Education Center, Inc. by and through its Executive Director, Paula Winkler (hereafter referred to as "AHEC"), both of which may be referred to herein collectively as the "Parties".

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"AHEC" is defined in the preamble of this Agreement and includes its successors.

"Director" shall mean the director of City's San Antonio Metropolitan Health District.

"SA-TPCC" shall be defined as the San Antonio Tobacco Prevention and Control Coalition.

"SA-TPCC staff" shall be defined as those persons hired by SAMHD for the purpose of day-to-day program oversight with funding from the Steps to A Healthier US Cooperative Agreement with the Centers for Disease Control and the US Department of Health and Human Services.

"CEW" shall be defined as the Community Evaluation Workgroup, the team of coalition members and sub-contractors that collect, organize and report data related to the work of the program and coalition.

"DSHS" shall be defined as the Texas Department of State Health Services, the agency that oversees the statewide grant, tobacco prevention and control programming, and evaluation efforts.

"Target Area," shall be defined as Bexar County, or smaller areas to be determined by the SA-TPCC in the future.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on February 15, 2008 and terminate on August 31, 2008.

2.2 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

2.3 City will have the option to renew and extend the term of this Agreement once for a term of one year, subject to acceptance by AHEC. The renewal or extension will be evidenced by passage of a subsequent City ordinance.

2.4 AHEC further agrees and understands that the City expects to pay all obligations of this Agreement from cooperative agreement funding. Accordingly, if cooperative agreement funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor AHEC will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

III. SCOPE OF SERVICES

3.1 AHEC agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV Compensation.

3.2 A All work performed by AHEC hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by AHEC, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should AHEC's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate, subject to Sec. 7.4.

3.3 AHEC shall select specific individuals as primary and secondary representatives to the SA-TPCC. Both representatives may participate in the coalition concurrently, but at least one representative will be present at all coalition meetings and relevant planning sessions. This participation is required for coordination of SA-TPCC activities including but not limited to community assessment, strategic planning, outreach, evaluation planning, and other events. AHEC will supply contact information to SA-TPCC and SAMHD staff regarding both representatives, and both representatives will be tasked by AHEC to ensure full representation and participation of AHEC. In the event that there is a change in the individuals assigned by AHEC as representative(s) to the SA-TPCC, AHEC will notify SA-TPCC and SAMHD staff within 5 business days of the time such change has taken place.

3.4 AHEC shall comply with the guidelines regarding the use of the SAMHD and City names and logos, and will also comply with brand and identity guidelines determined for the SA-TPCC, once developed.

3.5 AHEC will submit detailed monthly activity reports to the SA-TPCC CEW and SAMHD for the purposes of program evaluation and reporting. AHEC will supply the reports in the format requested by the SA-TPCC to the CEW by the 5th day of each month to report performance for the preceding month. In addition, AHEC will provide any other progress reports or summaries requested by the SA-TPCC as needed.

3.5 AHEC representative(s) will attend and participate in any DSHS technical assistance training sessions or statewide coalition meetings as directed by DSHS. Costs to attend these meetings will be identified in the budget in Attachment II which is attached hereto and incorporated herein for all purposes, and compensated according to the terms of this Agreement.

3.6 In addition to the above mentioned items from Section III, AHEC shall provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the City at all times affixed hereto and incorporated herein for all purposes as Attachment I.

IV. COMPENSATION TO AHEC

4.1 In consideration of AHEC's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay AHEC an amount not to exceed fifteen thousand dollars (\$15,000.00) as total compensation, which is budgeted for such payment, as set forth and incorporated herein for all purposes in the budget which is attached as Attachment II.

4.2 No additional fees or expenses of AHEC shall be charged by AHEC nor be payable by City. The parties hereby agree that all compensable expenses of AHEC have been provided for in the total payment to AHEC as specified in section 4.1 above. Total payments to AHEC cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to AHEC following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than AHEC, for the payment of any monies or the provision of any goods or services.

4.4 AHEC agrees to submit statements showing monthly itemized costs and any documented in-kind expenses to the City associated with this Agreement. Reimbursement of eligible expenses, as determined by the City, will be made monthly according to standard procedures followed by City, as requested upon receipt of billing from AHEC. Invoices will be due 30 days after the end of the monthly report period. AHEC will submit to the City a monthly billing invoice to request payment of expenses incurred on or before the 15th day of each month.

4.5 An invoice documenting final expenses associated with the Agreement will be submitted to the City by no later than September 15, 2008. Additional documentation requirements of costs and documented in-kind expenses associated with this Agreement may be

amended by SAMHD staff as needed. All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by AHEC pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by AHEC.

5.2 AHEC understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 AHEC and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 AHEC shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, AHEC shall retain the records until the resolution of such litigation or other such questions. AHEC acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require AHEC to return said documents to City prior to or at the conclusion of said retention.

6.3 AHEC shall notify City, immediately, in the event AHEC receives any requests for information from a third party, which pertain to the documentation and records referenced herein. AHEC understands and agrees that City will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days written notice, which notice shall be provided in accordance with Article VIII Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.4 Defaults With Opportunity for Cure. Should AHEC default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. AHEC shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If AHEC fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new contractor against AHEC's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Bankruptcy or selling substantially all of company's assets

7.4.2 Failing to perform or failing to comply with any covenant herein required

7.4.3 Performing unsatisfactorily

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, AHEC shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by AHEC, or provided to AHEC, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by AHEC in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at AHEC's sole cost and expense. Payment of compensation due or to become due to AHEC is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, AHEC shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date

of termination. Failure by AHEC to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by AHEC of any and all right or claims to collect moneys that AHEC may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, AHEC shall cease all operations of work being performed by AHEC or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue AHEC for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City Clerk	AND City of San Antonio
City of San Antonio	Director, San Antonio Metropolitan Health District
P.O. Box 839966	332 W. Commerce, Suite 307
San Antonio, Texas 78283-3966	San Antonio, Texas 78205

If intended for AHEC, to:

South Central Area Health Education Center, Inc.
Attn: Paula Winkler
University of Texas Health Science Center San Antonio
4201 Medical Drive, Suite 360
San Antonio, TX 78229

IX. [Reserved]

X. INSURANCE

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

10.2 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 by changes in statutory law and court decisions. In no instance will City or AHEC allow modification whereupon City or AHEC may incur increased risk.

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

TYPE	AMOUNTS
1. Workers' Compensation ** Employers' Liability **	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations *b. Independent contractors c. Products/completed operations d. Personal Injury e. Contractual Liability *f. Explosion, collapse, underground	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

3. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.
* If Applicable	
** Alternate Plans Must Be Approved by Risk Management	

10.4 The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions in order to show compliance with the above insurance requirements (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). AHEC 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. AHEC shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: San Antonio Metro Health District
332 West Commerce St
San Antonio, Texas 78205

10.5 AHEC agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

- Name the City and its officers, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

10.6 Within ten (10) calendar days of a suspension, cancellation or non-renewal of coverage, AHEC shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend AHEC'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.

10.7 Nothing herein contained shall be construed as limiting in any way the extent to which AHEC may be held responsible for payments of damages, as determined by a court of

competent jurisdiction to persons or property resulting from AHEC's or its subcontractors' performance of the work covered under this Agreement.

10.8 It is agreed that AHEC'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.

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

XI. INDEMNIFICATION

11.1 AHEC covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to AHEC's activities under this Agreement, including any acts or omissions of AHEC, any agent, officer, director, representative, employee, consultant or subcontractor of AHEC, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or 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 AHEC AND City ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF 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.

11.2 The provisions of this INDEMNIFICATION 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.

11.3 AHEC shall promptly advise the City in writing of any claim or demand against the City or AHEC known to AHEC related to or arising out of AHEC's activities under this Agreement.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 AHEC shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of AHEC. AHEC, its employees or its subcontractors shall perform all necessary work.

12.2 It is City's understanding and this Agreement is made in reliance thereon that AHEC intends to use the following subcontractors in the performance of this Agreement: none. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by Director prior to the provision of any services by said subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of AHEC. City shall in no event be obligated to any third party, including any subcontractor of AHEC, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Except as otherwise stated herein, AHEC may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, AHEC shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor contractor, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should AHEC assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of AHEC shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by AHEC shall in no event release AHEC from any obligation under the terms of this Agreement, nor shall it relieve or release AHEC from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 AHEC covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that AHEC shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and contractors; that the doctrine of respondent superior shall not apply as between City and AHEC, its officers, agents, employees, contractors, subcontractors and contractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint ventures between City and AHEC. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the AHEC under this Agreement and that the AHEC has no authority to bind the City.

XIV. NONDISCRIMINATION POLICY

14.1 AHEC hereby acknowledges that it is the policy of the City of San Antonio to assist in increasing the competitiveness and qualifications of small, women, African American, and minority-owned business enterprises in order to afford greater opportunities for obtaining and participating in contracts, related subcontracts, and leases and concessions awarded by the City. AHEC agrees that AHEC will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. AHEC further agrees that AHEC will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

XV. CONFLICT OF INTEREST

15.1 AHEC acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

15.2 Pursuant to the subsection above, AHEC warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. AHEC further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XVI. AMENDMENTS

16.1 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the City and the AHEC.

XVII. SEVERABILITY

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect

any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto 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.

18.1 AHEC warrants and certifies that AHEC and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. COMPLIANCE

19.1 AHEC shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XX. NONWAIVER OF PERFORMANCE

20.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXI. LAW APPLICABLE

21.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXII. LEGAL AUTHORITY

22.1 Each signer of this Agreement, for either City or AHEC, represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of either City or AHEC and to bind either City or AHEC to all of the terms, conditions, provisions and obligations herein contained.

XXIII. PARTIES BOUND

23.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIV. CAPTIONS

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

XXV. DEBARMENT

25.1 AHEC certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

25.2 AHEC shall provide immediate written notice to City, in accordance with Article VIII. Notice, if, at any time during the term of this contract, including any renewals hereof, AHEC learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

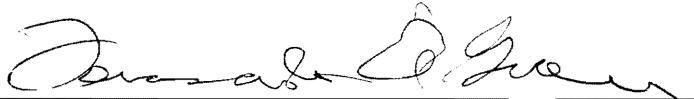
XXVI. ENTIRE AGREEMENT

26.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain 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 hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

EXECUTED and AGREED to this the _____ day of _____, 2008.

CITY OF SAN ANTONIO

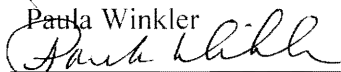
SOUTH CENTRAL AREA HEALTH
EDUCATION CENTER, INC.



Printed Name: Fernando A. Guerra,
M.D., M.P.H.

Title: Director of Health

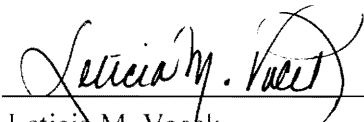
Date: 6-30-08

Printed Name: Paula Winkler


Title: Executive Director

Date: June 16, 2008

ATTEST:

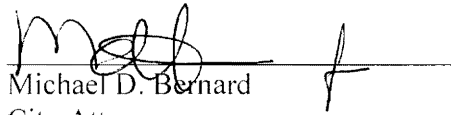


Leticia M. Vacek
City Clerk

7-1-08
Date



Approved as to Form:



Michael D. Bernard
City Attorney

**South Central Area Health Education Center, Inc. and
SA-TPCC Community Collaboration Workplan and Timeline**

Objective 1: Attend training on use and promotion of <i>Yes You Can Clinical Toolkit</i>				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
1.1	Attend training session delivered by DSHS Region 8 tobacco education coordinator <ul style="list-style-type: none"> • How to use the toolkit • How to promote use of the toolkit • How to assess use of the toolkit 	Session attended, Completed attendance sign-in sheet	By 4/18/2008	Staff labor: 3ppl x \$25/hr x 3 hrs/person [total \$225]
<i>TOTAL TRAINING</i>				\$225
Objective 2: Participate in creation of handout material(s) that outline additional tobacco cessation resources approved by SA-TPCC				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
2.1	Assist in collection of descriptions of tobacco cessation resources already available in the community: health care institutions, substance abuse centers, and non-profit organizations	List and descriptions of resources offered in community	3/24-5/23/2008	Staff labor: 3ppl x \$25/hr x 24 hrs/person [total \$1800]
2.2	Participate in drafting material(s) describing tobacco cessation resources and access	Full draft of material(s)	By 5/31/2008	Staff labor: 3ppl \$25/hr x 15 hrs/person [total \$1125]
2.3	Participate in obtaining approval of content from SA-TPCC as needed	Consent or approval of material according to coalition rules	By 5/31/2008	Staff labor: 3ppl \$25/hr x 4 hrs/person [total \$300]
2.4	Assist in preparation and production of final version of cessation resource information material for distribution	Design and production of final material(s) completed	By 5/31/2008	Staff labor: 3ppl \$25/hr x 24 hrs/person [\$1800]
<i>TOTAL PACKAGE PREPARATION</i>				\$5025

Objective 3: Conduct cessation consultations with healthcare providers to promote use of available cessation resources [coalition goal=300, AHEC=60]				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
3.1	Identify list of healthcare providers and/or provider associations to contact during FY08 [goal=60 individual providers]	Compiled list	3/24-5/31/2008	Staff labor: (1) \$25/hr x 24 hrs [total \$600]
3.2	Participate in development of strategy and/or presentation to approach healthcare providers	Completed consensus document of outlined strategy, Completed marketing materials	4/7-5/31/2008	Staff labor: 3ppl \$25/hr x 12 hrs/person [total \$900]
3.3	Participate in creation of method/tool to assess utility of resources and materials distributed by coalition	Completed tool and methodology	6/2-7/18/2008	Staff labor: 3ppl \$25/hr x 12 hrs/person [total \$900]
3.4	Contact healthcare providers/associations to schedule presentation and distribution of cessation resources	# contacts made, # meetings scheduled	5/1-8/31/2008	Staff labor: 1ppl \$25/hr x 15 hrs [total \$375]
3.5	Conduct information sessions in individual or group settings to distribute and promote tobacco cessation resources [goal=60 individuals]	# sessions completed, # providers who attended, # materials distributed	5/1-8/31/2008	Staff labor: 1ppl \$25/hr x 80hrs [total \$2000]
3.6	Assess utility of cessation resources promoted [goal=50% of recipients]	# recipients assessed, Summary of findings	7/21-8/31/2008	Staff labor: 1ppl \$25/hr x 8 hrs [total \$200]
<i>TOTAL HEALTHCARE PROVIDER OUTREACH</i>				<i>\$4975</i>

Objective 4: Conduct cessation consultations with healthcare providers who serve Medicaid and WIC clients to promote use of available cessation resources [coalition goal=90, AHEC=45]				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
4.1	Identify list of healthcare providers and/or provider associations to contact during FY08 [goal=45 individual providers]	Compiled list	3/24-5/31/2008	Staff labor: 1ppl \$25/hr x 24 hrs [total \$600]
4.2	Participate in development of strategy and/or presentation to approach healthcare providers	Completed consensus document of outlined strategy, Completed marketing materials	4/7-5/31/2008	Staff labor: 3ppl \$25/hr x 4 hrs/person [total \$300]
4.3	Participate in creation of method/tool to assess utility of resources and materials distributed by coalition	Completed tool and methodology	6/2-7/18/2008	Staff labor: 3ppl \$25/hr x 8 hrs/person [total \$600]

4.4	Contact healthcare providers/associations to schedule presentation and distribution of cessation resources	# contacts made, # meetings scheduled	5/1-8/31/2008	Staff labor: 1ppl \$25/hr x 8 hrs [total \$200]
4.5	Conduct information sessions in individual or group settings to distribute and promote tobacco cessation resources [goal=45 individuals]	# sessions completed, # providers who attended, # materials distributed	5/1-8/31/2008	Staff labor: 1ppl \$25/hr x 40 hrs [total \$1000]
4.6	Assess utility of cessation resources promoted [goal=50% of recipients]	# recipients assessed, Summary of findings	7/21-8/31/2008	Staff labor: 1ppl \$25/hr x 8 hrs [total \$200]
<i>TOTAL MEDICAID/WIC PROVIDER OUTREACH</i>				\$2900

Objective 5: Conduct cessation consultations with worksite wellness offices/Human Resources to promote use of available cessation resources [coalition goal=50, AHEC=30]

	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
5.1	Identify list of worksites and/or worksite associations to contact during FY08 [goal=30 worksites]	Compiled list	3/24-5/31/2008	Staff labor: 1ppl \$25/hr x 4 hrs [total \$100]
5.2	Participate in development of strategy and/or presentation to approach worksites	Completed consensus document of outlined strategy, Completed marketing materials	4/7-5/31/2008	Staff labor: 3ppl \$25/hr x 2 hrs/person [total \$150]
5.3	Participate in creation of method/tool to assess utility of resources and materials distributed by coalition	Completed tool and methodology	6/2-7/18/2008	Staff labor: (2) \$25/hr x 8 hrs/person [total \$400]
5.4	Contact worksites to schedule presentation and distribution of cessation resources	# contacts made, # meetings scheduled	5/1-8/31/2008	Staff labor: 1ppl \$25/hr x 4hrs [total \$100]
5.5	Conduct information sessions in individual or group settings to distribute and promote tobacco cessation resources [goal=30 worksites]	# sessions completed, # worksites that participated, # materials distributed	5/1-8/31/2008	Staff labor: 1ppl \$25/hr x 15 hrs [total \$375]
5.6	Assess utility of cessation resources promoted [goal=50% of recipients]	# recipients assessed, Summary of findings	7/21-8/31/2008	Staff labor: 1ppl \$25/hr x 4 hrs [total \$100]
<i>TOTAL WORKSITE OUTREACH</i>				\$1225

Objective 6: Report performance to SA-TPCC members and Community Evaluation Work Group.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
6.1	Report numbers of encounters and recipient information to coalition leadership and Community Evaluation Work Group as indicated.	Reports compiled by each contractor and given to designee for grant reporting.	end of each month May-August 2008	Staff labor: 1 ppl \$25/hr x 24 hrs [total \$600]
6.2	Present reports of performance to coalition members as needed.	Presentation made at coalition meeting.	8/31/2008	Staff labor: 1 ppl \$25/hr 2 hrs [total \$50]
<i>TOTAL REPORTING</i>				<i>\$650</i>

ATTACHMENT II

**South Central Area Health Education Center, Inc.–
San Antonio Tobacco Prevention and Control Coalition
Grant Period: 02/15/08 – 08/31/08**

Item	Description	Cost x Units	Total
Personnel			
Paula Winkler	oversee project, participate in planning process, deliver outreach	(included in Work Plan Projects)	
Amanda Lopez	participate in planning process, deliver outreach, track outreach	(included in Work Plan Projects)	
Rahma Mungia	participate in planning process, deliver outreach, track outreach	(included in Work Plan Projects)	
General Operating Costs			\$0
none	none	none	\$0
Travel			\$0
none	none	none	\$0
Work Plan Projects			\$15,000
Training	Attend training on use of <i>Yes You Can Clinical Toolkit</i>	staff labor 19 hrs	\$225
Package Preparation	Participate in collection of tobacco cessation resources and creation of coalition package for dissemination	staff labor 201 hrs	\$5,025
Healthcare Provider Outreach	Identify, contact, and follow-up with selected outreach targets	staff labor 199 hrs	\$4,975
Medicaid/WIC Healthcare Provider Outreach	Identify, contact, and follow-up with selected outreach targets	staff labor 16 hrs	\$2,900
Worksite Outreach	Identify, contact, and follow-up with selected outreach targets	staff labor 49 hrs	\$1,225
Reporting	Submit outreach achievements and follow-up findings to coalition	staff labor 26 hrs	\$650
Indirect Costs (if applicable)	na	na	\$0
TOTAL			\$15,000



CMS or Ordinance Number: CN4600007283

TSLGRS File Code:1000-25

Document Title:
CONT - 4600007283

Commencement Date:
2/15/2008

Expiration Date:
8/31/2008

**PROFESSIONAL SERVICES AGREEMENT
FOR THE SAN ANTONIO TOBACCO PREVENTION AND CONTROL COALITION
WITH THE SAN ANTONIO COUNCIL ON ALCOHOL AND DRUG ABUSE**

STATE OF TEXAS	§	CITY OF SAN ANTONIO
	§	
COUNTY OF BEXAR	§	PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as “City”), on behalf of the San Antonio Metropolitan Health District (SAMHD), acting by and through its City Manager, pursuant to Ordinance No. 2008-04-10-0298, passed and approved on April 10, 2008, and the San Antonio Council on Alcohol and Drug Abuse by and through its Executive Director, Pam Armstrong (hereafter referred to as “SACADA”), both of which may be referred to herein collectively as the “Parties.”

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

“City” is defined in the preamble of this Agreement and includes its successors and assigns.

“SACADA” is defined in the preamble of this Agreement and includes its successors.

“Director” shall mean the director of City’s San Antonio Metropolitan Health District.

“SA-TPCC” shall be defined as the San Antonio Tobacco Prevention and Control Coalitions.

“SA-TPCC staff” shall be defined as those persons hired by SAMHD for the purpose of day-to-day program oversight with funding from the Steps to A Healthier US Cooperative Agreement with the Centers for Disease Control and the US Department of Health and Human Services.

“CEW” shall be defined as the Community Evaluation Workgroup, the team of coalition members and sub-contractors that collect, organize and report data related to the work of the program and coalition.

“DSHS” shall be defined as the Texas Department of State Health Services, the agency that oversees the statewide grant, tobacco prevention and control programming, and evaluation efforts.

“Target Area,” shall be defined as Bexar County, or smaller areas to be determined by the SA-TPCC in the future.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on February 15, 2008 and terminate on August 31, 2008.

2.2 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

2.3 City will have the option to renew and extend the term of this Agreement once for a term of one year, subject to acceptance by SACADA. The renewal or extension will be evidenced by passage of a subsequent City ordinance.

2.4 SACADA further agrees and understands that the City expects to pay all obligations of this Agreement from cooperative agreement funding. Accordingly, if cooperative agreement funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor SACADA will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

III. SCOPE OF SERVICES

3.1 SACADA agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV Compensation.

3.2 All work performed by SACADA hereunder shall be performed to the satisfaction of Director of City's San Antonio Metropolitan Health District. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by SACADA, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should SACADA's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate, subject to Sec. 7.4.

3.3 SACADA shall select specific individuals as primary and secondary representatives to the SA-TPCC. Both representatives may participate in the coalition concurrently, but at least one representative will be present at all coalition meetings and relevant planning sessions. This participation is required for coordination of SA-TPCC activities including but not limited to community assessment, strategic planning, outreach, evaluation planning, and other events. SACADA will supply contact information to SA-TPCC and SAMHD staff regarding both representatives, and both representatives will be tasked by SACADA to ensure full representation and participation of SACADA. In the event that there is a change in the individuals assigned by SACADA as representative(s) to the SA-TPCC, SACADA will notify SA-TPCC and SAMHD staff within 5 business days of the time such change has taken place.

3.4 SACADA shall comply with the guidelines regarding the use of the SAMHD and City names and logos, and will also comply with and identity guidelines determined for the SA-TPCC once developed.

3.5 SACADA will submit detailed monthly activity reports to the SA-TPCC CEW and SAMHD for the purposes of program evaluation and reporting. SACADA will supply the reports in the format requested by the SA-TPCC to the CEW by the 5th day of each month to report performance for the preceding month. In addition, SACADA will provide any other progress reports or summaries requested by the SA-TPCC as needed.

3.5 SACADA representative(s) will attend and participate in any DSHS technical assistance training sessions or statewide coalition meetings as directed by DSHS. Costs to attend these meetings will be identified in the budget in Attachment II which is attached hereto and incorporated herein for all purposes, and compensated according to the terms of this Agreement.

3.6 In addition to the above mentioned items from Section III, SACADA shall provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the City at all times affixed hereto and incorporated herein for all purposes as Attachment I.

IV. COMPENSATION TO SACADA

4.1 In consideration of SACADA's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay SACADA an amount not to exceed ten thousand dollars (\$10,000.00) as total compensation, which is budgeted for such payment, as set forth and incorporated herein for all purposes in the budget, which is attached as Attachment II.

4.2 No additional fees or expenses of SACADA shall be charged by SACADA nor be payable by City. The parties hereby agree that all compensable expenses of SACADA have been provided for in the total payment to SACADA as specified in section 4.1 above. Total payments to SACADA cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to SACADA following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than SACADA, for the payment of any monies or the provision of any goods or services.

4.4 SACADA agrees to submit statements showing monthly itemized costs and any documented in-kind expenses to the City associated with this Agreement. Reimbursement of eligible expenses, as determined by the City, will be made monthly according to standard procedures followed by City, as requested upon receipt of billing from SACADA. Invoices will be due 30 days after the end of the monthly report period. SACADA will submit to the City a monthly billing invoice to request payment of expenses incurred on or before the 15th day of each month.

4.5 An invoice documenting final expenses associated with the Agreement will be submitted to the City by no later than September 15, 2008. Additional documentation

requirements of costs and documented in-kind expenses associated with this Agreement may be amended by SAMHD staff as needed. All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by SACADA pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by SACADA.

5.2 SACADA understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 SACADA and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 SACADA shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, SACADA shall retain the records until the resolution of such litigation or other such questions. SACADA acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require SACADA to return said documents to City prior to or at the conclusion of said retention.

6.3 SACADA shall notify City, immediately, in the event SACADA receives any requests for information from a third party, which pertain to the documentation and records referenced herein. SACADA understands and agrees that City will process and handle all such requests.

VII. TERMINATION

.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days written notice, which notice shall be provided in accordance with Article VIII Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.4 Defaults With Opportunity for Cure. Should SACADA default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. SACADA shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If SACADA fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new contractor against SACADA's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Bankruptcy or selling substantially all of company's assets

7.4.2 Failing to perform or failing to comply with any covenant herein required

7.4.3 Performing unsatisfactorily

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, SACADA shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by

SACADA, or provided to SACADA, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by SACADA in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at SACADA's sole cost and expense. Payment of compensation due or to become due to SACADA is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, SACADA shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by SACADA to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by SACADA of any and all right or claims to collect moneys that SACADA may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, SACADA shall cease all operations of work being performed by SACADA or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue SACADA for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

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

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

If intended for SACADA, to:

San Antonio Council on Alcohol and Drug Abuse
Attn: Pam Armstrong
7500 US Hwy 90 West,
AT&T Building 1, Suite 100
San Antonio, TX 78227

Copy: San Antonio Council on Alcohol and Drug Abuse
Attn: Abby Garza
7500 US Hwy 90 West,
AT&T Building 1, Suite 100
San Antonio, TX 78227

IX. [Reserved]

X. INSURANCE

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

10.2 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 by changes in statutory law and court decisions. . In no instance will City or SACADA allow modification whereupon City or SACADA may incur increased risk.

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

TYPE	AMOUNTS
1. Workers' Compensation ** Employers' Liability **	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations *b. Independent contractors c. Products/completed operations d. Personal Injury e. Contractual Liability *f. Explosion, collapse, underground	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
3. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.
* If Applicable	
** Alternate Plans Must Be Approved by Risk Management	

10.4 The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions in order to show compliance with the above insurance requirements (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). SACADA 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. SACADA shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: San Antonio Metro Health District
332 West Commerce St
San Antonio, Texas 78205

10.5 SACADA agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

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

- Provide for an endorsement that the “other insurance” clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers’ compensation and employers’ liability policies will provide a waiver of subrogation in favor of the City.

10.6 Within ten (10) calendar days of a suspension, cancellation or non-renewal of coverage, SACADA shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend SACADA’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.

10.7 Nothing herein contained shall be construed as limiting in any way the extent to which SACADA may be held responsible for payments of damages, as determined by a court of competent jurisdiction to persons or property resulting from SACADA’s or its subcontractors’ performance of the work covered under this Agreement.

10.8 It is agreed that SACADA’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.

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

XI. INDEMNIFICATION

11.1 SACADA covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, 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 SACADA's negligent activities under this AGREEMENT, including any acts or omissions of SACADA, any agent, officer, director, representative, employee, SACADA or subcontractor of SACADA, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law.

11.2 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. SACADA shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or SACADA known to SACADA related to or arising out of SACADA's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at SACADA's cost. The CITY shall have the right, at its

option and at its own expense, to participate in such defense without relieving SACADA of any of its obligations under this paragraph.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 SACADA shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of SACADA. SACADA, its employees or its subcontractors shall perform all necessary work.

12.2 It is City's understanding and this Agreement is made in reliance thereon that SACADA intends to use the following subcontractors in the performance of this Agreement: none. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by Director of Health prior to the provision of any services by said subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of SACADA. City shall in no event be obligated to any third party, including any subcontractor of SACADA, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Except as otherwise stated herein, SACADA may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, SACADA shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor SACADA, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should SACADA assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of SACADA shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by SACADA shall in no event release SACADA from any obligation under the terms of this Agreement, nor shall it relieve or release SACADA from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 SACADA covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that SACADA shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing

same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and contractors; that the doctrine of respondent superior shall not apply as between City and SACADA, its officers, agents, employees, contractors, subcontractors and contractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint ventures between City and SACADA. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the SACADA under this Agreement and that the SACADA has no authority to bind the City.

XIV. NONDISCRIMINATION POLICY

14.1 SACADA hereby acknowledges that it is the policy of the City of San Antonio to assist in increasing the competitiveness and qualifications of small, women, African American, and minority-owned business enterprises in order to afford greater opportunities for obtaining and participating in contracts, related subcontracts, and leases and concessions awarded by the City. SACADA agrees that SACADA will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. SACADA further agrees that SACADA will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

XV. CONFLICT OF INTEREST

15.1 SACADA acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

15.2 Pursuant to the subsection above, SACADA warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. SACADA further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XVI. AMENDMENTS

16.1 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the City and the SACADA.

XVII. SEVERABILITY

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto 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.

18.1 SACADA warrants and certifies that SACADA and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. COMPLIANCE

19.1 SACADA shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XX. NONWAIVER OF PERFORMANCE

20.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXI. LAW APPLICABLE

21.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXII. LEGAL AUTHORITY

22.1 Each signer of this Agreement, for either City or SACADA, represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of either City or SACADA and to bind either City or SACADA to all of the terms, conditions, provisions and obligations herein contained.

XXIII. PARTIES BOUND

23.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIV. CAPTIONS

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

XXV. DEBARMENT

25.1 SACADA certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

25.2 SACADA shall provide immediate written notice to City, in accordance with Article VIII. Notice, if, at any time during the term of this contract, including any renewals hereof, SACADA learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

XXVI. ELECTRONIC VERSION SAME AS ORIGINAL

26.1 City understands that this document is executed in multiple originals in hardcopy format, which will be placed in the sole possession of City after execution hereof, SACADA will scan the fully-executed hardcopy document as a portable document file (.pdf) for storage in accordance with SACADA' records retention requirements without retaining the hardcopy. City

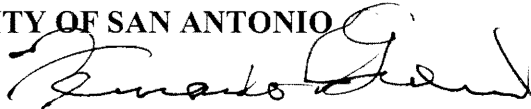
stipulates that the terms of the electronically stored, fully-executed original of this document may be enforced in the same manner as the hardcopy counterparts (to be in City's possession) and that it waives any requirement that any hardcopy counterpart be produced to prove authentication for any purpose.

XXVII. ENTIRE AGREEMENT

27.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain 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 hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

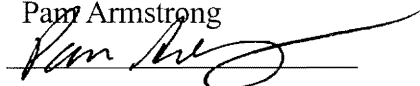
EXECUTED and AGREED to this the 19th day of July, 2008.

CITY OF SAN ANTONIO

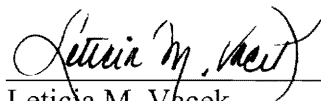


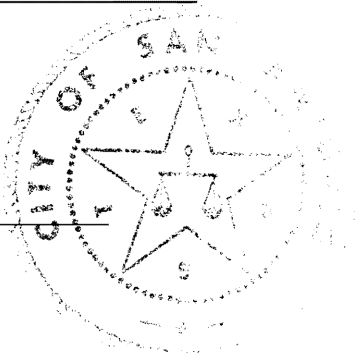
SAN ANTONIO COUNCIL ON
ALCOHOL AND DRUG ABUSE

Printed Name: Fernando A. Guerra,
MD, MPH
Title: Director of Health
Date: _____

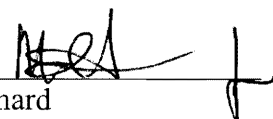
Printed Name: Pam Armstrong

Title: Executive Director
Date: 7-1-08

ATTEST:


Leticia M. Vacek
City Clerk



Approved as to Form:


Michael D. Bernard
City Attorney

**San Antonio Council on Alcohol and Drug Abuse–
WORK PLAN: FEB 1, 2008 – AUG 31, 2008**

Objective 1: Conduct alternative activities regarding tobacco use prevention and cessation for adults. [goal=200 adult participants]				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
1.1	Identify venues for alternative activities, travel to activity sites, provide supplies/equipment needed to conduct activities	Sessions scheduled, Supplies purchased	May-Aug 2008 (schedule TBD)	Costs to set up alternative activities, recruit participants, and conduct activities: 200 participants x \$12/ea [total \$2400]
1.2	Recruit participants to attend alternative activities	# of participants recruited (if information available)	May-Aug 2008 (schedule TBD)	
1.3	Conduct alternative activities for 200 adults in up to 8 sessions	# of participants attended	May-Aug 2008 (schedule TBD)	
1.4	Report numbers of sessions and participants, and provide information to coalition leadership and Community Evaluation Workgroup (CEW) as indicated	Reports compiled and submitted to CEW	Report at end of each month, May-Aug 2008	
1.5	Present reports of performance to coalition members as needed	Presentation made at coalition meeting	By 8/31/2008 (schedule TBD)	
<i>TOTAL ADULT ACTIVITIES</i>				<i>\$2,400</i>
Objective 2: Conduct alternative activities regarding tobacco use prevention and cessation for youth. [goal=150 youth participants]				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
2.1	Identify venues for alternative activities, travel to activity sites, provide supplies/equipment needed to conduct activities	Sessions scheduled, Supplies purchased	May-Aug 2008 (schedule TBD)	Costs to set up alternative activities, recruit participants, and conduct activities: 150 participants x \$12/ea [total \$1800]
2.2	Recruit participants to attend alternative activities	# of participants recruited (if information available)	May-Aug 2008 (schedule TBD)	
2.3	Conduct alternative activities for 150 youth in up to 6 sessions	# of participants attended	May-Aug 2008 (schedule TBD)	
2.4	Report numbers of sessions and participants, and provide information to coalition leadership and Community Evaluation Workgroup (CEW) as	Reports compiled and submitted to CEW	Report at end of each month, May-Aug 2008	

	indicated			
2.5	Present reports of performance to coalition members as needed	Presentation made at coalition meeting	By 8/31/2008 (schedule TBD)	no additional costs
<i>TOTAL YOUTH ACTIVITIES</i>				<i>\$1,800</i>
Objective 3: Provide training on Strategic Prevention Framework (SPF) to SA-TPCC members.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
3.1	Present overview of SPF Model application and Circles of San Antonio coalition experience to SA-TPCC members at coalition meeting	Presentation made at coalition meeting, sign-in sheet	May 2008 (TBD)	\$600 for travel, materials and staff time
3.2	Present overview of SPF-related Capacity Building techniques to SA-TPCC members at coalition meeting	Presentation made at coalition meeting, sign-in sheet	June 2008 (TBD)	\$600 for travel, materials and staff time
3.3	Present overview of SPF-related Strategic Planning process to SA-TPCC members at coalition meeting	Presentation made at coalition meeting, sign-in sheet	June or July 2008 (TBD)	\$600 for travel, materials and staff time
<i>TOTAL SPF TRAINING</i>				<i>\$1,800</i>
Objective 4: Provide technical support to SA-TPCC members regarding coalition development using Strategic Prevention Framework.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
4.1	Participate in SA-TPCC planning and general meetings as appropriate based on agenda	Meeting sign-in sheets	05/01/2008 - 08/31/2008	\$1000 for travel and staff time
<i>TOTAL TECHNICAL SUPPORT</i>				<i>\$1,000</i>
Objective 5: Coordinate travel for youth attendees of 2008 Texas Teen Tobacco Summit in The Woodlands, Texas				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
5.1	Recruit students and adult chaperone to travel to Summit	List of travelers to attend Summit	By June 30, 2008	no additional costs
5.2	Make travel reservations and pay for expenses related to travel for students and adult chaperone	Registration forms for Summit, reservation confirmations, travel receipts, attendance verification	Summit: July 27-30, 2008	Adult registration: \$275 ea Youth registration: \$400 ea Hotel room: \$85/nt +14% tax Adult per diem: \$59/day Mileage: \$0.505 per mile, round trip distance ~ 500 mi [total up to \$3,000 for all travelers combined]
<i>TOTAL YOUTH TRAVEL TO TEEN TOBACCO SUMMIT</i>				<i>\$3,000</i>

ATTACHMENT II

**San Antonio Council on Alcohol and Drug Abuse–
San Antonio Tobacco Prevention and Control Coalitions
Grant Period: 02/15/08 – 08/31/08**

Item	Description	Cost x Units	Total
Personnel			
Abby Garza	Conduct alternative activities for adults and youth, provide SPF training for coalition, and provide technical support for coalition-building and strategic planning sessions	(included in Work Plan Projects)	
Gyna Gonzales	Conduct alternative activities for adults and youth, make arrangements for students attending tobacco summit July 08, order tobacco materials as needed for SA-TPCC, prepare outcome reports monthly	(included in Work Plan Projects)	
J. Anthony Garcia	Conduct alternative activities for adults and youth, recruit youth for Tobacco Summit, attend monthly SA-TPCC meetings	(included in Work Plan Projects)	
Andrea Rodriguez	Conduct alternative activities for adults and youth, make arrangements for students attending tobacco summit July 08, order tobacco materials as needed for the SA-TPCC	(included in Work Plan Projects)	
General Operating Costs			\$0
none	none	none	\$0
Travel			\$3,000
Travel to Tobacco Summit	Coordinate travel for youth attendees of 2008 Texas Teen Tobacco Summit in The Woodlands, TX, July 27-30, 2008 included: hotel, meals, travel and registration fees.	4 youth x \$622.25ea 1 adult x\$511.00 ea	\$3,000
Work Plan Projects			\$7,000
Adult alternative activities	Plan and conduct alternative activities for 200 adults. Costs include staff time and travel, and supplies needed for activities.	200 participants @ \$12 per individual	\$2,400
Youth alternative activities	Plan and conduct alternative activities for 150 youth. Costs include staff time and travel, and supplies needed for activities	\$12 per individual participating in activity.	\$1,800

SPF training sessions for SA-TPCC (3) <ul style="list-style-type: none"> • SPF overview • Capacity Building • Strategic Planning 	Provide training for coalition on SPF process—strength and challenges for Current SPF, provide Capacity Building Training, and Strategic Planning Training.	3 workshops @ \$600 ea, includes prep time, presentation, materials, and travel	\$1,800
Coalition-building technical support for SA-TPCC	Attend other coalition meetings and telephone conferencing for technical assistance	Costs include staff time and travel	\$1,000
Indirect Costs	none	none	\$0
TOTAL			\$10,000



CMS or Ordinance Number: CN4600007271

TSLGRS File Code:1000-25

Document Title:
CONT - 4600007271

Commencement Date:
2/15/2008

Expiration Date:
8/31/2008

**PROFESSIONAL SERVICES AGREEMENT
FOR THE SAN ANTONIO TOBACCO PREVENTION AND CONTROL COALITION
WITH THE AMERICAN CANCER SOCIETY**

STATE OF TEXAS	§	CITY OF SAN ANTONIO
	§	
COUNTY OF BEXAR	§	PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City"), on behalf of the San Antonio Metropolitan Health District (SAMHD), acting by and through its City Manager, pursuant to Ordinance No. 2008-04-10-0298 passed and approved on April 10, 2008, and the American Cancer Society, by and through its Regional Vice President, Lane Moore (hereafter referred to as "ACS"), both of which may be referred to herein collectively as the "Parties."

The Parties hereto severally and collectively agree and, by the execution hereof, are bound to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"ACS" is defined in the preamble of this Agreement and includes its successors.

"Director" shall mean the director of City's San Antonio Metropolitan Health District.

"SA-TPCC" shall be defined as the San Antonio Tobacco Prevention and Control Coalitions.

"SA-TPCC staff" shall be defined as those persons hired by SAMHD for the purpose of day-to-day program oversight with funding from the Steps to A Healthier US Cooperative Agreement with the Centers for Disease Control and the US Department of Health and Human Services.

"CEW" shall be defined as the Community Evaluation Workgroup, the team of coalition members and sub-contractors that collect, organize and report data related to the work of the program and coalition.

"DSHS" shall be defined as the Texas Department of State Health Services, the agency that oversees the statewide grant, tobacco prevention and control programming, and evaluation efforts.

"Target Area," shall be defined as Bexar County, or smaller areas to be determined by the SA-TPCC in the future.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on February 15, 2008 and terminate on August 31, 2008.

2.2 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

2.3 City will have the option to renew and extend the term of this Agreement once for a term of one year, subject to acceptance by ACS. The renewal or extension will be evidenced by passage of a subsequent City ordinance.

2.4 ACS further agrees and understands that the City expects to pay all obligations of this Agreement from cooperative agreement funding. Accordingly, if cooperative agreement funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor ACS will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

III. SCOPE OF SERVICES

3.1 ACS agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV Compensation.

3.2 All work performed by ACS hereunder shall be performed to the satisfaction of Director of City's San Antonio Metropolitan Health District. In the event that Director is not satisfied with some aspect of the work performed, he will provide written notice of the specific areas that need improvement to ACS. ACS will have thirty (30) calendar days after receipt of this notice as an opportunity to improve. If after these thirty (30) days, the Director is still not satisfied with the work performed, City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should ACS's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by ACS, which is not satisfactory to Director.

3.3 ACS shall select specific individuals as primary and secondary representatives to the SA-TPCC. Both representatives may participate in the coalition concurrently, but at least one representative will be present at all coalition meetings and relevant planning sessions. This participation is required for coordination of SA-TPCC activities including but not limited to community assessment, strategic planning, outreach, evaluation planning, and other events. ACS will supply contact information to SA-TPCC and SAMHD staff regarding both representatives, and both representatives will be tasked by ACS to ensure full representation and participation of ACS. In the event that there is a change in the individuals assigned by ACS as representative(s) to the SA-TPCC, ACS will notify SA-TPCC and SAMHD staff within 5 business days of the time such change has taken place.

3.4 ACS shall comply with the guidelines regarding the use of the SAMHD and City names and logos, and will also comply with and identity guidelines determined for the SA-TPCC once developed.

3.5 ACS will submit detailed monthly activity reports to the SA-TPCC CEW and SAMHD for the purposes of program evaluation and reporting. ACS will supply the reports in the format requested by the SA-TPCC to the CEW by the 5th day of each month to report performance for the preceding month. In addition, ACS will provide any other progress reports or summaries requested by the SA-TPCC as needed.

3.5 ACS representative(s) will attend and participate in any DSHS technical assistance training sessions or statewide coalition meetings as directed by DSHS. Costs to attend these meetings will be identified in the budget in Attachment II which is attached hereto and incorporated herein for all purposes, and compensated according to the terms of this Agreement.

3.6 In addition to the above mentioned items from Section III, ACS shall provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the City at all times affixed hereto and incorporated herein for all purposes as Attachment I.

IV. COMPENSATION TO ACS

4.1 In consideration of ACS's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay ACS an amount not to exceed twenty-two thousand, one hundred, twenty-four dollars (\$22,124.00) as total compensation, which is budgeted for such payment, as set forth and incorporated herein for all purposes in the budget, which is attached as Attachment II.

4.2 No additional fees or expenses of ACS shall be charged by ACS nor be payable by City. The parties hereby agree that all compensable expenses of ACS have been provided for in the total payment to ACS as specified in section 4.1 above. Total payments to ACS cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to ACS following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than ACS, for the payment of any monies or the provision of any goods or services.

4.4 ACS agrees to submit statements showing monthly itemized costs and any documented in-kind expenses to the City associated with this Agreement. Reimbursement of eligible expenses, as determined by the City, will be made monthly according to standard procedures followed by City, as requested upon receipt of billing from ACS. Invoices will be due 30 days after the end of the monthly report period. ACS will submit to the City a monthly billing invoice to request payment of expenses incurred on or before the 15th day of each month.

4.5 An invoice documenting final expenses associated with the Agreement will be submitted to the City by no later than September 15, 2008. Additional documentation requirements of costs and documented in-kind expenses associated with this Agreement may be amended by SAMHD staff as needed. All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by ACS pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by ACS.

5.2 ACS understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 ACS and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 ACS shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, ACS shall retain the records until the resolution of such litigation or other such questions. ACS acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require ACS to return said documents to City prior to or at the conclusion of said retention.

6.3 ACS shall notify City, immediately, in the event ACS receives any requests for information from a third party, which pertain to the documentation and records referenced herein. ACS understands and agrees that City will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days written notice, which notice shall be provided in accordance with Article VIII Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.4 Defaults With Opportunity for Cure. Should ACS default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. ACS shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If ACS fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new contractor against ACS's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Bankruptcy or selling substantially all of company's assets

7.4.2 Failing to perform or failing to comply with any covenant herein required

7.4.3 Performing unsatisfactorily

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, ACS shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by ACS, or provided to ACS, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by ACS in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City

and shall be completed at ACS's sole cost and expense. Payment of compensation due or to become due to ACS is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, ACS shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by ACS to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by ACS of any and all right or claims to collect moneys that ACS may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, ACS shall cease all operations of work being performed by ACS or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue ACS for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City Clerk	AND City of San Antonio
City of San Antonio	Director, San Antonio Metropolitan Health District
P.O. Box 839966	332 W. Commerce, Suite 307
San Antonio, Texas 78283-3966	San Antonio, Texas 78205

If intended for ACS, to:

American Cancer Society
Attn: Lane Moore, Regional Vice President
8115 Datapoint Dr.
San Antonio, TX 78229

Copy: American Cancer Society
Attn: William J. Dalton, General Counsel
2433 Ridgepoint Dr.
Austin, TX 78754

IX. [Reserved]

X. INSURANCE

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

10.2 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 by changes in statutory law and court decisions. . In no instance will City or ACS allow modification whereupon City or ACS may incur increased risk.

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

TYPE	AMOUNTS
1. Workers' Compensation ** Employers' Liability **	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations *b. Independent contractors c. Products/completed operations d. Personal Injury e. Contractual Liability *f. Explosion, collapse, underground	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
3. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.
* If Applicable	
** Alternate Plans Must Be Approved by Risk Management	

10.4 The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions in order to show compliance with the above insurance requirements (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). ACS 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. ACS shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: San Antonio Metro Health District
332 West Commerce St
San Antonio, Texas 78205

10.5 ACS agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

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

- Provide for an endorsement that the “other insurance” clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers’ compensation and employers’ liability policies will provide a waiver of subrogation in favor of the City.

10.6 Within ten (10) calendar days of a suspension, cancellation or non-renewal of coverage, ACS shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend ACS’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.

10.7 Nothing herein contained shall be construed as limiting in any way the extent to which ACS may be held responsible for payments of damages, as determined by a court of competent jurisdiction to persons or property resulting from ACS’s or its subcontractors’ performance of the work covered under this Agreement.

10.8 It is agreed that ACS’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.

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

XI. INDEMNIFICATION

11.1 **ACS covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, 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 ACS's negligent activities under this AGREEMENT, including any acts or omissions of ACS, any agent, officer, director, representative, employee, ACS or subcontractor of ACS, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law.**

11.2 **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. ACS shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or ACS known to ACS related to or arising out of ACS's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at ACS's cost. The CITY shall have the right, at its option and at its own**

expense, to participate in such defense without relieving ACS of any of its obligations under this paragraph.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 ACS shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of ACS. ACS, its employees or its subcontractors shall perform all necessary work.

12.2 It is City's understanding and this Agreement is made in reliance thereon that ACS intends to use the following subcontractors in the performance of this Agreement: none. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by Director of Health prior to the provision of any services by said subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of ACS. City shall in no event be obligated to any third party, including any subcontractor of ACS, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Except as otherwise stated herein, ACS may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, ACS shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor ACS, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should ACS assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of ACS shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by ACS shall in no event release ACS from any obligation under the terms of this Agreement, nor shall it relieve or release ACS from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 ACS covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that ACS shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and

shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and contractors; that the doctrine of respondent superior shall not apply as between City and ACS, its officers, agents, employees, contractors, subcontractors and contractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint ventures between City and ACS. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the ACS under this Agreement and that the ACS has no authority to bind the City.

XIV. NONDISCRIMINATION POLICY

14.1 ACS hereby acknowledges that it is the policy of the City of San Antonio to assist in increasing the competitiveness and qualifications of small, women, African American, and minority-owned business enterprises in order to afford greater opportunities for obtaining and participating in contracts, related subcontracts, and leases and concessions awarded by the City. ACS agrees that ACS will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. ACS further agrees that ACS will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

XV. CONFLICT OF INTEREST

15.1 ACS acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

15.2 Pursuant to the subsection above, ACS warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. ACS further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XVI. AMENDMENTS

16.1 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the City and the ACS.

XVII. SEVERABILITY

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto 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.

18.1 ACS warrants and certifies that ACS and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. COMPLIANCE

19.1 ACS shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XX. NONWAIVER OF PERFORMANCE

20.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXI. LAW APPLICABLE

21.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXII. LEGAL AUTHORITY

22.1 Each signer of this Agreement, for either City or ACS, represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of either City or ACS and to bind either City or ACS to all of the terms, conditions, provisions and obligations herein contained.

XXIII. PARTIES BOUND

23.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIV. CAPTIONS

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

XXV. DEBARMENT

25.1 ACS certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

25.2 ACS shall provide immediate written notice to City, in accordance with Article VIII. Notice, if, at any time during the term of this contract, including any renewals hereof, ACS learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

XXVI. ELECTRONIC VERSION SAME AS ORIGINAL

26.1 City understands that this document is executed in multiple originals in hardcopy format, which will be placed in the sole possession of City after execution hereof, ACS will scan the fully-executed hardcopy document as a portable document file (.pdf) for storage in accordance with ACS' records retention requirements without retaining the hardcopy. City stipulates that the terms of the electronically stored, fully-executed original of this document may

be enforced in the same manner as the hardcopy counterparts (to be in City's possession) and that it waives any requirement that any hardcopy counterpart be produced to prove authentication for any purpose.

XXVII. ENTIRE AGREEMENT

27.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain 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 hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

EXECUTED and AGREED to this the 17th day of July, 2008.

CITY OF SAN ANTONIO

AMERICAN CANCER SOCIETY

Fernando A. Guerra *Lane Moore*

Printed Name: Fernando A. Guerra,
MD, MPH

Printed Name: Lane Moore

Title: Director of Health

Title: Regional Vice President

Date: 7-17-08

Date: July 10, 2008

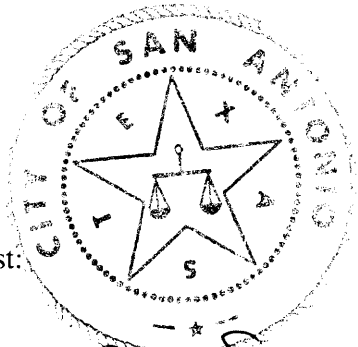
Anna McAndrew

Printed Name: Anna McAndrew

Title: Regional Director of
Health Initiatives

Date: July 10, 2008

Attest:



Leticia M. Vacek
Leticia M. Vacek
City Clerk

Approved as to Form:

Michael D. Bernard
Michael D. Bernard
City Attorney

ATTACHMENT I

**American Cancer Society and SA-TPCC
Community Collaboration Work plan and Timeline
WORK PLAN: FEB 1, 2008 – AUG 31, 2008**

Objective 1: Provide American Cancer Society personnel support to the grant and grant coalition				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
1.1	Provide ACS representative to serve as participating member to coalition	Attendance of ACS representative at coalition meetings/events	2/1-8/31/2008	Community Manager staff labor (10% of time during FY08) = \$4000; Travel mileage \$0.505/mi x 500 miles x 7mos = \$253 [total \$4,253]
1.2	Conduct, as needed, training to grant personnel and/or coalition on ACS resources	Training delivered at coalition meeting	TBD by coalition	No new costs, use existing labor [total \$0]
<i>TOTAL COALITION SUPPORT</i>				<i>\$4,253</i>
Objective 2: Attend training on use and promotion of <i>Yes You Can Clinical Toolkit</i>				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
2.1	Attend training session delivered by DSHS Region 8 tobacco education coordinator <ul style="list-style-type: none"> • How to use the toolkit • How to promote use of the toolkit • How to assess use of the toolkit 	Session attended, Completed attendance sign-in sheet	By 4/18/2008	No new costs, use existing labor [total \$0]
<i>TOTAL TRAINING</i>				<i>\$0</i>
Objective 3: Participate in creation of handout material(s) that outline additional tobacco cessation resources approved by SA-TPCC				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
3.1	Assist in collection of descriptions of tobacco cessation resources already available in the community: health care institutions, substance abuse centers, and non-profit organizations	List and descriptions of resources offered in community	3/24-5/23/2008	No new costs, use existing labor [total \$0]
3.2	Participate in drafting material(s) describing tobacco cessation resources and access	Full draft of material(s)	By 5/31/2008	No new costs, use existing labor [total \$0]

3.3	Participate in obtaining approval of content from SA-TPCC as needed	Consent or approval of material according to coalition rules	By 5/31/2008	No new costs, use existing labor [total \$0]
3.4	Assist in preparation and production of final version of cessation resource information material for distribution	Design and production of final material(s) completed	By 5/31/2008	No new costs, use existing labor [total \$0]
<i>TOTAL PACKAGE PREPARATION</i>				<i>\$0</i>
Objective 4: Conduct cessation consultations with healthcare providers to promote use of available cessation resources [ACS=40]				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
4.1	Identify list of healthcare providers and/or provider associations to contact during FY08 [goal=40 individual providers]	Compiled list	3/24-5/31/2008	No new costs, use existing labor [total \$0]
4.2	Participate in development of strategy and/or presentation to approach healthcare providers	Completed consensus document of outlined strategy, Completed marketing materials	4/7-5/31/2008	No new costs, use existing labor [total \$0]
4.3	Request initial cessation materials (Toolkit, ACS materials, etc.) for distribution to healthcare providers and worksites for TDI, ACS, AHEC	Materials ordered, Materials in stock	By 5/21/2008	Nat'l Quitline products (quantity 2000 each): pocket folders, Industry Leader Sheet, Overview, Using Quitline Sheet, Pricing Standard Sheet, Pricing Basic Sheet, What Tobacco Costs Your Company State Quitline products: 14500 Display Board, 14500 State Quitline poster, 127000 State Quitline cards [total \$15,860]
4.4	Contact healthcare providers/associations to schedule presentation and distribution of cessation resources	# contacts made, # meetings scheduled	5/1-8/31/2008	Part-time grant program manager staff labor (10% of time during FY08 = \$3600) (to be in-kind for FY08)
4.5	Conduct information sessions in individual or group settings to distribute and promote tobacco cessation resources [goal=40 individuals]	# sessions completed, # providers who attended, # materials distributed	5/1-8/31/2008	Travel mileage \$0.505/mi x 600 miles x 7mos [total \$303]

4.6	Participate in creation of method/tool to assess utility of resources and materials distributed by coalition	Completed tool and methodology	6/2-7/18/2008	No new costs, use existing labor [total \$0]
4.7	Assess utility of cessation resources promoted [goal=50% of recipients]	# recipients assessed, Summary of findings	7/21-8/31/2008	No new costs, use existing labor [total \$0]
<i>TOTAL HEALTHCARE PROVIDER OUTREACH</i>				<i>\$16,163</i>
Objective 5: Report performance to SA-TPCC members and Community Evaluation Work Group.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
5.1	Report numbers of encounters and recipient information to coalition leadership and Community Evaluation Work Group as indicated.	Reports compiled by each contractor and given to designee for grant reporting.	end of each month May-August 2008	No new costs, use existing labor [total \$0]
5.2	Present reports of performance to coalition members as needed.	Presentation made at coalition meeting.	By 8/31/2008	No new costs, use existing labor [total \$0]
<i>TOTAL REPORTING</i>				<i>\$0</i>

ATTACHMENT II

**American Cancer Society –
San Antonio Tobacco Prevention and Control Coalition
Grant Period: 02/15/08 – 08/31/08**

Item	Description	Cost x Units	Total
Personnel			\$4,000
Part-time Grant Program Manager (Nicole Townsley)	Part-time grant staff to implement work plan activities <i>(in-kind for FY08)</i>	10% of time during FY08 = \$3,600 <i>(in-kind)</i>	\$0
Community Manager – Health Initiatives (Alison Kushnerick)	Staff member to oversee implementation of work plan	10% of time during FY08	\$4,000
General Operating Costs			\$210
supplies	general office supplies	\$20/mo x 7mos	\$140
photocopying	photocopying for coalition meetings and presentation materials for constituent meetings	\$10/mo x 7mos	\$70
Travel			\$1751
intra-city mileage	mileage to coalition meetings and for work plan activities	\$0.505/mi x 1100 miles	\$556
2008 Texas Teen Tobacco Summit & Tobacco Prevention and Control Summit	DSHS required meeting July 27-30, Woodlands, TX	Registration \$275 Airfare \$150 Transp \$75 Lodging \$400 Per diem \$295	\$1,195
Work Plan Projects			\$16,163
Coalition Participation	Participation in coalition, provide training for coalition members as needed	(all costs included in Personnel and Intra-city mileage) Comm Mgr: \$4000 mileage: \$253	\$0
Training	Attend training on use of <i>Yes You Can Clinical Toolkit</i>	use existing labor and resources	\$0
Package Preparation	Participate in collection of tobacco cessation resources and creation of coalition package for dissemination	use existing labor and resources	\$0
Healthcare Provider Outreach	Identify, contact, and follow-up with selected outreach targets	materials: \$15,860 (following incl. in Personnel and Intra-city mileage) mileage: \$303 Grant Mgr: in-kind	\$16,163
Reporting	Submit outreach achievements and follow-up findings to coalition	costs included in Personnel and Intra-city mileage	\$0
Indirect Costs (if applicable)	na	na	\$0
TOTAL			\$22,124



CMS or Ordinance Number: CN4600007300

TSLGRS File Code:1000-25

Document Title:
CONT - 4600007300

Commencement Date:
6/16/2008

Expiration Date:
7/31/2008

**NON-PROFESSIONAL SERVICES AGREEMENT
FOR
Medical Special Needs Shelter Preparedness**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as “City”) and Baptist Child and Family Services (hereinafter referred to as “Contractor”), both of which may be referred to herein collectively as the “Parties”.

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below: “City” is defined in the preamble of this Agreement and includes its successors and assigns.

“Contractor” is defined in the preamble of this Agreement and includes its successors.

“Director” shall mean the director of the San Antonio Metropolitan Health District (SAMHD).

"Intellectual Property Rights" means worldwide rights associated with (i) inventions, including patents, patent applications and statutory invention registrations or certificates of invention, (ii) trademarks, service marks, domain names, trade dress, logos, and other brand or source distinctions, including related registrations and applications for registration, (iii) works of authorship, including copyright registrations, applications therefore, and moral rights, (iv) trade secrets and know-how, (v) divisions, continuations, renewals and re-issuances of the foregoing now existing or acquired in the future, and (vi) other intellectual property rights of any type throughout the world.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on June 16, 2008 and terminate on July 31, 2008.

2.2 This Agreement shall terminate in the event that sufficient funds are not appropriated to meet the City’s obligations under this Agreement during any fiscal year. In such event, the City shall provide Contractor with notice as set out in the Agreement prior to termination.

III. SCOPE OF SERVICES

3.1 Contractor agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV. Compensation.

3.2 Contractor agrees to:

3.2.1 Assess and augment its Medical Special Needs Plan to include alternate treatment facilities for Pandemic Influenza

3.2.2 Establish and equip an alternate treatment facility and supply it with the following materials in order to be ready to respond to the special needs population during an emergency situation:

3.2.2.1 Communication equipment;

3.2.2.2 Sleeping cots, pillows, blankets, towels, etc.;

3.2.2.3 Any other equipment or supplies reasonably expected to be needed to respond to an event at an alternate treatment facility.

3.3 City and Contractor agree that reimbursement for eligible expenses shall be made within 30 days after the date on which City receives an invoice, with appropriate documentation as required by City from Contractor for said services.

3.4 All work performed by Contractor hereunder shall be performed to the satisfaction of Director of the SAMHD. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by Contractor, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII, in whole or in part, should Contractor's work not be satisfactory to Director. City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

IV. COMPENSATION TO CONTRACTOR

4.1 In consideration of Contractor's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay Contractor an amount not to exceed thirty thousand dollars (\$30,000.00), as total compensation. City will create a purchase order and pay within 30 days after the date when City receives invoice(s).

4.2 No additional fees or expenses of Contractor shall be charged by Contractor nor be payable by City. The parties hereby agree that all compensable expenses of Contractor have been provided for in the total payment to Contractor as specified in section 4.1 above. Total

payments to Contractor cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the City.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be City. Payment will be made to Contractor following written approval of the final work products and services by City. City shall not be obligated or liable under this Agreement to any party, other than Contractor, for the payment of any monies or the provision of any goods or services.

V. OWNERSHIP OF DOCUMENTS, INTELLECTUAL PROPERTY AND WORK PRODUCT

5.1 Baptist Child and Family Services and City agree that any and all writings, documents or information in whatsoever form and character produced by Contractor pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Contractor.

5.2 City shall be the sole and exclusive owner of the intellectual property as a work-for-hire, and of all copyright in the intellectual property. Ownership of Work Products will inure to the benefit of City from the date of creation or of fixation in a tangible medium of expression, as applicable, of such Work Products.

5.3 Contractor shall furnish sufficient documentation to the reasonable satisfaction of the City, that the Contractor is authorized to convey such rights to the City as are required herein. To the extent Contractor is authorized via third party vendors, Contractor shall furnish licenses to use any icons, artwork, or graphics and it shall furnish model releases from any recognizable persons or other entities as may be necessary for the City to exercise the rights granted. Contractor shall obtain written acknowledgments, licenses, assignments, transfers or conveyances from its employees, subcontractors and consultants who perform services relating to this Agreement confirming that Contractor either owns the copyright in the work product or that Contractor has the authority to license the work product and grant the rights to the City of San Antonio as set forth in this Agreement.

5.4 Nothing herein shall be construed to grant any right or license to Contractor in or to any material provided to Contractor hereunder by City including, but not limited to any software, data, designs, business plans, financial information, User data or information and, Confidential Information of City, other than the right to use such material solely on behalf of City in accordance with the terms hereof. All of the foregoing materials, including, but not limited to, any and all copyrights, trademarks, service marks, and trade names related thereto, are and shall remain the property of City.

5.5 The Parties covenant to perform their respective responsibilities under this Agreement in a manner that does not willfully infringe, or constitute willful infringement or misappropriation of, any U.S. patent, trade secret, copyright, or other intellectual property right of any third party, or a violation of the other Party's software license contracts or intellectual property rights disclosed to or known by such Party.

5.6 The provisions of Section V shall survive termination of this agreement.

VI. RECORDS RETENTION

6.1 Contractor and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Contractor shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Contractor shall retain the records until the resolution of such litigation or other such questions. Contractor acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Contractor to return said documents to City prior to or at the conclusion of said retention.

6.3 Contractor shall notify City, immediately, in the event Contractor receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Contractor understands and agrees that City will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II, or earlier termination pursuant to any of the provisions hereof.

7.2 This Agreement may be terminated by City upon seven (7) calendar days' written notice. Notice shall be provided in accordance with Article VIII.

7.3 Upon written notice, which notice shall be provided in accordance with Article VIII, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior written approval, as provided in Article XII.

7.4 Should Contractor default in the performance of this Agreement in a manner listed below in subsections 7.4.1, 7.4.2 and 7.4.3, same shall be considered an event of default.

City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have seven (7) calendar days after receipt of the written notice, in accordance with Article VIII, to cure such default. If Contractor fails to cure the default within such seven-day period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate.

7.4.1 Bankruptcy or selling substantially all of company's assets;

7.4.2 Failing to perform or failing to comply with any covenant herein required;

7.4.3 Performing unsatisfactorily.

7.5 If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, Contractor shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Contractor, or provided to Contractor, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Contractor in accordance with Article VI. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at Contractor's sole cost and expense. Payment of compensation due or to become due to Contractor is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Contractor shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Contractor to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Contractor of any and all right or claims to collect moneys that Contractor may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, Contractor shall cease all operations of work being performed by Contractor or any of its subcontractors pursuant to this Agreement.

7.9 In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Contractor for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

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

If intended for Contractor, to:

Baptist Child and Family Services
 Attn: Kevin C. Dinnin, President
 909 N.E. Loop 410 Suite 800
 San Antonio, TX 78209

IX. [Reserved]

X. INSURANCE

10.1 Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Health Department, which shall be clearly labeled "*Medical Special Needs Shelter Preparedness*" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The 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 Health Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

10.2 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 whereupon City may incur increased risk.

10.3 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, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation 2. Employers' Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
3. 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. Environmental Impairment/ Impact – sufficiently broad to cover disposal liability.	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence
* If applicable	

10.4 The City shall be entitled, upon request and without expense, to receive copies of any endorsements to such policies as they apply to the limits required by the City. 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: Health Department
P.O. Box 839966
San Antonio, Texas 78283-3966

10.5 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 (if required by policy terms), 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 that all insurance required herein of the named insured is considered primary coverage and shall have no right of contribution for all claims against the named insured as to any other insurance or self-insurance available to the additional insureds.
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

10.6 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.

10.7 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

10.8 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.

10.9 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.

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

XI. INDEMNIFICATION

11.1 Contractor covenants and agrees to **FULLY INDEMNIFY and HOLD HARMLESS**, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Contractor's activities under this Agreement, including any acts or omissions of Contractor, any agent, officer, director, representative, employee, consultant or subcontractor of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or 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 CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF 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.**

(b) The provisions of this **INDEMNIFICATION** 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.

(c) Contractor shall promptly advise the City in writing of any claim or demand against the City or Contractor known to Contractor related to or arising out of Contractor's activities under this Agreement.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 Contractor shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Contractor and its employees shall perform all necessary work set out in this Agreement.

12.2 Except as otherwise stated herein, Contractor may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, Contractor shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Contractor, assignee, transferee or subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by

subcontractors with this Agreement shall be the responsibility of Contractor. City shall in no event be obligated to any third party, including any subcontractor of Contractor, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Contractor assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of Contractor shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Contractor shall in no event release Contractor from any obligation under the terms of this Agreement, nor shall it relieve or release Contractor from the payment of any damages to City, which City sustains as a result of such violation.

XII. INDEPENDENT CONTRACTOR

13.1 Contractor covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Contractor under this Agreement and that the Contractor has no authority to bind the City.

XIV. DEBARMENT

14.1 Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

14.2 Contractor shall provide immediate written notice to City, in accordance with Article X. Notice, if, at any time during the term of this contract, including any renewals hereof, Contractor learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Contractor, and subject to approval by the City Council.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Contractor warrants and certifies that Contractor and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XVIII. COMPLIANCE

18.1 Contractor shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XX. LAW APPLICABLE

20.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

20.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXI. LEGAL AUTHORITY

21.1 The signer of this Agreement for Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

XXII. PARTIES BOUND

22.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

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 and/or conditions of this Agreement.

XXIV. ENTIRE AGREEMENT

24.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain 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 hereto, and duly executed by the parties, in accordance with Article XVI.

EXECUTED and **AGREED** to this the 7th day of July, 2008.

CITY OF SAN ANTONIO

CONTRACTOR

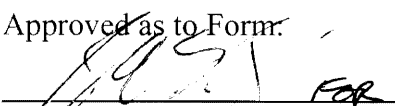
Baptist Child and Family Services


(Signature)


(Signature)

Printed Name: Frances A. Gonzalez
Title: Assistant City Manager
Date: _____

Printed Name: Kevin C. Dinnin
Title: President
Date: 7/2/08

Approved as to Form:


Michael D. Bernard, City Attorney



CMS or Ordinance Number: CN4600007301

TSLGRS File Code:1000-25

Document Title:
CONT - 4600007301

Commencement Date:
6/16/2008

Expiration Date:
7/31/2008

**NON-PROFESSIONAL SERVICES AGREEMENT
FOR
Bexar County Medical Society Physician Emergency Preparedness**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City") and Bexar County Medical Society (hereinafter referred to as "Contractor"), both of which may be referred to herein collectively as the "Parties".

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below: "City" is defined in the preamble of this Agreement and includes its successors and assigns.

"Contractor" is defined in the preamble of this Agreement and includes its successors.

"Director" shall mean the director of the San Antonio Metropolitan Health District (SAMHD).

"Intellectual Property Rights" means worldwide rights associated with (i) inventions, including patents, patent applications and statutory invention registrations or certificates of invention, (ii) trademarks, service marks, domain names, trade dress, logos, and other brand or source distinctions, including related registrations and applications for registration, (iii) works of authorship, including copyright registrations, applications therefore, and moral rights, (iv) trade secrets and know-how, (v) divisions, continuations, renewals and re-issuances of the foregoing now existing or acquired in the future, and (vi) other intellectual property rights of any type throughout the world.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on June 16, 2008 and terminate on July 31, 2008.

2.2 This Agreement shall terminate in the event that sufficient funds are not appropriated to meet the City's obligations under this Agreement during any fiscal year. In such event, the City shall provide Contractor with notice as set out in the Agreement prior to termination.

III. SCOPE OF SERVICES

3.1 Contractor agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV. Compensation.

3.2 Contractor agrees to:

3.2.1 Provide BCMS physician members, as well as non-member physicians and other health care professionals, to assist with community medical needs in the event of a Pandemic Influenza outbreak.

3.2.2.1 Acquire new computer equipment to enhance Contractor's ability to work with City. Such equipment should be equipped with software that is compatible with software on the City's computers, specifically Windows XP Professional. Computers should also possess a minimum of one (1) GB of memory.

3.3 City and Contractor agree that reimbursement for eligible expenses shall be made within 30 days after the date on which City receives an invoice, with appropriate documentation as required by City from Contractor for said services

3.4 All work performed by Contractor hereunder shall be performed to the satisfaction of Director of the SAMHD. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by Contractor, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should Contractor's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

IV. COMPENSATION TO CONTRACTOR

4.1 In consideration of Contractor's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay Contractor an amount not to exceed thirty thousand dollars (\$30,000.00) as total compensation. City will create a purchase order and pay within 30 days after the date when City receives invoice(s).

4.2 No additional fees or expenses of Contractor shall be charged by Contractor nor be payable by City. The parties hereby agree that all compensable expenses of Contractor have been provided for in the total payment to Contractor as specified in section 4.1 above. Total payments to Contractor cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the City.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be City. Payment will be made to Contractor following written approval of the final work products and services by City. City shall not be obligated or liable under this Agreement to any party, other than Contractor, for the payment of any monies or the provision of any goods or services.

V. OWNERSHIP OF DOCUMENTS, INTELLECTUAL PROPERTY AND WORK PRODUCT

5.1 Bexar County Medical Society and City agree that any and all writings, documents or information in whatsoever form and character produced by Contractor pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Contractor.

5.2 City shall be the sole and exclusive owner of the intellectual property as a work-for-hire, and of all copyright in the intellectual property. Ownership of Work Products will inure to the benefit of City from the date of creation or of fixation in a tangible medium of expression, as applicable, of such Work Products.

5.3 Contractor shall furnish sufficient documentation to the reasonable satisfaction of the City, that the Contractor is authorized to convey such rights to the City as are required herein. To the extent Contractor is authorized via third party vendors, Contractor shall furnish licenses to use any icons, artwork, or graphics and it shall furnish model releases from any recognizable persons or other entities as may be necessary for the City to exercise the rights granted. Contractor shall obtain written acknowledgments, licenses, assignments, transfers or conveyances from its employees, subcontractors and consultants who perform services relating to this Agreement confirming that Contractor either owns the copyright in the work product or that Contractor has the authority to license the work product and grant the rights to the City of San Antonio as set forth in this Agreement.

5.4 Nothing herein shall be construed to grant any right or license to Contractor in or to any material provided to Contractor hereunder by City including, but not limited to any software, data, designs, business plans, financial information, User data or information and, Confidential Information of City, other than the right to use such material solely on behalf of City in accordance with the terms hereof. All of the foregoing materials, including, but not limited to, any and all copyrights, trademarks, service marks, and trade names related thereto, are and shall remain the property of City.

5.5 The Parties covenant to perform their respective responsibilities under this Agreement in a manner that does not willfully infringe, or constitute willful infringement or misappropriation of, any U.S. patent, trade secret, copyright, or other intellectual property right of any third party, or a violation of the other Party's software license contracts or intellectual property rights disclosed to or known by such Party.

5.6 The provisions of Section V shall survive termination of this agreement.

VI. RECORDS RETENTION

6.1 Contractor and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Contractor shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Contractor shall retain the records until the resolution of such litigation or other such questions. Contractor acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Contractor to return said documents to City prior to or at the conclusion of said retention.

6.3 Contractor shall notify City, immediately, in the event Contractor receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Contractor understands and agrees that City will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II, or earlier termination pursuant to any of the provisions hereof.

7.2 This Agreement may be terminated by City upon seven (7) calendar days' written notice. Notice shall be provided in accordance with Article VIII.

7.3 Upon written notice, which notice shall be provided in accordance with Article VIII, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior written approval, as provided in Article XII.

7.4 Should Contractor default in the performance of this Agreement in a manner listed below in subsections 7.4.1, 7.4.2 and 7.4.3, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have seven (7) calendar days after receipt of the written notice, in accordance with Article

VIII, to cure such default. If Contractor fails to cure the default within such seven-day period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate.

7.4.1 Bankruptcy or selling substantially all of company's assets;

7.4.2 Failing to perform or failing to comply with any covenant herein required;

7.4.3 Performing unsatisfactorily.

7.5 If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, Contractor shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Contractor, or provided to Contractor, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Contractor in accordance with Article VI. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at Contractor's sole cost and expense. Payment of compensation due or to become due to Contractor is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Contractor shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Contractor to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Contractor of any and all right or claims to collect moneys that Contractor may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, Contractor shall cease all operations of work being performed by Contractor or any of its subcontractors pursuant to this Agreement.

7.9 In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Contractor for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

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

If intended for Contractor, to:

CEO, Executive Director
 Bexar County Medical Society
 6243 W. IH-10, Suite 600
 San Antonio, TX 78201

IX. [Reserved]

X. INSURANCE

10.1 Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Health Department, which shall be clearly labeled "*Medical Special Needs Shelter Preparedness*" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The 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 Health Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

10.2 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 whereupon City may incur increased risk.

10.3 A Contractors' 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, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. 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. Environmental Impairment/ Impact – sufficiently broad to cover disposal liability.	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence
* If applicable	

10.4 The City shall be entitled, upon request and without expense, to receive copies of any endorsements to such policies as they apply to the limits required by the City. 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: Health Department
P.O. Box 839966
San Antonio, Texas 78283-3966

10.5 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 (if required by policy terms), 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 that all insurance required herein of the named insured is considered primary coverage and shall have no right of contribution for all claims against the named insured as to any other insurance or self-insurance available to the additional insureds.
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

10.6 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.

10.7 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

10.8 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.

10.9 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.

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

XI. INDEMNIFICATION

11.1 Contractor covenants and agrees to **FULLY INDEMNIFY and HOLD HARMLESS**, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Contractor's activities under this Agreement, including any acts or omissions of Contractor, any agent, officer, director, representative, employee, consultant or subcontractor of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or 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 CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF 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.**

(b) The provisions of this **INDEMNIFICATION** 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.

(c) Contractor shall promptly advise the City in writing of any claim or demand against the City or Contractor known to Contractor related to or arising out of Contractor's activities under this Agreement.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 Contractor shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Contractor and its employees shall perform all necessary work set out in this Agreement.

12.2 Except as otherwise stated herein, Contractor may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, Contractor shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Contractor, assignee, transferee or subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by

subcontractors with this Agreement shall be the responsibility of Contractor. City shall in no event be obligated to any third party, including any subcontractor of Contractor, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Contractor assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of Contractor shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Contractor shall in no event release Contractor from any obligation under the terms of this Agreement, nor shall it relieve or release Contractor from the payment of any damages to City, which City sustains as a result of such violation.

XII. INDEPENDENT CONTRACTOR

13.1 Contractor covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Contractor under this Agreement and that the Contractor has no authority to bind the City.

XIV. DEBARMENT

14.1 Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

14.2 Contractor shall provide immediate written notice to City, in accordance with Article X. Notice, if, at any time during the term of this contract, including any renewals hereof, Contractor learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Contractor, and subject to approval by the City Council.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Contractor warrants and certifies that Contractor and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XVIII. COMPLIANCE

18.1 Contractor shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XX. LAW APPLICABLE

20.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

20.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXI. LEGAL AUTHORITY

21.1 The signer of this Agreement for Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

XXII. PARTIES BOUND

22.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

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 and/or conditions of this Agreement.

XXIV. ENTIRE AGREEMENT

24.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain 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 hereto, and duly executed by the parties, in accordance with Article XVI.

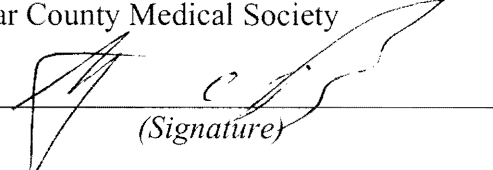
EXECUTED and AGREED to this the 21st day of July, 2008.

CITY OF SAN ANTONIO

CONTRACTOR

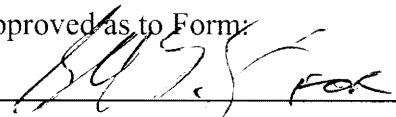
Bexar County Medical Society


(Signature)


(Signature)

Printed Name: Frances A. Gonzalez
Title: Assistant City Manager
Date: _____

Printed Name: Stephen C. Fitzer
Title: CEO
Date: July 3, 2008

Approved as to Form:


Michael D. Bernard, City Attorney



CMS or Ordinance Number: CN4600007302

TSLGRS File Code:1000-25

Document Title:
CONT - 4600007302

Commencement Date:

6/23/2008

Expiration Date:

9/30/2008

3.2 Consultant agrees to:

3.2.1 Provide qualified staff as mutually agreed to by the parties, to perform the services under this agreement.

3.2.2 Consultant will evaluate the Project WORTH implementation of BIG DECISIONS.

3.2.3 Consultant will analyze the Spring 2007 and Fall 2007 Pre- and Post-test data to include:

- Evaluation will include performing analyses of Pre- and Post-test evaluation of curriculum/implementation
- Preparing frequency distributions of each questionnaire item
- Performing contingency table analyses
- Calculating differences in means tests (t-tests) with most salient questionnaire items
- Advising on content of Pre- and Post-test
- Collecting, tabulating, and entering Pre- and Post-test data into a database will be accomplished by City staff and is not included in the plan

3.2.4 Consultant will also analyze Spring 2008 data following guidelines listed under 3.2.3.

3.2.5 Consultant will also help develop publications describing findings for Spring 2007, Fall 2007, and Spring 2008 data.

3.2.6 Consultant will help develop publications, including specifically:

- Describe if BIG DECISIONS curriculum is "promising": are things moving in the right direction
- Describe the differences (if any) between males and females
- Describe differences (if any) between implementations with sexes separated and together

3.2.7 Consultant will develop and provide reports, such as

- Interim written progress reports, as appropriate. This includes reports of completed evaluation components, e.g., analysis of Pre- and Post-Test data from a curriculum implementation
- Incorporate findings into a comprehensive final report

3.3 All work performed by Consultant hereunder shall be performed to the satisfaction of City. The determination made by City shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by Consultant, which is not satisfactory to the City. City shall have the right to

terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should Consultant's work not be satisfactory to City; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

IV. COMPENSATION TO CONSULTANT

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined by City, of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed twenty thousand dollars (\$20,000.00) as total compensation, to be paid to Consultant as follows:

One-half, (\$10,000.00) of the total compensation will be paid when results for item 3.2.3 are completed and approved by City. The rest of the compensation (\$10,000.00) will be made to Consultant following approval of the final reports and publication papers by City.

4.2 No additional fees or expenses of Consultant shall be charged by Consultant nor be payable by City. The parties hereby agree that all compensable expenses of Consultant have been provided for in the total payment to Consultant as specified in section 4.1 above. Total payments to Consultant cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to Consultant following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than Consultant, for the payment of any monies or the provision of any goods or services.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by Consultant pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Consultant.

5.2 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 Consultant and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Consultant shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Consultant shall retain the records until the resolution of such litigation or other such questions. Consultant acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Consultant to return said documents to City prior to or at the conclusion of said retention.

6.3 Consultant shall notify City, immediately, in the event Consultant receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Consultant understands and agrees that City will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by City upon 15 business days written notice, which notice shall be provided in accordance with Article VIII. Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.4 Defaults With Opportunity for Cure. Should Consultant default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying

such matter(s) in default. Consultant shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Consultant fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another consultant to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new consultant against Consultant's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

- 7.4.1 Bankruptcy or selling substantially all of company's assets
- 7.4.2 Failing to perform or failing to comply with any covenant herein required
- 7.4.3 Performing unsatisfactorily

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, Consultant shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Consultant, or provided to Consultant, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Consultant in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at Consultant's sole cost and expense. Payment of compensation due or to become due to Consultant is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Consultant shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of

City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Attn: Fernando A. Guerra, M.D. M.P.H.
San Antonio Metropolitan Health District
332 W. Commerce St. RM 307

If intended for Consultant, to:

Peggy B. Smith, Ph.D.
14 E. Greenway Plaza 18m
Houston, TX 77046

IX. [Reserved]

X. INSURANCE

10.1 Prior to the commencement of any work under this Agreement, Consultant shall furnish an original completed Certificate(s) of Insurance, and applicable endorsements, to the City's Health Department, which shall be clearly labeled "Professional Services Agreement for Project WORTH Evaluation" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to City's Health Department, and no officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

10.2 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, but in no instance will City allow modification whereupon City may incur increased risk.

10.3 A Consultant's financial integrity is of interest to the City; therefore, subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by the City, Consultant shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- (VII) or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types and for an amount not less than the amount listed below :

TYPE	AMOUNTS
1. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit for Bodily Injury and Property Damage of \$100,000 per occurrence</u>
2. Professional Liability (Claims Made Form)	\$250,000 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.

10.4 The City shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Consultant 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 in Section 10.6 herein within 10 days of the requested change. Consultant shall pay any costs incurred resulting from said changes.

10.5 Consultant agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

- Name the City and its officers, employees, volunteers, and elected representatives as additional insureds, by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

10.6 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by City, Consultant shall notify the City of such and shall give such notices not less than thirty (30) days prior to the change, if Consultant knows of said change in advance, or ten (10) days notice after the change, if the Consultant did not know of the change in advance. Such notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the City at the following address:

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

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

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

10.9 It is agreed that Consultant'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.

10.10 It is understood and agreed that the insurance required is in addition to

and separate from any other obligation contained in this Agreement.

XI. INDEMNIFICATION

11.1 Consultant covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Consultant's activities under this Agreement, including any acts or omissions of Consultant, any agent, officer, director, representative, employee, consultant or subcontractor of Consultant, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or 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 Consultant AND City ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF 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.

11.2 The provisions of this INDEMNIFICATION 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.

11.3 Consultant shall promptly advise the City in writing of any claim or demand against the City or Consultant known to Consultant related to or arising out of Consultant's activities under this Agreement.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 Consultant shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of Consultant. Consultant, its employees or its subcontractors shall perform all necessary work.

12.2 It is City's understanding and this Agreement is made in reliance thereon, that Consultant intends to use the following subcontractors in the performance of this Agreement: Ruth S. Buzi, LMSW-ACP, Ph.D.. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by City

of San Antonio City Council (hereafter "City Council"), as evidenced by passage of an ordinance, prior to the provision of any services by said subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Consultant. City shall in no event be obligated to any third party, including any subcontractor of Consultant, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Except as otherwise stated herein, Consultant may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, Consultant shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Consultant, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Consultant assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of Consultant shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Consultant shall in no event release Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release Consultant from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Consultant covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Consultant. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Consultant under this Agreement and that the Consultant has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 Consultant acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

14.2 Pursuant to the subsection above, Consultant warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Consultant further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Consultant, and subject to approval by the City Council, as evidenced by passage of an ordinance.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Consultant warrants and certifies that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or

certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XVIII. COMPLIANCE

18.1 Consultant shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XV. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XX. LAW APPLICABLE

20.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

20.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXI. LEGAL AUTHORITY

21.1 The signer of this Agreement for Consultant represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Consultant and to bind Consultant to all of the terms, conditions, provisions and obligations herein contained.

XXII. PARTIES BOUND

22.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

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 and/or conditions of this Agreement.

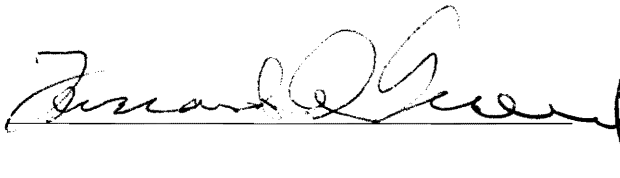
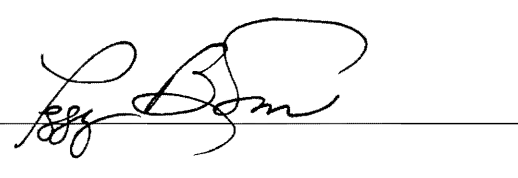
XXIV. ENTIRE AGREEMENT

24.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain 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 hereto, and duly executed by the parties, in accordance with Article XV. Amendments.

EXECUTED and **AGREED** to this the _____ day of _____, 2008.

CITY OF SAN ANTONIO

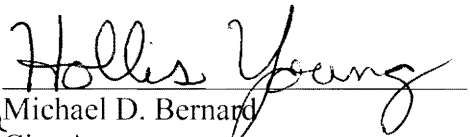
CONSULTANT

Printed Name: **Fernando A. Guerra,**
M.D., M.P.H.
Title: **Director of Health**
Date: _____

Printed Name: *Peggy B. Smith*
Professor
Title: _____
Date: 6/20/08

Approved as to Form:


for Michael D. Bernard
City Attorney



CMS or Ordinance Number: CN4600007320

TSLGRS File Code:1000-25

Document Title:
CONT - 4600007320

Commencement Date:

9/1/2007

Expiration Date:

8/31/2008

3.3 It is expressly understood and agreed by the City and Center that City's obligations under this Agreement are contingent upon the actual receipt of adequate funds to meet the City's liability hereunder. Lack of funding is not and shall not be considered a breach of this Agreement. If City does not receive adequate funds to pay obligations under this Agreement, then this Agreement shall terminate and neither Center nor City shall have any further obligations hereunder.

3.4 The Parties hereby agree that, notwithstanding any other language to the contrary, either Party may terminate this Agreement with or without cause upon thirty (30) days written notice to the other Party.

IV. SCOPE OF SERVICES

4.1 The Center shall provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the City and in compliance with the list of duties and responsibilities set forth herein.

4.2 Center will assist City in the planning and implementation, training, and exercising of the Strategic National Stockpile (SNS) and the Cities Readiness Initiative in conjunction with the Texas Department of State Health Services and Comal County Health Department. Planning shall include an All-Hazards approach to response to Bioterrorism events, emerging infectious diseases, and catastrophes both man-made and natural.

4.3 The Center will assist SAMHD staff in the development of Risk Communications and Crisis Management materials, fact sheets, video productions, and evaluate SNS exercise activities.

4.4 Center will assist in the recruitment, training, and credentialing of the volunteer groups, and further develop the Adopt A Pod concept among companies, military, and school districts employing large numbers of people which will enable SAMHD to distribute prophylaxis to these sites in an effort to decrease response time in dispensing prophylaxis to our community.

4.5 Center will further develop the Alternate Medical Treatment Facility concept in conjunction with the Regional Medical Operation Center in an effort to triage effected individuals, and alleviate the over crowding of hospital emergency rooms.

4.6 Center agrees to provide the services described in Section IV entitled Scope of Services in exchange for the compensation described in Section V. Compensation.

4.7 All work performed by Center hereunder shall be performed to the satisfaction of the Director of the SAMHD. The determination made by the Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by this Agreement, which is not satisfactory to the Director. City shall have the right to terminate this Agreement, in whole or in part, should Center's work not be satisfactory to the Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

V. COMPENSATION

5.1 In consideration of Center's performance in a satisfactory and efficient manner, as determined solely by Director, of all services, activities, duties and responsibilities set forth in this Agreement, City agrees to pay Center an amount not to exceed Nine-Thousand, Five-Hundred, Fifty Dollars (\$9,550) as total compensation, to be paid to Center pursuant to the following rates as announced by the Department of State Health Services, Public Health Emergency Preparedness Grant.

Public Health All-Hazards Preparedness Consultation \$95.50 per hour

5.2 City and Center agree that reimbursement for eligible services shall be made within thirty (30) days after the date on which City received an invoice, with appropriate documentation as required by City, from Center for said services.

VI. OWNERSHIP OF DOCUMENTS

6.1 Any and all writings, documents or information in whatsoever form and character produced by Center pursuant to the provisions of this Agreement, excluding medical records, is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Center.

6.2 Center understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires.

VII. INSURANCE

7.1 Center and the City each maintain a self-insurance fund for general liability and worker's compensation claims and causes of action to meet their statutory obligations to each party's employees.

VIII. NO INDEMNIFICATION

8.1 Center and the City acknowledge they are political subdivisions of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

IX. DEBARMENT

9.1 Center certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

9.2 Center shall provide immediate written notice to City, in accordance with Article X. Notice, if, at any time during the term of this contract, including any renewals hereof, Center learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

X. NOTICE

10.1 All notices to be given under this Agreement shall be in writing and shall either be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid and addressed to the proper party at the address which appears below or at such other address as the Parties may designate. All notices given by mail shall be deemed to have been given three (3) days after the time of deposit in the United States mail and shall be effective from such date:

If intended for City, to:

City Clerk	AND	City of San Antonio
City of San Antonio		Director, San Antonio Metropolitan Health District
P.O. Box 839966		332 W. Commerce, Suite 307
San Antonio, Texas 78283-3966		San Antonio, Texas 78205

If intended for Center, to:

University of Texas Health Science Center at San Antonio
Center for Public Health Preparedness & Biomedical Research
Charles R. Bauer, MD
Mail Code 7837
7703 Floyd Curl Drive
San Antonio, Texas 78229-3900

AND

University of Texas Health Science Center at San Antonio
Center for Public Health Preparedness & Biomedical Research
Jane A. Youngers, Assistant Vice President for Research
Mail Code 7837
7703 Floyd Curl Drive
San Antonio, Texas 78229-3900

XI. ASSIGNMENT

11.1 Neither party may assign its rights, privileges or obligations under this Agreement, in whole or in part, without the written consent of the other party. Any attempt to assign without such approval shall be void.

XII. AMENDMENTS

12.1 No amendment, modification, or alteration of the terms hereof shall be binding unless in writing, dated subsequent to the date of this Agreement and duly authorized by the City and the Center.

XIII. LEGAL CONSTRUCTION

13.1 In case any one or more of the provisions contained in 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 provisions thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

XIV. LICENSES/CERTIFICATIONS

14.1 Center certifies that Center and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XV. COMPLIANCE

15.1 Center shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XVI. LAW APPLICABLE

16.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN THE STATE OF TEXAS.

16.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.


XVII. ENTIRE CONTRACT


17.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire Agreement between the parties hereto and contain 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 hereto, and duly executed by the parties, in accordance with Article XII. Amendments.

EXECUTED IN DUPLICATE ORIGINALS ON THE DATE WRITTEN ABOVE.


**University of Texas Health Science
Center of San Antonio**

**City of San Antonio
San Antonio Metropolitan Health District**

BY: 
Jane A. Youngers
Assistant Vice President for Research

BY: 
Fernando A. Guerra, M.D., MPH
Director of Health

APPROVED AS TO FORM


Michael D. Bernard
City Attorney



CMS or Ordinance Number: CN4600007362

TSLGRS File Code:1000-25

Document Title:
CONT - 4600007362

Commencement Date:

2/15/2008

Expiration Date:

8/31/2008

**PROFESSIONAL SERVICES AGREEMENT
FOR THE SAN ANTONIO TOBACCO PREVENTION AND CONTROL COALITIONS
WITH THE BEXAR COUNTY HOSPITAL DISTRICT
D/B/A UNIVERSITY HEALTH SYSTEM**

STATE OF TEXAS § CITY OF SAN ANTONIO
 §
COUNTY OF BEXAR § PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as “City”), on behalf of the San Antonio Metropolitan Health District (SAMHD); acting by and through its City Manager, pursuant to Ordinance No. 2008-04-10-0298 passed and approved on April 10, 2008, and the Bexar County Hospital District d/b/a University Health System by and through its President/CEO George B. Hernández, Jr. (hereafter referred to as “UHS”), both of which may be referred to herein collectively as the “Parties”.

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

“City” is defined in the preamble of this Agreement and includes its successors and assigns.

“UHS” is defined in the preamble of this Agreement and includes its successors.

“Director” shall mean the director of City’s San Antonio Metropolitan Health District.

“SA-TPCC” shall be defined as the San Antonio Tobacco Prevention and Control Coalitions.

“SA-TPCC staff” shall be defined as those persons hired by SAMHD for the purpose of day-to-day program oversight with funding from the Tobacco Community Coalition grant of the Texas Department of State Health Services.

“CEW” shall be defined as the Community Evaluation Workgroup, the team of coalition members and sub-contractors that collect, organize and report data related to the work of the program and coalition.

“DSHS” shall be defined as the Texas Department of State Health Services, the agency that oversees the statewide grant, tobacco prevention and control programming, and evaluation efforts.

“Target Area,” shall be defined as Bexar County, or smaller areas to be determined by the SA-TPCC in the future.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on February 15, 2008 and terminate on August 31, 2008.

2.2 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

2.3 City will have the option to renew and extend the term of this Agreement once for a term of one year, subject to acceptance by UHS. The renewal or extension will be evidenced by passage of a subsequent City ordinance.

2.4 UHS further agrees and understands that the City expects to pay all obligations of this Agreement from cooperative agreement funding. Accordingly, if cooperative agreement funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor UHS will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

III. SCOPE OF SERVICES

3.1 UHS agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV Compensation.

3.2 All work performed by UHS hereunder shall be performed to the satisfaction of Director of City's San Antonio Metropolitan Health District. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by UHS, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should UHS's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate, subject to Sec. 7.4.

3.3 UHS shall select specific individuals as primary and secondary representatives to the SA-TPCC. Both representatives may participate in the coalition concurrently, but at least one representative will be present at all coalition meetings and relevant planning sessions. This participation is required for coordination of SA-TPCC activities including but not limited to community assessment, strategic planning, outreach, evaluation planning, and other events. UHS will supply contact information to SA-TPCC and SAMHD staff regarding both representatives and both representatives will be tasked by UHS to ensure full representation and participation of UHS. In the event that there is a change in the individuals assigned by UHS as representative(s) to the SA-TPCC, UHS will notify SA-TPCC and SAMHD staff within 5 business days of the time such change has taken place.

3.4 UHS shall comply with the guidelines regarding the use of the SAMHD and City names and logos, and will also comply with and identity guidelines determined for the SA-TPCC once developed.

3.5 UHS will submit detailed monthly activity reports to the SA-TPCC CEW and SAMHD for the purposes of program evaluation and reporting. UHS will supply the reports in the format requested by the SA-TPCC to the CEW by the 5th day of each month to report performance for the preceding month. In addition, UHS will provide any other progress reports or summaries requested by the SA-TPCC as needed.

3.6 UHS representative(s) will attend and participate in any DSHS technical assistance training sessions or statewide coalition meetings as directed by DSHS. Costs to attend these meetings will be identified in the budget attached hereto and incorporated herein for all purposes as Attachment II, and compensated according to the terms of this Agreement.

3.7 In addition to the above mentioned items from Section III, UHS shall provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the City at all times affixed hereto and incorporated herein for all purposes as Attachment I.

IV. COMPENSATION TO UHS

4.1 In consideration of UHS's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay UHS an amount not to exceed fifteen thousand dollars (\$15,000.00) as total compensation, which is budgeted for such payment, as set forth and incorporated herein for all purposes in the budget which is attached as Attachment II.

4.2 No additional fees or expenses of UHS shall be charged by UHS nor be payable by City. The parties hereby agree that all compensable expenses of UHS have been provided for in the total payment to UHS as specified in section 4.1 above. Total payments to UHS cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to UHS following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than UHS, for the payment of any monies or the provision of any goods or services.

4.4 UHS agrees to submit statements showing monthly itemized costs and any documented in-kind expenses to the City associated with this Agreement. Reimbursement of eligible expenses, as determined by the City, will be made monthly according to standard procedures followed by City, as requested upon receipt of billing from UHS. Invoices will be due 30 days after the end of the monthly report period. UHS will submit to the City a monthly billing invoice to request payment of expenses incurred on or before the 15th day of each month.

4.5 An invoice documenting final expenses associated with the Agreement will be submitted to the City by no later than September 15, 2008. Additional documentation requirements of costs and documented in-kind expenses associated with this Agreement may be amended by SAMHD staff as needed. All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by UHS pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by UHS.

5.2 UHS understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 UHS and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 UHS shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, UHS shall retain the records until the resolution of such litigation or other such questions. UHS acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require UHS to return said documents to City prior to or at the conclusion of said retention.

6.3 UHS shall notify City, immediately, in the event UHS receives any requests for information from a third party, which pertain to the documentation and records referenced herein. UHS understands and agrees that City will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days written notice, which notice shall be provided in accordance with Article VIII Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.4 Defaults With Opportunity for Cure. Should UHS default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. UHS shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If UHS fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new contractor against UHS's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Bankruptcy or selling substantially all of company's assets

7.4.2 Failing to perform or failing to comply with any covenant herein required

7.4.3 Performing unsatisfactorily

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, UHS shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by UHS, or provided to UHS, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by UHS in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City

and shall be completed at UHS's sole cost and expense. Payment of compensation due or to become due to UHS is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, UHS shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by UHS to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by UHS of any and all right or claims to collect moneys that UHS may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, UHS shall cease all operations of work being performed by UHS or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue UHS for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City Clerk	AND	City of San Antonio
City of San Antonio		Director, San Antonio Metropolitan Health District
P.O. Box 839966		332 W. Commerce, Suite 307
San Antonio, Texas 78283-3966		San Antonio, Texas 78205

If intended for UHS, to:

George B. Hernandez, Jr.,
President/Chief Executive Officer
University Health System
4502 Medical Drive
San Antonio, Tx 78229-4493

Copy: Theresa de la Haya
Vice President of Community Health Division/Texas Diabetes Institute
701 S. Zarzamora
San Antonio, TX 78207

IX. ACCOUNT OF FUNDS BY UHS

9.1 UHS understands and agrees that it shall maintain a numbered account for the receipt and disbursement of all funds received pursuant to this Agreement and further agrees that all checks and withdrawals from such account shall have itemized documentation in support thereof pertaining to the use of funds provided under this Agreement.

9.2 UHS agrees to maintain records that shall provide accurate, current, separate, and complete disclosure of the status of any funds received pursuant to this Agreement. UHS further agrees:

(A) that maintenance of said records shall be in compliance with all terms, provisions and requirements of this Agreement and with all generally accepted accounting principles; and

(B) that UHS' record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

9.3 As set forth in Article VI of this Agreement, UHS agrees to retain all books, records, documents, reports, written accounting policies and procedures and all other relevant materials (hereinafter collectively referred to as "records") pertaining to activities pertinent to this Agreement for a minimum of four (4) years from the completion services. City shall have access to the records at all times upon reasonable notice.

9.4 City agrees to provide UHS written notice regarding any expenditure by UHS that the City reasonably determines to be outside the permissible parameters of this Agreement. Said notice shall provide UHS thirty (30) days from receipt of said notice to cure the deficiency or refund to City any sum of money paid by City to UHS determined to:

(A) have not been spent by UHS strictly in accordance with the terms of this Agreement; or

(B) not be supported by adequate documentation to fully justify the expenditure.

9.5 Upon termination of this Agreement, should any expense or charge be subsequently disallowed or disapproved using the same criteria as set out in section 7.4 above as a result of any auditing or monitoring by City, UHS shall refund such amount to City within thirty (30) business days of City's written request therefore wherein the amount disallowed or disapproved shall be specified. For purposes of this Agreement, the term, "business day" shall mean every day of the week except all Saturdays, Sundays and those scheduled holidays

officially adopted and approved by the San Antonio City Council for City of San Antonio employees.

9.6 Upon execution of this Agreement or at any time during the term of this Agreement, the City's Director of Finance, the City Auditor, or a person designated by the Director of the San Antonio Metropolitan Health Department may review and approve all UHS systems of internal accounting and administrative controls prior to the release of funds hereunder.

9.7 If UHS expends \$250,000.00 or more of City dollars, then during the term of this Agreement, the UHS shall have completed an independent audit of its financial statements performed within a period not to exceed ninety (90) days immediately succeeding the end of UHS'S fiscal year or termination of this Agreement, whichever is earlier. UHS understands and agrees to furnish the San Antonio Metropolitan Health District with a copy of the audit report within a period not to exceed fifteen (15) days after approval of the report by the UHS Board of Trustees. If the amount of funds to be paid to UHS in Article IV of this Agreement is \$250,000.00 or more, then the UHS further agrees to provide a line item in its budget for a financial statement audit prepared by an independent certified public accountant. If the City determines, in its sole discretion, that UHS is in violation of the above requirements, the City shall have the right to dispatch auditors of its choosing to conduct the required audit and to have the UHS pay for such audit from non-City resources. If UHS expends less than \$250,000.00 of City dollars, then during the term of this Agreement, the UHS shall complete and submit an unaudited financial statement(s) within a period not to exceed ninety (90) days immediately succeeding the end of UHS'S fiscal year or termination of this Agreement, whichever is earlier. Said financial statement shall include a balance sheet and income statement prepared by a bookkeeper and a cover letter signed by UHS attesting to the correctness of said financial statement.

X. INSURANCE

10.1 UHS and City each maintain a self-insurance fund for general liability and worker's compensation claims and causes of action in order to meet the statutory obligations of their respective employees.

XI. NO INDEMNIFICATION

11.1 City and the UHS acknowledge they are political subdivisions of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, §101.001 et seq. and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 UHS shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this

Agreement shall be the employees or subcontractors of UHS. UHS, its employees or its subcontractors shall perform all necessary work.

12.2 It is City's understanding and this Agreement is made in reliance thereon, that UHS intends to use the following subcontractors in the performance of this Agreement: none. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by Director prior to the provision of any services by said subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of UHS. City shall in no event be obligated to any third party, including any subcontractor of UHS, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Except as otherwise stated herein, UHS may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, UHS shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor UHS, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should UHS assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of UHS shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by UHS shall in no event release UHS from any obligation under the terms of this Agreement, nor shall it relieve or release UHS from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 UHS covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that UHS shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and UHS, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint ventures between City and UHS. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the UHS under this

Agreement and that the UHS has no authority to bind the City.

XIV. NONDISCRIMINATION POLICY

14.1 UHS hereby acknowledges that it is the policy of the City of San Antonio to assist in increasing the competitiveness and qualifications of small, women, African American, and minority-owned business enterprises in order to afford greater opportunities for obtaining and participating in contracts, related subcontracts, and leases and concessions awarded by the City. UHS agrees that UHS will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. UHS further agrees that UHS will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

XV. CONFLICT OF INTEREST

15.1 UHS acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

15.2 Pursuant to the subsection above, UHS warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. UHS further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XVI. AMENDMENTS

16.1 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the City and the UHS. The Director of the SAMHD may execute contract amendments on behalf of City in the following circumstances a) no cost extensions up to two years, b) budget adjustments authorized by the funding agency so long as the total dollar amount of the budget remains unchanged, c) modifications to the performance measures listed in the contract so long as the terms of the amendment stay within the parameters set forth in the statement of work of said contract and d) changes in state regulations mandated by the funding agency.

XVII. SEVERABILITY

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto 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.

18.1 UHS warrants and certifies that UHS and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. COMPLIANCE

19.1 UHS shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XX. NONWAIVER OF PERFORMANCE

20.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXI. LAW APPLICABLE

21.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXII. LEGAL AUTHORITY

22.1 Each signer of this Agreement, for either City or UHS, represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of either City or UHS and to bind either City or UHS to all of the terms, conditions, provisions and obligations herein contained.

XXIII. PARTIES BOUND

23.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIV. CAPTIONS

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

XXV. DEBARMENT

25.1 UHS certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

25.2 UHS shall provide immediate written notice to City, in accordance with Article VIII. Notice, if, at any time during the term of this contract, including any renewals hereof, UHS learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

XXVI. ELECTRONIC VERSION SAME AS ORIGINAL

26.1 City understands that this document is executed in multiple originals in hardcopy format, which will be placed in the sole possession of City after execution hereof, UHS will scan the fully-executed hardcopy document as a portable document file (.pdf) for storage in accordance with UHS' records retention requirements without retaining the hardcopy. City stipulates that the terms of the electronically stored, fully-executed original of this document may be enforced in the same manner as the hardcopy counterparts (to be in City's possession) and that it waives any requirement that any hardcopy counterpart be produced to prove authentication for any purpose.

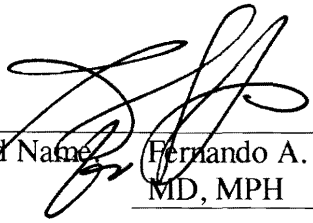
XXVII. ENTIRE AGREEMENT

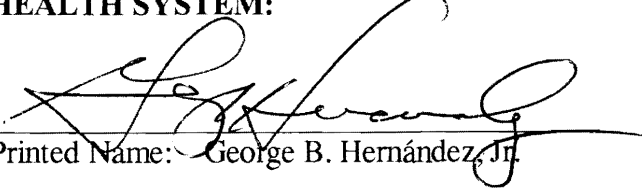
27.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

EXECUTED and AGREED to this the 20th day of August, 2008.

CITY OF SAN ANTONIO:

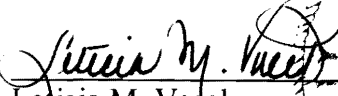
**BEXAR COUNTY HOSPITAL
DISTRICT D/B/A UNIVERSITY
HEALTH SYSTEM:**

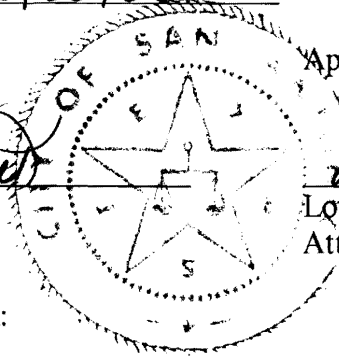

Printed Name: Fernando A. Guerra,
MD, MPH
Title: Director of Health
Date: 8/20/08

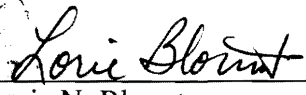

Printed Name: George B. Hernandez, Jr.
Title: President/Chief
Executive Officer
Date: _____

ATTEST:

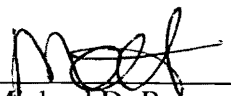
Approved as to Form:


Leticia M. Vacek
City Clerk




Lorie N. Blount
Attorney, Legal Services

Approved as to Form:


Michael D. Bernard
City Attorney

ATTACHMENT I

WORK PLAN: FEB 1, 2008 – AUG 31, 2008

Objective 1: Attend training on use and promotion of <i>Yes You Can Clinical Toolkit</i>				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
1.1	Attend training session delivered by DSHS Region 8 tobacco education coordinator <ul style="list-style-type: none"> • How to use the toolkit • How to promote use of the toolkit • How to assess use of the toolkit 	Session attended, Completed attendance sign-in sheet	By 4/30/2008	Staff x 2 (incl fringe): a) 10hrs x \$21.96/hr = \$219.60 b) 3 hrs x \$28.06/hr = \$84.18 Mileage: \$0.505/mi x 50 mi = \$25.25 [total \$329.03]
<i>TOTAL TRAINING</i>				<i>\$329.03</i>
Objective 2: Participate in creation of handout material(s) that outline additional tobacco cessation resources approved by SA-TPCC				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
2.1	Assist in collection of descriptions of tobacco cessation resources already available in the community: health care institutions, substance abuse centers, and non-profit organizations	List and descriptions of resources offered in community	3/24-5/30/2008	Staff x 1 (incl fringe): 17 hrs x \$28.06/hr = \$477.02 Mileage: \$6.31 [total \$483.33]
2.2	Participate in drafting material(s) describing tobacco cessation resources and access	Full draft of material(s)	By 5/31/2008	Staff x 1 (incl fringe): 10 hrs x \$28.06/hr = \$280.60 Mileage: \$6.31 [total \$286.91]
2.3	Participate in obtaining approval of content from SA-TPCC as needed	Consent or approval of material according to coalition rules	By 5/31/2008	Staff x 1 (incl fringe): 10 hrs x \$28.06/hr = \$280.60 Mileage: \$6.31 [total \$286.91]
2.4	Assist in preparation and production of final version of cessation resource information material for distribution	Design and production of final material(s) completed	By 5/31/2008	Staff x 1 (incl fringe): 10 hrs x \$28.06/hr = \$280.60 Mileage: \$6.32 [total = \$286.92]
<i>TOTAL PACKAGE PREPARATION</i>				<i>\$1,344.07</i>

Objective 3: Conduct cessation consultations with healthcare providers to promote use of available cessation resources [coalition goal=300, TDI=200]

	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
3.1	Identify list of healthcare providers and/or provider associations to contact during FY08 [goal=200 individual providers]	Compiled list	3/24-5/31/2008	Staff x 2 (incl fringe): a) 5 hrs x \$28.06/hr=\$140.30 b) 5 hrs x \$21.96/hr=\$109.80 [total \$250.10]
3.2	Participate in development of strategy and/or presentation to approach healthcare providers	Completed consensus document of outlined strategy, Completed marketing materials	4/7-5/31/2008	Staff x 1 (incl fringe): 5 hrs x \$28.06/hr = \$140.30 [total \$140.30]
3.3	Participate in creation of method/tool to assess utility of resources and materials distributed by coalition	Completed tool and methodology	6/2-7/18/2008	Staff x 1 (incl fringe): 5 hrs x \$28.06/hr = \$140.30 [total \$140.30]
3.4	Contact healthcare providers/associations to schedule presentation and distribution of cessation resources [goal 18 contacts, 15 meetings]	# contacts made, # meetings scheduled	5/1-8/31/2008	Staff x 2 (incl fringe): a)20hrs x \$28.06/hr=\$561.20 b)15hrs x \$21.96/hr=\$329.40 Mileage: \$37.88 [total \$928.48]
3.5	Conduct information sessions in individual or group settings to distribute and promote tobacco cessation resources [goal=200 individuals]	# providers who attended, # materials distributed	5/1-8/31/2008	Staff x 2 (incl fringe): a)30hrs x \$28.06/hr=\$841.80 b)20hrs x \$21.96/hr=\$439.20 Mileage: \$37.87 [total \$1,318.87]
3.6	Assess utility of cessation resources promoted [goal=50% of recipients]	# recipients assessed, Summary of findings	7/21-8/31/2008	Staff x 2 (incl fringe): a)10hrs x \$28.06/hr=\$280.60 b) 5hrs x \$21.96/hr=\$109.80 [total \$390.40]
				\$3,168.45

Objective 4: Conduct cessation consultations with healthcare providers who serve Medicaid and WIC clients to promote use of available cessation resources [coalition goal=90, TDI=45]

	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
4.1	Identify list of healthcare providers and/or provider associations to contact during FY08 [goal=45 individual providers]	Compiled list	3/24-5/31/2008	Staff x 2 (incl fringe): a) 5 hrs x \$28.06/hr=\$140.30 b) 5 hrs x \$21.96/hr=\$109.80

				[total \$250.10]
4.2	Participate in development of strategy and/or presentation to approach healthcare providers	Completed consensus document of outlined strategy, Completed marketing materials	4/7-5/31/2008	Staff x 1 (incl fringe): 5 hrs x \$28.06/hr = \$140.30 [total \$140.30]
4.3	Participate in creation of method/tool to assess utility of resources and materials distributed by coalition	Completed tool and methodology	6/2-7/18/2008	Staff x 1 (incl fringe): 5 hrs x \$28.06/hr = \$140.30 [total \$140.30]
4.4	Contact healthcare providers/associations to schedule presentation and distribution of cessation resources [goal 9 contacts, 7 meetings]	# contacts made, # meetings scheduled	5/1-8/31/2008	Staff x 2 (incl fringe): a) 20hrs x \$28.06/hr = \$561.20 b) 15hrs x \$21.96/hr = \$329.40 Mileage: \$37.88 [total \$928.48]
4.5	Conduct information sessions in individual or group settings to distribute and promote tobacco cessation resources [goal=45 individuals]	# providers who attended, # materials distributed	5/1-8/31/2008	Staff x 2 (incl fringe): a) 30hrs x \$28.06/hr = \$841.80 b) 20hrs x \$21.96/hr = \$439.20 Mileage: \$37.87 [total \$1,318.87]
4.6	Assess utility of cessation resources promoted [goal=50% of recipients]	# recipients assessed, Summary of findings	7/21-8/31/2008	Staff x 2 (incl fringe): a) 10hrs x \$28.06/hr = \$280.60 b) 5hrs x \$21.96/hr = \$109.80 [total \$390.40]

TOTAL MEDICAID/WIC PROVIDER OUTREACH \$3,168.45

Objective 5: Conduct cessation consultations with worksite wellness offices/Human Resources to promote use of available cessation resources [coalition goal=50, TDI=20]

	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
5.1	Identify list of worksites and/or worksite associations to contact during FY08 [goal=20 worksites]	Compiled list	3/24-5/31/2008	Staff x 2 (incl fringe): a) 5 hrs x \$28.06/hr = \$140.30 b) 5 hrs x \$21.96/hr = \$109.80 [total \$250.10]
5.2	Participate in development of strategy and/or presentation to approach worksites	Completed consensus document of outlined strategy, Completed marketing materials	4/7-5/31/2008	Staff x 1 (incl fringe): 5 hrs x \$28.06/hr = \$140.30 [total \$140.30]
5.3	Participate in creation of method/tool to assess utility of resources and materials distributed by coalition	Completed tool and methodology	6/2-7/18/2008	Staff x 1 (incl fringe): 5 hrs x \$28.06/hr = \$140.30 [total \$140.30]

5.4	Contact worksites to schedule presentation and distribution of cessation resources [goal 20 contacts, 20 meetings]	# contacts made, # meetings scheduled	5/1-8/31/2008	Staff x 2 (incl fringe): a)20hrs x \$28.06/hr=\$561.20 b)15hrs x \$21.96/hr=\$329.40 Mileage: \$37.88 [total \$928.48]
5.5	Conduct information sessions in individual or group settings to distribute and promote tobacco cessation resources [goal=20 worksites]	# worksites that participated, # materials distributed	5/1-8/31/2008	Staff x 2 (incl fringe): a)30hrs x \$28.06/hr=\$841.80 b)20hrs x \$21.96/hr=\$439.20 Mileage: \$37.87 [total \$1,318.87]
5.6	Assess utility of cessation resources promoted [goal=50% of recipients]	# recipients assessed, Summary of findings	7/21-8/31/2008	Staff x 2 (incl fringe): a)10hrs x \$28.06/hr=\$280.60 b) 5hrs x \$21.96/hr=\$109.80 [total \$390.40]
<i>TOTAL WORKSITE OUTREACH</i>				<i>\$3,168.45</i>
Objective 6: Report performance to SA-TPCC members and Community Evaluation Work Group.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
6.1	Report numbers of encounters and recipient information to coalition leadership and Community Evaluation Work Group as indicated.	Reports compiled and given to designee for grant reporting	end of each month May-August 2008	Staff x 2 (incl fringe): a)15hrs x \$21.96/hr=\$329.40 b)15hrs x \$28.06/hr=\$420.90 Mileage: \$25.25 [total \$775.55]
6.2	Present reports of performance to coalition members as needed.	Presentation made at coalition meeting	8/31/2008	Staff x 1 (incl fringe) 10 hrs x \$28.06/hr =\$280.60 Mileage: \$25.25 [total \$305.85]
<i>TOTAL REPORTING</i>				<i>\$1,081.40</i>

ATTACHMENT II

BUDGET: FEB 1, 2008 – AUG 31, 2008

Item	Description	Cost x Units	Total
Personnel			
Program Manager	Supervise staff, operations & grant management. Deliver services related to training, planning, provider/worksites outreach. Salary + fringe = \$28.06/hour (\$23.00/hr x 300 hrs total = \$ 6,900, +22% fringe = \$8,418)	(included in Work Plan Projects)	X
Health Educator	Deliver services related to training, preparation, provider/ worksite outreach. Salary + fringe = \$21.96/hour (\$18.00/hr x 160 hrs total = \$2,880, +22% fringe = \$3,5140)	(included in Work Plan Projects)	
General Operating Costs			\$106.01
Supplies	General Office Supplies	\$106.01	\$106.01
Travel			\$1,270.50
2008 Texas Teen Tobacco Summit & Tobacco Prevention and Control Summit	DSHS required meeting July 27-30, Woodlands, TX	Registration \$350 Lodging \$375 Mileage \$255 Meals \$240	\$1,220.00
Mileage	Coalition meetings, program training 3 staff members	100 miles x \$0.505	\$50.50
Work Plan Projects			\$12,259.85
Training	Attend training on use of <i>Yes You Can Clinical Toolkit</i>	Staff \$219.60 Staff \$84.18 Mileage \$25.25	\$329.03
Package Preparation	Participate in collection of tobacco cessation resources and creation of coalition package for dissemination	Staff \$1,318.82 Mileage \$25.25	\$1,344.07
Healthcare Provider Outreach	Identify, contact, and follow-up with selected outreach targets	Staff \$988.20 Staff \$2,104.50 Mileage \$75.75	\$3,168.45
Medicaid/WIC Healthcare Provider Outreach	Identify, contact, and follow-up with selected outreach targets	Staff \$988.20 Staff \$2,104.50 Mileage \$75.75	\$3,168.45
Worksite Outreach	Identify, contact, and follow-up with selected outreach targets	Staff \$988.20 Staff \$2,104.50 Mileage \$75.75	\$3,168.45
Reporting	Submit outreach achievements and follow-up findings to coalition	Staff \$329.40 Staff \$701.50 Mileage \$50.50	\$1,081.40
Direct Costs Sub-total			\$13,636.36
Indirect Costs	10% Indirect Cost applied to full budget request		\$1,363.64
TOTAL			\$15,000.00



CMS or Ordinance Number: CN4600007363

TSLGRS File Code:1000-25

Document Title:
CONT - 4600007363

Commencement Date:
2/15/2008

Expiration Date:
8/31/2008

**PROFESSIONAL SERVICES AGREEMENT
FOR THE SAN ANTONIO TOBACCO PREVENTION AND CONTROL COALITIONS
WITH THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER
AT SAN ANTONIO**

STATE OF TEXAS § CITY OF SAN ANTONIO
 §
COUNTY OF BEXAR § PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as “City”), on behalf of the San Antonio Metropolitan Health District (SAMHD); acting by and through its City Manager, pursuant to Ordinance No. 2008-04-10-0298 passed and approved on April 10, 2008, and the University of Texas Health Science Center at San Antonio by and through its President, Francisco G. Cigarroa, (hereafter referred to as “UTHSCSA”), both of which may be referred to herein collectively as the “Parties”.

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

“City” is defined in the preamble of this Agreement and includes its successors and assigns.

“UTHSCSA” is defined in the preamble of this Agreement and includes its successors.

“Director” shall mean the director of City’s San Antonio Metropolitan Health District.

“SA-TPCC” shall be defined as the San Antonio Tobacco Prevention and Control Coalitions.

“SA-TPCC staff” shall be defined as those persons hired by SAMHD for the purpose of day-to-day program oversight with funding from the Tobacco Community Coalition grant of the Texas Department of State Health Services.

“CEW” shall be defined as the Community Evaluation Workgroup, the team of coalition members and sub-contractors that collect, organize and report data related to the work of the program and coalition.

“DSHS” shall be defined as the Texas Department of State Health Services, the agency that oversees the statewide grant, tobacco prevention and control programming, and evaluation efforts.

“Target Area,” shall be defined as Bexar County, or smaller areas to be determined by the SA-TPCC in the future.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on February 15, 2008 and terminate on August 31, 2008.

2.2 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

2.3 City will have the option to renew and extend the term of this Agreement once for a term of one year, subject to acceptance by UTHSCSA. The renewal or extension will be evidenced by passage of a subsequent City ordinance.

2.4 UTHSCSA further agrees and understands that the City expects to pay all obligations of this Agreement from cooperative agreement funding. Accordingly, if cooperative agreement funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor UTHSCSA will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

III. SCOPE OF SERVICES

3.1 UTHSCSA agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV Compensation.

3.2 All work performed by UTHSCSA hereunder shall be performed to the satisfaction of Director of City's San Antonio Metropolitan Health District. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by UTHSCSA, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should UTHSCSA's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate, subject to Sec. 7.4.

3.3 UTHSCSA shall select specific individuals as primary and secondary representatives to the SA-TPCC. Both representatives may participate in the coalition concurrently, but at least one representative will be present at all coalition meetings and relevant planning sessions. This participation is required for coordination of SA-TPCC activities including but not limited to community assessment, strategic planning, outreach, evaluation planning, and other events. UTHSCSA will supply contact information to SA-TPCC and SAMHD staff regarding both representatives, and both representatives will be tasked by UTHSCSA to ensure full representation and participation of UTHSCSA. In the event that there is a change in the individuals assigned by UTHSCSA as representative(s) to the SA-TPCC, UTHSCSA will notify SA-TPCC and SAMHD staff within 5 business days of the time such change has taken place.

3.4 UTHSCSA shall comply with the guidelines regarding the use of the SAMHD and City names and logos, and will also comply with and identity guidelines determined for the SA-TPCC once developed.

3.5 UTHSCSA will submit detailed monthly activity reports to the SA-TPCC CEW and SAMHD for the purposes of program evaluation and reporting. UTHSCSA will supply the reports in the format requested by the SA-TPCC to the CEW by the 5th day of each month to report performance for the preceding month. In addition, UTHSCSA will provide any other progress reports or summaries requested by the SA-TPCC as needed.

3.5 UTHSCSA representative(s) will attend and participate in any DSHS technical assistance training sessions or statewide coalition meetings as directed by DSHS. Costs to attend these meetings will be identified in the budget in Attachment II which is attached hereto and incorporated herein for all purposes, and compensated according to the terms of this Agreement.

3.6 In addition to the above mentioned items from Section III, UTHSCSA shall provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the City at all times affixed hereto and incorporated herein for all purposes as Attachment I.

IV. COMPENSATION TO UTHSCSA

4.1 In consideration of UTHSCSA's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay UTHSCSA an amount not to exceed forty two thousand dollars (\$42,000.00) as total compensation, which is budgeted for such payment, as set forth and incorporated herein for all purposes in the budget which is attached as Attachment II.

4.2 No additional fees or expenses of UTHSCSA shall be charged by UTHSCSA nor be payable by City. The parties hereby agree that all compensable expenses of UTHSCSA have been provided for in the total payment to UTHSCSA as specified in section 4.1 above. Total payments to UTHSCSA cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to UTHSCSA following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than UTHSCSA, for the payment of any monies or the provision of any goods or services.

4.4 UTHSCSA agrees to submit statements showing monthly itemized costs and any documented in-kind expenses to the City associated with this Agreement. Reimbursement of eligible expenses, as determined by the City, will be made monthly according to standard procedures followed by City, as requested upon receipt of billing from UTHSCSA. Invoices will be due 30 days after the end of the monthly report period.

4.5 An invoice documenting final expenses associated with the Agreement will be submitted to the City by no later than September 12, 2008. Additional documentation requirements of costs and documented in-kind expenses associated with this Agreement may be amended by SAMHD staff as needed. All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by UTHSCSA pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by UTHSCSA.

5.2 UTHSCSA understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 UTHSCSA and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 UTHSCSA shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, UTHSCSA shall retain the records until the resolution of such litigation or other such questions. UTHSCSA acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require UTHSCSA to return said documents to City prior to or at the conclusion of said retention.

6.3 UTHSCSA shall notify City, immediately, in the event UTHSCSA receives any requests for information from a third party, which pertain to the documentation and records referenced herein. UTHSCSA understands and agrees that City will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days written notice, which notice shall be provided in accordance with Article VIII Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.4 Defaults With Opportunity for Cure. Should UTHSCSA default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. UTHSCSA shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If UTHSCSA fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new contractor against UTHSCSA's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Bankruptcy or selling substantially all of company's assets

7.4.2 Failing to perform or failing to comply with any covenant herein required

7.4.3 Performing unsatisfactorily

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, UTHSCSA shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by UTHSCSA, or provided to UTHSCSA, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by UTHSCSA in accordance with Article VI.

Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at UTHSCSA's sole cost and expense. Payment of compensation due or to become due to UTHSCSA is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, UTHSCSA shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by UTHSCSA to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by UTHSCSA of any and all right or claims to collect moneys that UTHSCSA may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, UTHSCSA shall cease all operations of work being performed by UTHSCSA or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue UTHSCSA for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City Clerk	AND City of San Antonio
City of San Antonio	Director, San Antonio Metropolitan Health District
P.O. Box 839966	332 W. Commerce, Suite 307
San Antonio, Texas 78283-3966	San Antonio, Texas 78205

If intended for UTHSCSA, to:

Jane Youngers
Assistant Vice President for Research and Sponsored Programs
University of Texas Health Science Center at San Antonio
7703 Floyd Curl Drive, MC 7828
San Antonio, TX 78229-3900

Copy: Amelie G. Ramirez
UTHSCSA, Institute for Health Promotion Research
8207 Callaghan Road, Suite 353
San Antonio, TX 78230

IX. ACCOUNT OF FUNDS BY UTHSCSA

9.1 UTHSCSA understands and agrees that it shall maintain a numbered account for the receipt and disbursement of all funds received pursuant to this Agreement and further agrees that all checks and withdrawals from such account shall have itemized documentation in support thereof pertaining to the use of funds provided under this Agreement.

9.2 UTHSCSA agrees to maintain records that shall provide accurate, current, separate, and complete disclosure of the status of any funds received pursuant to this Agreement. UTHSCSA further agrees:

(A) that maintenance of said records shall be in compliance with all terms, provisions and requirements of this Agreement and with all generally accepted accounting principles; and

(B) that UTHSCSA's record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

9.3 As set forth in Article VI of this Agreement, UTHSCSA agrees to retain all books, records, documents, reports, written accounting policies and procedures and all other relevant materials (hereinafter collectively referred to as "records") pertaining to activities pertinent to this Agreement for a minimum of four (4) years from the completion services. City shall have access to the records at all times upon reasonable notice.

9.4 City agrees to provide UTHSCSA written notice regarding any expenditure by UTHSCSA that the City reasonably determines to be outside the permissible parameters of this Agreement. Said notice shall provide UTHSCSA thirty (30) days from receipt of said notice to cure the deficiency or refund to City any sum of money paid by City to UTHSCSA determined to:

(A) have not been spent by UTHSCSA strictly in accordance with the terms of this Agreement; or

(B) not be supported by adequate documentation to fully justify the expenditure.

9.5 Upon termination of this Agreement, should any expense or charge be subsequently disallowed or disapproved using the same criteria as set out in section 7.4 above as a result of any auditing or monitoring by City, UTHSCSA shall refund such amount to City within thirty (30) business days of City's written request therefore wherein the amount disallowed or disapproved shall be specified. For purposes of this Agreement, the term, "business day" shall mean every day of the week except all Saturdays, Sundays and those scheduled holidays officially adopted and approved by the San Antonio City Council for City of San Antonio employees.

9.6 Upon execution of this Agreement or at any time during the term of this Agreement, the City's Director of Finance, the City Auditor, or a person designated by the Director of the San Antonio Metropolitan Health Department may review and approve all UTHSCSA systems of internal accounting and administrative controls prior to the release of funds hereunder.

9.7 If UTHSCSA expends \$250,000.00 or more of City dollars, then during the term of this Agreement, the UTHSCSA shall have completed an independent audit of its financial statements performed within a period not to exceed ninety (90) days immediately succeeding the end of UTHSCSA'S fiscal year or termination of this Agreement, whichever is earlier. UTHSCSA understands and agrees to furnish the San Antonio Metropolitan Health Department with a copy of the audit report within a period not to exceed fifteen (15) days after approval of the report by the UTHSCSA Board of Trustees. If the amount of funds to be paid to UTHSCSA in Article IV of this Agreement is \$250,000.00 or more, then the UTHSCSA further agrees to provide a line item in its budget for a financial statement audit prepared by an independent certified public accountant. If the City determines, in its sole discretion, that UTHSCSA is in violation of the above requirements, the City shall have the right to dispatch auditors of its choosing to conduct the required audit and to have the UTHSCSA pay for such audit from non-City resources. If UTHSCSA expends less than \$250,000.00 of City dollars, then during the term of this Agreement, the UTHSCSA shall complete and submit an unaudited financial statement(s) within a period not to exceed ninety (90) days immediately succeeding the end of UTHSCSA'S fiscal year or termination of this Agreement, whichever is earlier. Said financial statement shall include a balance sheet and income statement prepared by a bookkeeper and a cover letter signed by UTHSCSA attesting to the correctness of said financial statement.

X. INSURANCE

10.1 UTHSCSA and City each maintain a self-insurance fund for general liability and worker's compensation claims and causes of action in order to meet the statutory obligations of their respective employees.

XI. NO INDEMNIFICATION

11.1 City and the UTHSCSA acknowledge they are political subdivisions of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, §101.001 et seq. and the remedies

authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 UTHSCSA shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of UTHSCSA. UTHSCSA, its employees or its subcontractors shall perform all necessary work.

12.2 It is City's understanding and this Agreement is made in reliance thereon, that UTHSCSA intends to use the following subcontractors in the performance of this Agreement: none. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by Director of Health prior to the provision of any services by said subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of UTHSCSA. City shall in no event be obligated to any third party, including any subcontractor of UTHSCSA, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Except as otherwise stated herein, UTHSCSA may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, UTHSCSA shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor UTHSCSA, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should UTHSCSA assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of UTHSCSA shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by UTHSCSA shall in no event release UTHSCSA from any obligation under the terms of this Agreement, nor shall it relieve or release UTHSCSA from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 UTHSCSA covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that UTHSCSA shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing

same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and contractors; that the doctrine of respondent superior shall not apply as between City and UTHSCSA, its officers, agents, employees, contractors, subcontractors and contractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint ventures between City and UTHSCSA. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the UTHSCSA under this Agreement and that the UTHSCSA has no authority to bind the City.

XIV. NONDISCRIMINATION POLICY

14.1 UTHSCSA hereby acknowledges that it is the policy of the City of San Antonio to assist in increasing the competitiveness and qualifications of small, women, African American, and minority-owned business enterprises in order to afford greater opportunities for obtaining and participating in contracts, related subcontracts, and leases and concessions awarded by the City. UTHSCSA agrees that UTHSCSA will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. UTHSCSA further agrees that UTHSCSA will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

XV. CONFLICT OF INTEREST

15.1 UTHSCSA acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

15.2 Pursuant to the subsection above, UTHSCSA represents and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. UTHSCSA further certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XVI. AMENDMENTS

16.1 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the City and the UTHSCSA.

XVII. SEVERABILITY

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto 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.

18.1 UTHSCSA represents and certifies that UTHSCSA and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. COMPLIANCE

19.1 UTHSCSA shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XX. NONWAIVER OF PERFORMANCE

20.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXI. LAW APPLICABLE

21.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXII. LEGAL AUTHORITY

22.1 Each signer of this Agreement, for either City or UTHSCSA, represents and assures that he has full legal authority to execute this Agreement on behalf of either City or UTHSCSA and to bind either City or UTHSCSA to all of the terms, conditions, provisions and obligations herein contained.

XXIII. PARTIES BOUND

23.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIV. CAPTIONS

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

XXV. DEBARMENT

25.1 UTHSCSA certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

25.2 UTHSCSA shall provide immediate written notice to City, in accordance with Article VIII. Notice, if, at any time during the term of this contract, including any renewals hereof, UTHSCSA learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

XXVI. ELECTRONIC VERSION SAME AS ORIGINAL

26.1 City understands that this document is executed in multiple originals in hardcopy format, which will be placed in the sole possession of City after execution hereof, UTHSCSA will scan the fully-executed hardcopy document as a portable document file (.pdf) for storage in accordance with UTHSCSA' records retention requirements without retaining the hardcopy.

City stipulates that the terms of the electronically stored, fully-executed original of this document may be enforced in the same manner as the hardcopy counterparts (to be in City's possession) and that it waives any requirement that any hardcopy counterpart be produced to prove authentication for any purpose.

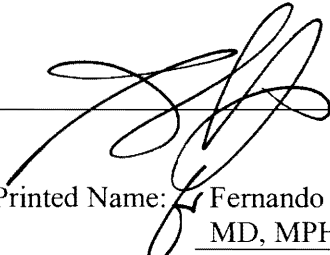
XXVII. ENTIRE AGREEMENT

27.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain 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 hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

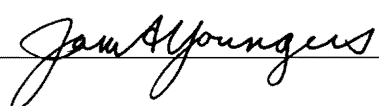
EXECUTED and AGREED to this the 20th day of August, 2008.

CITY OF SAN ANTONIO

**UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER AT SAN
ANTONIO**



Printed Name: Fernando A. Guerra,
MD, MPH



Printed Name: Jane Youngers


Title: Director of Health

Title: Assistant Vice President
for Research and
Sponsored Programs

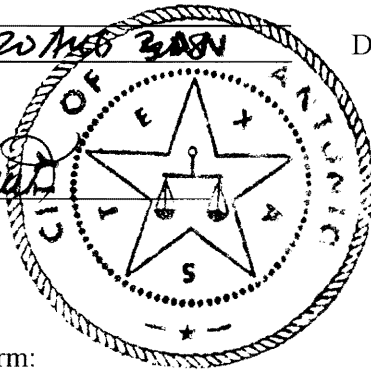
Date: 20~~11~~ 08 SAN

Date: 8-12-08


ATTEST:



Leticia M. Vacek
City Clerk



Approved as to Form:



Michael D. Bernard
City Attorney

ATTACHMENT I

**University of Texas Health Science Center at San Antonio and SA-TPCC Collaboration Workplan and Timeline
WORK PLAN: FEB 1, 2008 – AUG 31, 2008**

Objective 1: Lead the Community Evaluation Work Group for the SA-TPCC.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
1.1	Convene meetings and conference calls with CEW members as needed to conduct and plan community assessment and program evaluation	CEW members participating in meetings and conf. calls	2/15-8/31/2008	no new costs, use existing labor [total \$0]
1.2	Delegate tasks to coalition members as needed to complete tasks of CEW	Number of coalition members participating in evaluation tasks	2/15-8/31/2008	no new costs, use existing labor [total \$0]
1.3	Report and present CEW activities and findings to coalition members as needed or requested	Evaluation reports (see below)	2/15-8/31/2008	no new costs, use existing labor [total \$0]
1.4	Participate in program strategic planning for FY09	Attendance at strategic planning meetings	June-August 2008	no new costs, use existing labor [total \$0]
1.5	Attend quarterly TxDSHS statewide evaluation team meetings and periodic conf. calls.	Attendance at two 1-day meetings in Austin, participation in monthly calls	2/15-8/31/2008 (schedule TBD by DSHS)	no new costs, use existing labor [total \$0]
1.6	Attend related TxDSHS training sessions as needed (schedule TBD by TxDSHS)	Training session attendance	2/15-8/31/2008	no new costs, use existing labor [total \$0]
1.7	Attend the 2008 Texas Teen Tobacco Summit & Comprehensive Tobacco Prevention Conference	Attendance at 4-day meeting in Woodlands, TX	7/27-7/30/2008	Transportation \$125/trip, Per diem \$59/day x 5days, Lodging \$115/nt x 4nts (for 2 people) [total \$1,760]
<i>TOTAL COMMUNITY EVALUATION WORK GROUP</i>				<i>\$1,760 (travel)</i>
Objective 2: Conduct community assessment regarding adult and youth tobacco use, and community capacity to prevention and control in San Antonio.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
2.1	Gather and analyze existing San Antonio data regarding tobacco-related morbidity and mortality. Sources: (2006 & 2007) Health Profiles data, and other likely sources	Trends identified for each year and compared between years	2/15-5/30/2008	Staff labor: \$33/hr x 120 hrs, SPSS and SAS licenses [total \$3960]
2.2	Gather and analyze existing San Antonio data regarding tobacco-related morbidity and	Trends identified for each year on each survey and compared	2/15-5/30/2008	

	mortality. Sources: (2006 & 2007) YTS, YRBS, ATS, BRFSS data	between years		
2.3	Conduct focus groups among recruited San Antonio youth regarding tobacco use attitudes and behaviors	4 focus groups conducted, recorded, transcribed, and analyzed, 10 participants per group (40 participants)	4/15-6/30/2008	Conduct focus groups, recording, transcription, analysis, reports: \$1,280/group x 4 [total \$5,120]
2.4	Conduct focus groups among recruited San Antonio adults regarding quitting attitudes and behaviors (two groups with current smokers, two groups with former smokers)	4 focus groups conducted, recorded, transcribed, and analyzed, 10 participants per group (40 participants)	4/15-6/30/2008	Conduct focus groups, recording, transcription, analysis, reports: \$1,280/group x 4 [total \$5,120]
2.5	Conduct interviews and surveys with school officials, law enforcement, community leaders, employers, and coalition members (complete TxDSHS evaluation forms A-D)	16 interviews conducted, recorded, transcribed, and analyzed	4/15-6/15/2008	Transportation, interviewer fees, recording, transcription, analysis, reports, participant compensation: \$325/person x 16 [total \$5,200]
2.6	Survey area organizations that promote tobacco prevention and cessation among youth to determine current program offerings in San Antonio	40 surveys deployed, at least 20 completed and returned	3/1-5/30/2008	Staff labor: \$33/hr x 20 hrs, Printing, mailing, reminder cards: \$200 [total \$860]
2.7	Assess current patient tobacco cessation counseling practices in medical practices (Targets: decision makers in major medical group practices, Carelink, and University Health System)	15 interviews conducted, recorded, transcribed, and analyzed	3/1-6/15/2008	Transportation, interviewer fees, recording, transcription, analysis, reports: \$267/person x 15 [total \$4,005]
2.8	Survey area employers to determine current cessation program offerings in San Antonio	300 surveys deployed	3/1-6/15/2008	Staff labor: \$33/hr x 80 hrs, Printing, mailing, reminder cards: \$1,235 [total \$3,875]
2.9	Compile full report and recommendations for action regarding youth and adult tobacco use and cessation, and community capacity for tobacco control and programming in San Antonio	Completed report	5/1-6/15/2008	Printing: \$50, use existing labor and software [total \$50]

2.10	Present assessment findings and recommendations to SA-TPCC members at coalition meeting	Presentation delivered at coalition meeting	6/15/2008	no new costs, use existing labor [total \$0]
2.11	Submit completed <i>Community Assessment</i> report and recommendations to TxDSHS	Report submitted	due by 6/20/2008	no new costs, use existing labor [total \$0]
<i>TOTAL COMMUNITY ASSESSMENT</i>				<i>\$28,190</i>
Objective 3: Conduct process evaluation of SA-TPCC progress through SPF during FY08.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
3.1	Draw process evaluation indicators, and establish priorities, key data sources, and sentinel markers with CEW	Summary of proposed evaluation indicators, sentinel markers and key data sources. Outline of selected indicators and data sources	5/1-6/15/2008	no new costs, use existing labor [total \$0]
3.2	Develop process evaluation data collection instruments to periodically track progress in planning and outreach sentinel markers	Data collection instruments	6/1-6/30/2008	no new costs, use existing labor [total \$0]
3.3	Coordinate CEW in the collection of process evaluation data from the pre-established key data sources	Completed process evaluation database	7/1-8/31/2008	no new costs, use existing labor [total \$0]
3.4	Produce quarterly progress reports of sentinel markers	Periodic report of program progress	8/15/2008	production of report copies (included above), use existing labor and software [total \$0]
3.5	Present process evaluation progress reports to coalition and coordinating group members	Presentation of progress reports at coordinating group and coalition meetings	by 8/15/2008	no new costs, use existing labor [total \$0]
<i>TOTAL PROCESS EVALUATION</i>				<i>\$0</i>
Objective 4: Prepare SA-TPCC program evaluation plan for FY09.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost Details
4.1	Research and review other evaluation plans for comprehensive tobacco prevention and control program and programs using the SPF model	Proposed evaluation draft outline	6/16-6/30/2008	no new costs, use existing labor [total \$0]
4.2	Draft program evaluation plan based on proposed intervention plan, priorities determined by the coalition and the evaluation workgroup, and findings and recommendations of	Detailed draft of evaluation plan and guide for discussion and prioritization by CEW and SA-TPCC	6/16-7/15/2008	no new costs, use existing labor [total \$0]

	community assessment			
4.3	Negotiate evaluation plan with SA-TPCC members	Prioritization and decision making meeting (nominal group technique)	7/15-7/31/2008	no new costs, use existing labor [total \$0]
4.4	Prepare final <i>Evaluation Plan</i> document	Completed report	8/1-8/15/2008	no new costs, use existing labor [total \$0]
4.5	Present final <i>Evaluation Plan</i> to SA-TPCC members at coalition meeting	Presentation delivered at coalition meeting	8/15/2008	no new costs, use existing labor [total \$0]
4.6	Submit final <i>Evaluation Plan</i> to TxDSHS	Report submitted	due by 8/31/2008	production of report copies (included above), use existing labor and software [total \$0]
TOTAL PROGRAM EVALUATION PLAN				\$0

Objective 5: Plan culturally relevant mass media campaign for Latino audiences and Spanish speakers for FY09.				
	Activity/Task	Measure/Outcome	Start & End Dates	Cost
5.1	Collect Spanish and English media materials targeting youth and adult Latinos in Texas and nationwide, catalog them, and obtain copies for testing	List of materials catalogued by educational objectives, target audience, and medium,	3/15-6/30/2008	Telephone costs: \$250, media copies \$3,500, shipping costs \$550, labor \$33/hr x 160 hrs [total \$9,580]
5.2	Conduct focus groups among recruited San Antonio youth to test youth tobacco initiation prevention and cessation materials targeting Latino youth tobacco use	2 focus groups conducted, recorded, transcribed, and analyzed, 10 participants per group (20 participants)	3/15-6/30/2008	Conduct focus groups, recording, transcription, analysis, reports, participant incentives: \$1,185/group x 2 [total \$2,370]
5.3	Assess available communications channels and usefulness for deliver of the mass media campaign	Interviews with mass media representatives, documented and assessed	3/1-6/30/2008	no new costs [total \$0]
5.4	Compile full report, recommend media pieces and plan of action for a Spanish-language/Latino audience media campaign targeting youth and adult tobacco prevention, cessation, and control	Completed report	5/1-6/30/2008	Printing report copies: \$50, use existing labor and software [total \$50]
5.5	Present <i>Media Plan</i> to SA-TPCC members at coalition meeting	Presentation delivered at coalition meeting	8/1/2008	no new costs [total \$0]
TOTAL MEDIA PLANNING				\$12,000

Abbreviations:

- SA-TPCC = San Antonio Tobacco Prevention and Control Coalition
- CEW = Community Evaluation Workgroup
- TxDSHS = Texas Department of State Health Services
- SPF = Strategic Prevention Framework

ATTACHMENT II

University of Texas Health Science Center at San Antonio – Budget I
Grant Period: 02/15/08 – 08/31/08

Item	Description	Cost x Units	Total
Personnel			
Statistician	Staff member to analyze YRBS and BRFS data	X	X
Project coordinator	Staff member to coordinate field activities, including surveys, focus groups, interviews, etc.	X	X
Investigators	Principal investigator and co-investigators to direct project and generate reports, plans and recommendation	X	X
General Operating Costs			\$50
supplies	general office supplies	Included in Work Plan Projects	\$0
photocopying	photocopying of meeting minutes and planning materials for coalition meetings	Na	\$50
Travel			\$1,760
intra-city mileage	mileage to meetings, focus groups, interviews and other work plan activities	Included in Work Plan Projects	Included in Work Plan Projects
2008 Texas Teen Tobacco Summit & Tobacco Prevention and Control Summit	July 27-30, Woodlands, TX Transportation \$125/trip x1 trip Per diem \$59/day x 5days Lodging \$115/nt x 4nts	\$125 x 2 people \$295 x 2 people \$460 x 2people	\$1,760
Work Plan Projects			\$28,190
Community Evaluation Work Group	Lead CEW and its activities, participate in TxDSHS trainings, participate in SA-TPCC meetings and planning sessions	Travel to Tobacco Summit, Use existing labor and resources	(listed in travel section)
Community assessment	Lead community assessment activities (focus groups, interviews, surveys, review existing data), prepare report summaries, present findings, make program recommendations	Labor \$7,260 Groups \$10,240 Interviews \$9,205 Surveys \$1,435 Printing \$50	\$28,190
Process evaluation	Design process evaluation plan, analyze data, prepare report summaries, present findings, make program recommendations	Use existing labor and resources	\$0
Program evaluation plan	Design program evaluation plan, prepare and present plan	Use existing labor and resources	\$0
Indirect Costs (if applicable)	Included in Work Plan Projects	Included in Work Plan Projects	\$0
TOTAL			\$30,000

University of Texas Health Science Center at San Antonio – Budget II (Media)
Grant Period: 02/15/08 – 08/31/08

Item	Description	Cost x Units	Total
Personnel			
Project coordinator	staff member to coordinate field activities, including surveys, focus groups, interviews, etc.	X	X
Investigators	principal investigator and co-investigators do direct project and generate reports, plans and recommendation	X	X
General Operating Costs			\$0
supplies	general office supplies	Included in Work Plan Projects	\$0
Travel			\$0
intra-city mileage	mileage to meetings, focus groups, interviews and other work plan activities	Included in Work Plan Projects	Included in Work Plan Projects
Work Plan Projects			\$12,000
Collect existing media	Collect, classify, and catalogue existing tobacco media materials	Telephone \$250 Media \$3,500 Shipping \$550 Labor \$5,280	\$9,580
Conduct focus groups	Conduct and analyze focus group findings related to existing media	\$1,185 x 2	\$2,370
Assess communication channels		Use existing resources and labor	\$0
Prepare media plan report		Na	\$50
Present media plan	Present media plan to SA-TPCC	Use existing resources and labor	\$0
Indirect Costs (if applicable)	Included in Work Plan Projects	Included in Work Plan Projects	\$0
TOTAL			\$12,000