

AN ORDINANCE 2017-09-21-0670

AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT, IN AN AMOUNT NOT TO EXCEED \$135,000.00 PER YEAR FOR THE TEXAS ANTI-GANG GRANT PROGRAM ADMINISTRATOR RESPONSIBLE FOR OVERSEEING THE DAILY OPERATIONS OF THE MULTI-AGENCY INITIATIVE WITH THE SAN ANTONIO POLICE DEPARTMENT AS ULTIMATE AUTHORITY AS THE GRANTEE.

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WHEREAS, the San Antonio Police Department was chosen by the Office of the Governor, Criminal Justice Division (CJD), to apply for an invitation only grant opportunity for funds to initiate and establish a multi-agency task force in San Antonio to combat gang activity in the area; and

WHEREAS, the grant has provisions for the hiring of a professional contractor to act as the Administrator for the program; and

WHEREAS, staff recommends that Jose Morales, dba Morales Contracting, LLC., be awarded the contract to provide services; and

WHEREAS, said Contract provides for an initial term to begin September 21, 2017 through December 1, 2018; and

WHEREAS, the estimated cost of this contract is \$10,833.34 monthly through December 31, 2017 and for the period beginning January 1, 2018 through December 31, 2018 the estimated monthly amount is \$11,250.00; **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee is hereby authorized to execute a contract with Morales Contracting, LLC., to act as the Administrator for the Texas Anti-Gang Grant Program. The contract shall be executed for an initial term through December 31, 2018, subject to continued grant funding and approval by City Council. A copy of the contract, in final form, is attached hereto as Exhibit A. The terms and conditions of said contract are hereby approved.

SECTION 2. Fund 2205517001 entitled "Texas Anti-Gang 2016" and Internal Order 11700000218 and General Ledger number 5201040 are hereby designated for use in the accounting for the fiscal transaction of this contract through December 31, 2017. The Fund and Internal Order to be used for the term of January 1, 2018 through December 31, 2018 will be created upon receipt of the subsequent grant award.

SECTION 3. Funding is contingent upon approval and release of supplemental grant funds. Payment not to exceed the monthly amount below is authorized and should be encumbered with a purchase order.

Time Period	Monthly Amount
Execution - 12/31/2017	10,833.34
1/1/2018 - 12/31/2019	11,250.00

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

SECTION 5. This ordinance is effective immediately upon passage by eight affirmative votes; otherwise, it is effective on the tenth day after passage.

PASSED AND APPROVED this 21st day of September, 2017.


M A Y O R
Ron Nirenberg

ATTEST:


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:


Andrew Segovia, City Attorney

Agenda Item:	9 (in consent vote: 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 18A, 18B, 18C, 18D, 19, 20, 21, 22, 24A, 24B, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 38, 40, 41, 42, 43, 44, 45, 47, 50A, 50B, 51B, 52A, 52B, 52C, 52D, 52E, 52F, 52G, 52H)						
Date:	09/21/2017						
Time:	09:45:52 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing the execution of a professional services agreement, in amount not to exceed \$135,000.00 per year, for the Texas Anti-Gang Grant Program Administrator responsible for overseeing the daily operations of the multi-agency initiative with the San Antonio Police Department as ultimate authority as the Grantee. [Erik Walsh, Deputy City Manager; William McManus, Chief, Police]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x			x	
William Cruz Shaw	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5	x					
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8	x					
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

EXHIBIT A

PROFESSIONAL SERVICES CONTRACT

This CONTRACT is made and entered into by and between the CITY OF SAN ANTONIO (hereinafter referred to as "CITY"), a Texas municipal corporation, and Morales Contracting, LLC. (hereinafter referred to as "CONTRACTOR").

I. PURPOSE

- 1.1 The purpose of this CONTRACT is to state the terms and conditions under which the CONTRACTOR shall provide the San Antonio Police Department (SAPD) assistance with administration of its Texas Anti-Gang (TAG) program and grant.

II. SCOPE OF SERVICES

- 2.1 The CONTRACTOR shall work with the City's San Antonio Police Department and with appropriate CITY officials to perform any and all related tasks required by the CITY in order to fulfill the purposes of this CONTRACT.

CONTRACTOR will perform all work required under the CONTRACT to the satisfaction of the San Antonio Police Department and the TAG Executive Advisory Board (EAB). The determination made by the SAPD 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 the SAPD or TAG EAB. CITY shall have the right to terminate this CONTRACT, in accordance with Article XII. Termination, in whole or in part, should CONTRACTOR's work not be satisfactory to the SAPD or TAG EAB; 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 CITY is an Equal Opportunity Employer and does not discriminate. CONTRACTOR shall conduct all activities in accordance with this and all other applicable federal, state and local requirements.

- 2.2 CONTRACTOR shall provide the following services:
- 2.2.1 Ensure the proper daily functioning of any common physical environment shared by the law enforcement agencies contributing to the project, including overseeing any common facilities, equipment, and security measures;
- 2.2.2 Assist the law enforcement agencies contributing to the project in developing, implementing, and reviewing standard policies and procedures applicable to common physical environments;

- 2.2.3 Observe the interaction of the law enforcement agencies sharing any common physical environment, and provide recommendations to supervisory personnel as needed to address conflicts or concerns;
- 2.2.4 Monitor the needs of the law enforcement agencies participating in the project in performing their law enforcement activities, and provide appropriate recommendations as needed to address deficiencies and areas for improvement;
- 2.2.5 Obtain, synthesize, assemble, and report statistics and other data from the law enforcement agencies participating in the project as needed to ensure compliance with grant conditions;
- 2.2.6 Maintain full-time work schedule of 40 hours a week minimum. City holidays may be observed and grant position will be given 160 hours per year Annual Leave (vacation or illness) with maximum accrual of 400 hours. Personal Leave will be given up to 80 hours per year and is use it or lose it each year. It is understood that any unused leave (Annual and Personal) is forfeited at end of contract term;
- 2.2.7 On call 24/7 availability;
- 2.2.8 Act with consent of the TAG Executive Advisory Board;
- 2.2.9 Advise the TAG Executive Advisory Board and Project Director in matters relating to strategic planning, policy, and performance indicators relating to the TAG grant;
- 2.2.10 Facilitate and promote interagency communication among partners and stakeholders;
- 2.2.11 Collaborate interagency projects;
- 2.2.12 Identify future funding sources to support the TAG facility operational costs;
- 2.2.13 Ensure compliance with grant mandates and policies;
- 2.2.14 Work in conjunction with partners and stakeholders regarding the sharing of intelligence, trends, and threats;
- 2.2.15 Facilitate regular meetings at the TAG facility to include, but not limited to, TAG Executive Advisory Board, working group meetings, supervisor's meetings, and intelligence meetings;
- 2.2.16 Coordinate the collection of monthly enforcement statistics, the preparation of quarterly enforcement reports, and other reports as necessary to provide grantors with required data for evaluation of current and future grants or funding assistance;
- 2.2.17 Ensure procurement of equipment, supplies, and services in compliance with the City of San Antonio (SAPD) procurement rules and applicable grant rules;
- 2.2.18 Account for equipment and supplies purchased with grant funds;

- 2.2.19 Assist in budgeting for grant;
- 2.2.20 Conduct limited network patch connections to facilitate data and phone connectivity at the TAG facility in the IT room;
- 2.2.21 Ensure staff has data and telephone connectivity at all times;
- 2.2.22 Represent the TAG facility in local, regional, and national forums as directed by the TAG Executive Advisory Board;
- 2.2.23 Oversee the TAG facility and is the primary contact with building management/landlord, contractors and CONTRACTORS to ensure an efficient, safe and healthy office environment;
- 2.2.24 The TAG Administrator acts as the facilities superintendent and will address and correct facilities issues as they arise;
- 2.2.25 The TAG Administrator is required as necessary to pick up and transport to the TAG Center equipment and supplies;
- 2.2.26 Perform other duties as assigned by the TAG Executive Advisory Board, Project Director, and/or their designees and fulfills responsibilities as required;
- 2.2.27 The TAG Administrator will be housed at the SATX Texas Anti-Gang Facility.

III. SUBCONTRACTING

- 3.1 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 Contract. Compliance by subcontractors with this Contract 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 Contract to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the **CITY**.
- 3.2 Except as otherwise stated herein, **CONTRACTOR** may not sell, assign, pledge, transfer or convey any interest in this Contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the **CITY**. As a condition of such consent, if such consent is granted, **CONTRACTOR** shall remain liable for completion of the services outlined in this Contract in the event of default by the successor **CONTRACTOR**, assignee, transferee or subcontractor.
- 3.3 Any attempt to transfer, pledge or otherwise assign this Contract 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 Contract, CITY may, at its option, cancel this Contract and all rights, titles and interest of CONTRACTOR shall thereupon cease and terminate, in accordance with Article XIII. Termination, notwithstanding any other remedy available to CITY under this Contract. The violation of this provision by CONTRACTOR shall in no event release CONTRACTOR from any obligation under the terms of this Contract, nor shall it relieve or release CONTRACTOR from the payment of any damages to CITY, which CITY sustains as a result of such violation.

IV. TERM OF CONTRACT

- 4.1 This contract is dependent on grant funding and will begin upon execution by all parties. Continuation of the services to be performed under this contract is contingent upon grant funding as well as approval by the SAPD.

V. PAYMENT FOR SERVICES

- 5.1 In consideration of the professional services to be rendered by CONTRACTOR, CITY shall pay a professional annual fee of \$130,000.00 per year (\$10,833.34 monthly) pro-rated for the remainder of 2017. For the second cycle of funding for the TAG program, for the period of January 1, 2018 through December 31, 2018, the annual fee will increase to \$135,000.00 per year (\$11,250.00 monthly) and is contingent upon grant award and funding by the Office of the Governor. This fee shall constitute full and complete payment for all services to be performed by CONTRACTOR under this CONTRACT.
- 5.2 CITY shall not be obligated or liable under this CONTRACT to any party, other than CONTRACTOR for payment of any monies or provision for any goods or services.

VI. CONFIDENTIAL WORK

- 6.1 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by the CONTRACTOR under this CONTRACT shall be made public by the CONTRACTOR without the prior written approval of the CITY.
- 6.2 CONTRACTOR may, as part of the operation of the San Antonio TAG, share information between other state TAG offices and partner law enforcement agencies.
- 6.3 The CONTRACTOR shall establish a method to secure the confidentiality of records and information that the CONTRACTOR may have access to, in accordance with the applicable federal, state, and local laws and regulations. This provision shall not be construed as limiting the CITY'S or its authorized representatives' right of access to records or other information under this CONTRACT.

- 6.4 If the **CONTRACTOR** receives inquiries regarding documents within their possession pursuant to this **CONTRACT**, the **CONTRACTOR** shall immediately forward such request to the **CITY** for disposition.

VII. OWNERSHIP OF DOCUMENTS

- 7.1 All reports, information and other data given to, prepared or assembled by the **CONTRACTOR** under this **CONTRACT**, and any other related documents or items shall become the sole property of the **CITY**. Such reports, information and other data shall be delivered at no cost to the **CITY** upon request or termination of this **CONTRACT** without restriction on future use. The **CONTRACTOR**, with approval by the **SAPD**, may make copies of any and all documents for its files, at its sole cost and expense.
- 7.2 The **CONTRACTOR** shall retain all records owned by or to which the **CITY** has access to, for the retention periods set forth in the Texas Local Government Records Act.

VIII. NON-WAIVER

- 8.1 Unless otherwise specifically provided for in this Contract, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Contract 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 Contract, 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 Contract 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.

IX. INSURANCE REQUIREMENTS

- 9.1 Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's San Antonio Police Department, which shall be clearly labeled "SAPD Texas Anti-Gang Independent Contractor" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the Authorized Representative of the carrier, and list the agent's signature and phone number. The

certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Risk Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

- 9.2 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 whereby City may incur increased risk.
- 9.3 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, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury	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
5. Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	\$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

- 9.4 Contractor agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverage required of Contractor

herein, and provide a certificate of insurance and endorsement that names the Contractor and the CITY as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of Contractor. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

- 9.5 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. Contractor shall be required to comply with any such requests and shall submit requested documents to City at the address provided below within 10 days. Contractor shall pay any costs incurred resulting from provision of said documents.

City of San Antonio
Attn: San Antonio Police Department
Contracting Division
P.O. Box 839966
San Antonio, Texas 78283-3966

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

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide advance written notice directly to City of any suspension or non-renewal in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

- 9.7 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.

- 9.8 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.
- 9.9 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.
- 9.10 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.
- 9.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..
- 9.12 Contractor and any Subcontractors are responsible for all damage to their own equipment and/or property.

X. INDEMNITY

- 10.1 **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 and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the **CITY** directly or indirectly arising out of, resulting from or related to **CONTRACTOR'S** activities under this **CONTRACT**, including any acts or omissions of **CONTRACTOR**, any agent, officer, director, representative, employee, **CONTRACTOR** 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 **CONTRACT**. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of **CITY** arising out of or related to its activities under this **CONTRACT**, 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 FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

- 10.2 **THE PROVISIONS OF THIS INDEMNITY ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. CONTRACTOR SHALL ADVISE THE CITY IN WRITING WITHIN TWENTY-FOUR HOURS OF ANY CLAIM OR DEMAND AGAINST CITY OR CONTRACTOR KNOWN TO CONTRACTOR RELATED TO OR ARISING OUT OF CONTRACTOR'S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT CONTRACTOR'S COST. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING CONTRACTOR OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.**

XI. INDEPENDENT CONTRACTOR

- 11.1 **CONTRACTOR covenants and agrees that he or she 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 CONTRACTORS; that the doctrine of respondent superior shall not apply as between City and CONTRACTOR, 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 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 Contract and that the CONTRACTOR has no authority to bind the City.**

XII. TERMINATION

- 12.1 **For purposes of this CONTRACT, "termination" of this CONTRACT shall mean termination by expiration of the CONTRACT term or earlier termination pursuant to any of the provisions hereof.**
- 12.2 **TERMINATION BY NOTICE: The CONTRACT may be canceled by City upon written notice, provided such notice specifies an effective date of termination, which shall be not less than fifteen (15) calendar days from the date such notice is received by the other party. If the notice does not specify a date of termination, the effective date of termination shall be fifteen (15) calendar days after receipt of the notice by the other party. All files are the property of the CITY and, at the CITY'S request, will be delivered at no cost to the CITY or its designated recipient at the effective date of termination. Any CITY funds held in any account(s) shall be returned to the CITY within thirty (30) calendar days after the effective termination date.**

- 12.3 **TERMINATION FOR CAUSE:** Should either party default in the performance of any of the terms or conditions of this **CONTRACT**, the other party shall deliver to the defaulting party written notice thereof specifying the matters on default. The defaulting party shall have ten (10) calendar days after its receipt of the written notice to cure such default. If the defaulting party fails to cure the default within such ten (10) day period, this **CONTRACT** shall terminate at 11:59 p.m. on the tenth day after the receipt of the notice by the defaulting party.
- 12.4 **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 **CONTRACT** shall automatically terminate as of the effective date of such prohibition.
- 12.5 **EFFECT OF TERMINATION:** The period between notice of termination and the effective date of termination shall be used to affect an orderly transfer of records and funds, if any, from the **CONTRACTOR** to the **CITY** or to any person or entity that the **CITY** may designate. Any records transfer shall be completed within fifteen (15) calendar days of the termination date. Any such transfer of records or funds shall be completed at the **CONTRACTOR'S** sole cost and expense.
- 12.6 Within thirty (30) calendar days of the effective date of termination (unless an extension is authorized in writing by the **CITY**), the **CONTRACTOR** shall submit to the **CITY**, its claim, in detail, for the monies owed by the **CITY** for services performed under this **CONTRACT** through the effective date of termination.
- 12.7 Upon termination or cancellation of this **CONTRACT**, the **CITY** may immediately commence an audit of the **CONTRACTOR'S** books, accounts, and records. Within thirty (30) calendar days after being notified by the **CITY** of the results of said audit, the **CONTRACTOR** shall pay the **CITY** any amount shown by said audit to be owed the **CITY** or its employees. No waiver of existing default shall be deemed to waive any subsequent default.

XIII. CONFLICT OF INTEREST

- 13.1 **CONTRACTOR** 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 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.

- 13.2 **CONTRACTOR** warrants and certifies, and this **CONTRACT** is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the **CITY**. **CONTRACTOR** further warrants and certifies that it has tendered to the **City** a Discretionary Contracts Disclosure Statement in compliance with the **City's** Ethics Code.
- 13.3 **CONTRACTOR** warrants that no person or selling agency has been employed or retained to solicit or secure this **CONTRACT** upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **CITY** shall have the right to rescind this **CONTRACT** without liability or, at its discretion, to deduct from the **CONTRACT** price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
- 13.4 If at any time it shall be found that the person, firm or corporation to whom a **CONTRACT** has been awarded has, in presenting any proposal, colluded with any other party or parties, then the contract so awarded shall be voidable at **CITY'S** option, and **CONTRACTOR** shall be liable to **CITY** for all loss or damage that **CITY** may suffer thereby.

XIV. NOTICE

- 14.1 Any notice required or permitted to be given under this **CONTRACT** shall be sufficient if given in writing and sent by Certified Mail, return receipt requested, postage prepaid to the **CITY** or to the **CONTRACTOR** at the addresses set forth below or to any other address of which written notice of change is given:

CITY

**City of San Antonio
San Antonio Police Department
315 S. Santa Rosa
San Antonio, Texas 77207**

CONTRACTOR

Morales Contracting, LLC.


XV. CAPTIONS

- 15.1 The captions to the various clauses of this **CONTRACT** are for convenience or reference purposes only and shall in no way limit, enlarge or alter the substance of the terms and conditions of this **CONTRACT**.

XVI. SUCCESSORS AND ASSIGNS

- 16.1 This CONTRACT shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and their assigns, except as otherwise expressly provided for herein.

XVII. VENUE AND GOVERNING LAW

- 17.1 **THIS CONTRACT 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.**
- 17.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Contract shall be heard and determined in the City of San Antonio, Bexar County, Texas.
- 17.3 The Parties hereto expressly agree that, in the event of litigation, each party hereby waives its right to payment of attorneys' fees.

XVIII. ENTIRE AGREEMENT

- 18.1 This CONTRACT, including the Exhibits, embodies the final and entire agreement of the parties hereto, superseding all verbal or written agreements, previous and/or contemporaneous agreements between the parties and relating to matters in this CONTRACT. No other agreements, verbal or otherwise, regarding the matters of this CONTRACT shall be deemed to exist or to bind the parties hereto unless same be in writing, dated subsequent to the date hereof, and executed by the parties hereto.

XIX. LEGAL AUTHORITY

- 19.1 The signer of this CONTRACT for the CONTRACTOR represents, warrants, assures, and guarantees full legal authority to execute this CONTRACT on behalf of the CONTRACTOR and to bind the CONTRACTOR to all the terms, conditions, provisions and obligations herein contained.

XX. GENDER

- 20.1 Words of any gender used in this CONTRACT shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include plural, unless the context otherwise requires.

XXI. SEVERABILITY

21.1 If any clause or provision of this CONTRACT 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 CONTRACT 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 CONTRACT that is invalid, illegal or unenforceable, there be added as part of the CONTRACT, 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.

XXII. ACKNOWLEDGEMENT

22.1 Each of the parties acknowledges that it has read this CONTRACT, understands its contents and executes this CONTRACT voluntarily.

EXECUTED by the CITY and by the CONTRACTOR, acting through their duly authorized officials, as of the dates indicated below.

CITY OF SAN ANTONIO, TEXAS

MORALES CONTRACTING, LLC.

Erik Walsh
Deputy City Manager



Jose Morales
Contractor

Date:

Date: 08.31.2017

Approved as to form:

Krista Cover
Assistant City Attorney