

**JOINT USE & CO-LOCATION AGREEMENT
FOR THE DISTRICT 6 AND DISTRICT 7 MULTI-SERVICE SENIOR CENTERS
BETWEEN WELLMED CHARITABLE FOUNDATION
AND CITY OF SAN ANTONIO**

This Agreement (“Agreement”) is by and between the City of San Antonio ("City"), a Texas municipal corporation and political subdivision acting by and through its Director (“Director”) of the Department of Human Services (“DHS”) pursuant to Ordinance No. 2019-09-12-_____ passed and approved on September 12 2019, and WellMed Charitable Foundation, a Texas non-profit corporation ("WellMed"), each a “Party” and together, the “Parties”.

PREAMBLE

WHEREAS, City is recognized as having a commitment to providing San Antonio and Bexar County senior citizens with comprehensive services that will enhance their social, psychological, and physiological wellbeing; and

WHEREAS, WellMed has a mission to support seniors and their caregivers with a special emphasis on prevention, wellness, and living well with chronic illness; and

WHEREAS, the Parties entered into agreements, executed December 1, 2010, pursuant to Ordinance No. 2010-10-14-0895, and July 18, 2014, pursuant to Ordinance No. 2013-08-08-0525, to jointly operate and maintain the District 6 and the District 7 Multi-Service Senior Centers, respectively, to efficiently serve seniors and offer more programs to residents; and

WHEREAS, the Parties desire to engage in a new Joint Use & Co-Location Agreement for both the District 6 and District 7 Multi-Service Senior Centers through September 30, 2025.

NOW, THEREFORE, in consideration of the covenants, conditions, and provisions set forth herein, the Parties hereto agree as follows:

I. TERM

1.1. Except as otherwise provided for in this Agreement, this Agreement will commence on October 1, 2019 and terminate on September 30, 2025.

1.2. The City will have the option to renew for one 2-year term after which this Agreement will automatically renew on the same terms and conditions for one 30-day period.

II. STATEMENT OF GENERAL PURPOSE AND INTENT

2.1. The purpose and intent of this Agreement is to provide for the funding, maintenance, operation, management, and joint use of the District 6 and District 7 Multi-Service Senior Centers (the “Multi-Service Centers”), known individually as the Alicia Treviño López Senior One Stop Center and the Doris Griffin Senior One Stop Center, respectively.

III. LEASEHOLD AND CO-LOCATION

3.1. For use as Multi-Service Center space and a Screening and Vaccination Area (“Clinic Space”), all terms, provisions, and covenants contained in the leases and any future leases for a District 6 or a District 7 lease shall inure to the benefit of and be binding upon the Parties and their respective successors in interest, and legal representatives except as otherwise expressly provided.

- (A) District 6. The Parties agree that WellMed Medical Management, Inc., a Texas corporation (“WMMI”) is the tenant of a certain lease dated December 2, 2010, between the landlord, U.S. Investments, WC Culebra Crossing SA, LP, (the “D6 Center Landlord”), and WMMI for occupancy at 8353 Culebra Road (the “D6 Lease”), also known as building 8353 of Culebra Crossing Shopping Center.
- (B) District 7. The Parties agree that WMMI is the tenant of a certain lease dated February 28, 2014, between the landlord, United Commercial Realty, (the “D7 Center Landlord”), and WMMI for occupancy at 6157 NW Loop 410 (the “D7 Lease”).

3.2. WellMed will secure the agreement of WMMI and the Center Landlords, as necessary, to permit City co-location of, and right of access to City-contracted service providers, to the Multi-Service Centers for the term and any extension of this Agreement.

IV. SERVICES AND RESPONSIBILITIES

4.1. The Parties agree that the Multi-Service Centers will offer a multitude of services targeted at no cost to seniors 60 years of age and older, including social, recreational, fitness, nutrition, educational, health and screening services, and prevention programs. The Parties also agree that the Multi-Service Centers will consist of, at a minimum, recreational area(s), exercise room(s) and exercise equipment, a nutrition site for the serving and consuming of meals, classroom(s), computer lab or cybercafé, health screening room(s), administrative and faculty/staff office space, reception area, custodial, storage and telecommunications areas, parking, and ancillary support areas. WellMed will provide access to a dedicated call center for free qualification and renewals of Medicare Savings Programs.

4.2. City’s Services. The City will provide the following activities and services or employment of the appropriate individuals to be provided at the Multi-Service Centers at no cost to WellMed:

- (A) Nutrition Program;
- (B) City Service Requests; and
- (C) Transportation Services.

4.3. WellMed’s Services. WellMed will provide the following activities and services, or employment of the appropriate individuals, at no cost to City or seniors at the Multi-Service Centers in a manner reasonably satisfactory to City and in compliance with WellMed’s SBEDA Plan attached to and incorporated in this Agreement as **Attachment A**:

- (A) Reception services;
- (B) Clinic Space and the associated furniture, fixtures, equipment, repairs, maintenance for health services, to include but not be limited to:
 - Health risk assessments and age-appropriate screenings;
 - Vision screenings;
 - Hearing screenings;
 - Dental screenings; and
 - Annual influenza vaccinations;
- (C) Health, wellness, and disease prevention educational programs;
- (D) Fitness/Recreation activities;
- (E) Personal physical fitness training and fitness advising;
- (F) Computer training;
- (G) Facilities and equipment maintenance and repair;
- (H) Information Technology infrastructure to include all necessary computer and telephone-related systems; and
- (I) Multi-Service Center Marketing and Community Outreach.

4.4. WMMI's Provision of Licensed Vocational Nurse. WellMed will request that WMMI provide to City, at WMMI's sole cost, a Licensed Vocational Nurse, and allow WMMI to provide health and education services. WellMed and WMMI separately agree that the costs attributable to the employment of said individual(s), including but not limited to, personnel compensation and related benefits, the furnishing of specialty equipment and computers necessary to perform the health-related services and the maintenance of the equipment and computers will not be included within the Multi-Service Center(s) shared Services Schedule(s) referenced in this Agreement for the purpose of cost-sharing between the Parties.

4.5. Additional Services. The Parties agree that either Party, at its sole cost, may offer additional service(s) at either Multi-Service Center to a mutually agreed upon eligible group of participants. Either Party must provide the other with a reasonable description of the proposed additional service(s) for the review and approval before offering the service(s).

4.6. Party Representatives. Each Party will employ an individual having responsibility for on-site oversight of that Party's services described above and who will serve as that Party's representative manager at the Multi-Service Center and liaison to its management and the other Party's representative manager with regard to operations at each Multi-Service Center. Each Party's staff located at the Multi-Service Center shall defer to the decisions and direction given by the other Party's representative manager, for their services listed above, who will have final decision-making authority in this regard. In no way shall this provision be interpreted to mean that each Party's staff at the Multi-Service Center must report to or be held accountable to the other Party's representative manager in matters unrelated to those stated in this section.

4.7. Screening and Vaccination Area. The Parties understand that WellMed or its affiliate(s) will offer certain screening and vaccination services at its Clinic Space. WellMed agrees that the costs attributable to operation of the Clinic Space, including, but not limited to, rent and utilities pro-rated based upon space allocation, furniture, fixtures, equipment, repairs, maintenance, and

personnel compensation and related benefits, shall not be included within the Services Schedule(s) for this Agreement.

4.8. Enrollment Not Required. WellMed is prohibited from requiring enrollment of a senior as a patient member of its affiliated medical group of practicing physicians as a prerequisite to providing the services required by this Agreement. All seniors frequenting the Multi-Service Centers have the right to the services required by this Agreement at no cost, and WellMed is prohibited from altering, reducing, or diminishing the quality of services based upon a senior's enrollment or lack thereof as a patient in WellMed's affiliated medical groups. Additionally, WellMed will ensure that it and its affiliate(s) notify seniors both within the Multi-Service Center and in the Clinic Space: (i) of their right to receive the health services covered by this Agreement at no cost; (ii) that additional diagnostic or treatment services beyond those are separate and apart from the free services to which they are entitled; and (iii) of their right to be referred to other medical care providers and institutions of their choice in the area.

4.9. Conflict of Interest. WellMed agrees that any former city employee cannot, within two (2) years of the termination from City, perform work related to this Agreement. For the purposes of this section, "termination" includes resignation of an employee or other cessation of employment. Further, each Party has the right to object and prohibit the assignment of: (a) an employee for duties at a Multi-Service Center if the individual was terminated *for cause* from the employment of the other Party, or (b) a contractor if the contractor's contract with the other Party was terminated upon an event of default.

4.10. Final Authority. If any disagreement or dispute should arise between the Parties pertaining to the interpretation or meaning of any part of the rules, policies, regulations, laws, codes, or ordinances of City, the Director of DHS, as representative of City and the Party ultimately responsible for all matters of compliance with the City of San Antonio rules and regulations, shall have the final authority to render or secure an interpretation.

4.11. Quarterly Review. The Parties agree to meet at least once quarterly, and more frequently if the Parties desire or deem necessary, to discuss and agree upon modifying, supplementing, or discontinuing Multi-Service Centers' services and programming based upon assessment of community needs and customer service feedback from each Multi-Service Center, and accordingly revise the Services Schedule(s) in Attachment B if needed. Further, the Parties will endeavor to develop a relationship of trust and cooperation that will yield mutual assistance and facilitate the resolution of problems in order to implement the comprehensive service model.

V. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

5.1. WellMed agrees to comply with all city, state, and federal laws; regulations; ordinances; and codes affecting construction, procurement, and operations pursuant to this Agreement.

5.2. To the extent applicable, WellMed agrees to abide by the following laws:

- i. Chapters 252 of the Texas Local Government Code and 2254 of the Texas Government Code, or other competitive contracting processes allowed for as express exceptions to Chapter 252.

- ii. Government Code provisions regarding performance and payment bonds on certain Public Works contracts (copies of required bonds must be provided to City prior to the start of construction).
- iii. Government Code chapter 2258 and Ordinance No. 2008-11-20-1045 regarding Prevailing Wage Rate regulations required for certain Public Works Contracts, including ensuring that its construction contractor submit certified payrolls to City on a weekly basis utilizing the form required by the Wage and Hour Office of the Capital Improvements Management Services (CIMS).
- iv. The City of San Antonio Small Business Economic Development Advocacy Ordinance (Ordinance No. 2007-04-12-0396). Using the SBEDA Ordinance as a reference, WellMed must utilize its small, minority, and women business enterprise (SMWBE) policy in the procurement activities associated with this Agreement. WellMed's policy must be reviewed by City's International and Economic Development Department within sixty (60) days of Agreement execution. WellMed's policy should include, but be not limited to, the following:
 - conduct market research to determine South Central Texas Regional Certification Agency certified SMWBE subcontractor availability-based the opportunities set forth in the scope of work;
 - set SMWBE goals;
 - define outreach efforts in utilizing SMWBEs; and
 - define SMWBE evaluation criteria for scoring purposes.
- v. The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and the regulations promulgated thereunder by the U.S. Department of Health and Human Services.

WellMed will report SMWBE utilization on a quarterly basis, which will be monitored by City for compliance. WellMed may obtain authoritative interpretations and guidance for such compliance from the City's Department of Economic Development at (210) 207-8080.

5.3. Only WMMI may access, maintain, or control the medical records, or any Protected Health Information ("PHI") of the seniors who access medical services at the Multi-Service Centers, and will ensure such information is not accessible by City, and such medical records and PHI will be the sole and exclusive property of WMMI. In the event of a breach, the Parties agree to immediately, and in no later than two (2) business days of discovery, notify the other and coordinate to identify, record, investigate, and report any such breach. In this event, WellMed will comply with all breach notification requirements within 60 days.

VI. RECORDS, REPORTING, RETENTION

6.1. DHS is assigned monitoring, fiscal control, and evaluation of senior service contracts funded by City or to which City is a party. Therefore, at such times and in such form as may be required by DHS, WellMed will furnish to DHS and the grantor of grant funds, if applicable, such statements, records, data, all policies, procedures, and information and permit City and grantor of the grant funds, if applicable, to have interviews with its personnel, board members, and program participants pertaining to the matters covered by this Agreement. WellMed ensures that all information contained in all required reports submitted to City is accurate.

6.2. Retention. WellMed must retain all records, documents, reports, and written accounting policies and procedures pertaining to services provided under this Agreement for the period(s) set forth in the official records retention schedules of the Local Government Records Act of 1989 and any amendments thereto, and make available to City at all reasonable times such records, documents, reports, and written accounting policies and procedures.

6.3. Public Information Act. Government Code Section 552.021 requires City to make public information available to the public. Under Government Code Section 552.002(a), public information means information that is collected, assembled or maintained under a law or ordinance or in connection with the transaction of official business: 1) by a governmental body; or 2) for a governmental body and the governmental body owns the information or has a right of access to it. Therefore, if WellMed receives inquiries regarding documents within its possession pursuant to this Agreement, WellMed shall within twenty-four (24) hours of receiving the requests forward such requests to City for disposition. WellMed will cooperate with City to satisfy, to the extent required by law, all requests for information received by City under the Texas Public Information Act or related laws pertaining to this Agreement. If the requested information is confidential pursuant to state or federal law, WellMed shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days after being notified by City of the request.

6.4. Local Government Records. In accordance with Texas law, WellMed acknowledges and agrees that all local government records as defined in Chapter 201, Section 201.003 (8) of the Texas Local Government Code created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, WellMed agrees that no such local government records produced by or on the behalf of WellMed pursuant to this Agreement shall be the subject of any copyright or proprietary claim by WellMed. WellMed acknowledges and agrees that all local government records, as described herein, produced in the course of the work required by this Agreement, except its own medical records, shall belong to and be the property of City and shall be made available to City at any time. WellMed further agrees to turn over to City all such records, except medical records, upon termination of this Agreement. WellMed agrees that it shall not, under any circumstances, release any records created during the course of performance of the Agreement to any entity other than WMMI without the written permission of the Director of DHS, unless required to do so by a court of competent jurisdiction.

6.5. Final report. Within a period not to exceed ninety (90) days from the termination date of the Agreement, WellMed will submit all final client and/or fiscal reports, except WellMed's medical records, and all required deliverables to City. In conjunction with the submission of the final report, WellMed will execute and deliver to City a receipt for all sums provided by City.

VII. COMBINED ANNUAL SERVICES SCHEDULE(S), SHARED RESPONSIBILITIES AND EQUAL SERVICES

7.1. This is a service-matching agreement in which each Party contributes an equal share of services at the Multi-Service Centers. The use of any City resources shall be limited to the purposes authorized by City Council.

7.2. WellMed agrees to annually provide services at least equal to City's services contribution as listed and updated periodically in Attachment B.

7.3. Services Schedule(s). For each Fiscal Year of the Agreement ending on September 30th, the Parties must review and develop a service plan (hereinafter referred to as "Service Schedule") for the following year, identifying the proposed services equally contributed by the Parties for each Multi-Service Senior Center. The Parties will annually coordinate to update the Services Schedule(s) to ensure that the valuation of services each provides is equal to the services provided by the other Party, and the updated Services Schedule(s) will be attached to and incorporated in this Agreement in each year as **Attachment B**, following appropriations by City each year, with the label corresponding to the year for which it applies. Each Party will submit such proposed schedules to the other for review by no later than April 15th of each year; provided that, City may provide input with respect to WellMed's services and staff of this Agreement. The Parties will cooperate to amend, if and as necessary, the Services Schedule(s), to arrive at final, City-approved schedules.

7.4. The Parties agree that the Services Schedule(s) may include valuation of services provided directly by City to City staff which shall be credited and classified as such towards City's valuation of services on the Services Schedule(s). WellMed agrees it will pay for any expenses related its own staffing, including personnel compensation and related benefits.

7.5. Allowable Costs. WellMed agrees that under this service-matching Agreement for the service contributions of each Services Schedule are limited to allowable costs incurred as a direct result of services provided by WellMed in accordance with the terms of this Agreement. Allowable costs are defined as those costs which are necessary, reasonable, and allowable under applicable federal, state, and local law, including but not limited to those laws referenced in Article V, for the proper administration and performance of services provided under this Agreement. All requested costs must be consistent with the terms and provisions of the approved annual Services Schedule(s) of this Agreement. In no event shall City be liable for any services or cost of WellMed not allowed or approved as defined within the Agreement. Should any expense or charge be subsequently disallowed or disapproved as a result of any auditing or monitoring by City, the Parties must, within thirty (30) calendar days of City's written request, where an amount is disallowed or disapproved, adjust the Services Schedule(s) as described in this Article for the resulting unequal services to become equal.

7.6. Requests for Payment. Based upon established annual Services Schedules, WellMed will submit to City no later than the fifteenth (15th) of every month a monthly Request for Payment detailing the specific costs WellMed incurred in the previous month to deliver the services described in this Agreement, including supporting documentation of such costs and in a form as may be required by DHS. The Director of DHS may require WellMed's submission of original or certified copies of invoices, canceled checks, WellMed's general ledger, receipts, and/or any other requested supporting documentation to verify invoiced expenses.

(A) Rental and associated costs. Such specific costs and amounts may include rent or other agreed-upon costs approved in the Services Schedule(s).

- (B) Payment. City will make payments of allowable costs to WellMed of any undisputed amounts as determined by the Director of the DHS in accordance with the Services Schedule(s), so long as City receives a properly completed and documented Request for Payment.
- (C) Final Monthly Request. WellMed shall submit to City their final monthly Request for Payment no later than 15 days from the end of the annual fiscal year, ending on September 30.

7.7. Monthly Review & Unequal Services. WellMed agrees to a monthly review by City of the services provided by WellMed in reasonable detail, for the purpose of validating shared services provided so that each Party contributes equal services towards the improvement and operation of the Multi-Service Centers. WellMed agrees to allow City access to My Senior Center in order to perform such validation. Should a review uncover that services have not been shared substantially equally, WellMed agrees to reimburse funds overpaid by City as may be determined pursuant to mutual reviews by the Parties within twenty (20) calendar days of written notification of the need for reimbursement. The Services Schedules will be adjusted from time to time so that the contributions and resources expended by each Party are equal to those of the other.

7.8. City Not Responsible. WellMed agrees that City will not be obligated to any third parties (including any subcontractors or third-party beneficiaries of WellMed) for payment of any monies or provision of any goods or services. All other costs related to WellMed's services under this Agreement are the sole responsibility of WellMed.

7.9. Financial Management System. During the term of this Agreement, WellMed shall maintain and make available for City's annual review upon request, a financial management system, and acceptable accounting records that provide for:

- (A) accurate, current, and complete disclosure of financial support from each source in accordance with the reporting requirements set forth in this Agreement. If accrual basis reports are required, WellMed shall develop accrual data for its reports based on an analysis of the documentation available;
- (B) identification of the source and application of funds for City-sponsored activities. Such records shall contain information pertaining to City awards, authorizations, obligations, un-obligated balances, assets, equity, outlays, and income;
- (C) effective control over and accountability for all funds, property, and other assets. WellMed shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;
- (D) comparison of actual outlays with budget amounts for each award. Whenever appropriate or required by City, financial information should be related to performance and unit cost data;
- (E) procedures to minimize the time elapsing between the transfer of funds from City and the disbursement of said funds by WellMed to its contractors;

- (F) procedures for determining reasonable, allowable, and allocable costs in accordance with the provisions of any and all applicable terms of the funding from City;
- (G) supporting source documentation (i.e., timesheets, employee benefits, professional services agreements, purchases, and other documentation as required by City); and
- (H) an accounting system based on generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to this Agreement. A general ledger with an Income and Expense Account for each budgeted line item is necessary. Paid invoices revealing check number, date paid, and evidence of goods or services received are to be filed according to the expense account to which they were charged.

7.10. WellMed shall not use any contributions of City provided under this Agreement as match for any federal, state, or local grant without the prior written approval of the Director of DHS. Additionally, WellMed agrees that WellMed costs or earnings claimed under this Agreement will not be claimed under another contract or grant from another entity.

7.11. Cost Allocation Plan. WellMed must establish and utilize a cost allocation methodology and plan (“Cost Allocation Plan”) which ensures that City is paying only its fair share of costs for services and overhead not solely devoted to the project or projects under this Agreement. The Cost Allocation Plan and supportive documentation shall be included in the financial statements that are applicable to WellMed’s services under this Agreement. The Cost Allocation Plan is a plan that identifies and distributes the cost of services provided by staff and/or departments or functions. It is the means to substantiate and support how the costs of a program are charged to a particular cost category or to the program.

7.12. Audit.

- (A) Upon execution of this Agreement or at any time during its term, City’s Director of Finance, City Auditor, or a person designated by the Director of DHS may review and approve all WellMed’s systems of internal accounting and administrative controls related to this Agreement prior to the release of funds hereunder.
- (B) City reserves the right to conduct, or cause to be conducted, an audit or review of funds and services received under this Agreement at any and all times deemed necessary by City. City internal audit staff, a Certified Public Accounting (CPA) firm, or other personnel as designated by City, may perform such audit(s) or reviews. City reserves the right to determine the scope of every audit. In accordance herewith, WellMed agrees to make available to City all accounting and operation records.
- (C) WellMed will, during normal business hours, and as often as deemed necessary by City and/or the applicable state or federal governing agency or any other auditing entity, make available and shall continue to make available the books, records, documents, reports, and evidence with respect to all matters covered by this Agreement and shall continue to make these available for a minimum period of three (3) years or whatever period is determined necessary based on the Records

Retention guidelines established by applicable law for this Agreement, if longer. Said records shall be maintained for the required period beginning immediately after Agreement termination, save and except when there is litigation or if the audit report covering such Agreement has not been accepted, then WellMed shall retain the records until the resolution of such issues has satisfactorily occurred. The auditing entity shall have the authority to audit, examine and make excerpts, transcripts, and copies from all such books, records, documents, and evidence, including all books and records used by WellMed in accounting for the services and related expenses incurred under this Agreement, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Agreement.

7.13. Financial Stability. WellMed agrees that throughout the term of this Agreement, WellMed must maintain financial stability and operate in a fiscally responsible and prudent manner. WellMed agrees that City may immediately terminate this Agreement if City finds that WellMed is in such unsatisfactory financial condition as to endanger performance of this Agreement. City may consider evidence such as the apparent inability of WellMed to meet its financial / service obligations and items that reflect detrimentally on the creditworthiness of WellMed. Relevant factors include pending litigation, and liens and encumbrances on the assets of WellMed, among others. WellMed will provide any records requested by City that City deems necessary to make such a determination.

7.14. Funding Out. It is expressly understood and agreed by the Parties that City's obligations are contingent upon the actual receipt and appropriation of funds to meet City's liabilities hereunder. City will promptly notify WellMed when City has knowledge of an anticipated reduction in funding affecting the Agreement. If City fails to appropriate the funds needed for any given fiscal year, the Parties agree to negotiate in good faith to amend this Agreement in order to modify the Responsibilities and Services and the Parties' respective contributions accordingly. If, after negotiations, it is determined that due to the reduction in funding the character and concept of the Multi-Service Centers as originally contemplated by the Parties will be compromised to an extent that becomes unpalatable to either Party, this Agreement may be terminated with thirty (30) days written notice.

VIII. RESERVED

IX. RESERVED

X. NAMING, SIGNS, AND ACKNOWLEDGMENT OF PARTICIPATION

10.1. WellMed agrees that City has the right to determine the names of the District 6 and District 7 Multi-Service Centers, otherwise known as the Alicia Treviño López Senior One Stop Center and the Doris Griffin Senior One Stop Center, respectively.

10.2. Throughout the term of this Agreement, the Parties agree that in all Multi-Service Center-related press releases, flyers, brochures, and other informational material prepared and distributed by WellMed or City, the Parties agree to include acknowledgment and recognition of the joint nature of the Multi-Service Center development and operations.

XI. UTILITIES & LEASE COSTS

11.1. WellMed will secure all necessary utility services under its name and will ensure that the invoices for utility and leasehold services referenced in this Agreement are paid in a timely manner. Leasing and utility costs, potentially including monthly rent, electricity, phone, water, gas, as applicable, but excluding any costs attributable to the Clinic Space, will be included in the approved Services Schedule(s).

XII. INSURANCE

12.1. WellMed agrees to comply with the insurance provisions attached to and incorporated in the Agreement as **Attachment C**.

XIII. INDEMNIFICATION

13.1. **WELLMED covenants and agrees to FULLY INDEMNIFY, DEFEND, and HOLD HARMLESS CITY and the elected officials, employees, officers, directors, volunteers, and representatives of 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 CITY directly or indirectly arising out of, resulting from or related to WELLMED's activities under this AGREEMENT, including any acts or omissions of WELLMED, any agent, officer, director, representative, employee, consultant, or subcontractor of WELLMED, and their respective officers, agents, employees, directors, and representatives while in the exercise of the rights or performance of the duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT WELLMED 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 CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

13.2. **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.**

13.3. **WELLMED shall promptly advise CITY in writing of any claim or demand against CITY or WELLMED known to WELLMED related to or arising out of WELLMED's activities under this AGREEMENT. CITY shall promptly advise WELLMED in writing of any claim or demand against CITY or WELLMED known to CITY related to or arising out of CITY's activities under this AGREEMENT.**

XIV. SUBCONTRACTING

14.1. City consents to WellMed's subcontracting of all or any part of the operation and maintenance services to WMMI through a written contract. Upon request, WellMed agrees to submit the contract any other subcontracts to City for review, comment, and approval. WellMed will not enter into the subcontract unless and until City reviews and approves, which approval will not be unreasonably withheld, conditioned or delayed.

14.2. WellMed agrees its subcontractors shall perform their respective services: (i) in a competent and professional manner; in conformance with the best practices in the industry; (ii) in accordance with all laws and regulations and with the policies of WellMed; (iii) safely, promptly, properly, efficiently and to the satisfaction of WellMed; and (iv) in compliance with all applicable local laws and those of the United States and the State of Texas. If, in the sole determination of City, any of WellMed's subcontractors fail to so perform in any material respect, then WellMed may be deemed to be in default of this Agreement, and as such, this Agreement will be subject to termination in accordance with its provisions. It is further agreed by the Parties that City has the authority to monitor, audit, examine, and make copies and transcripts of all subcontracts related to the Multi-Service Centers, as often as deemed appropriate by City.

14.3. Any work or services authorized for sub-contracting shall be subcontracted only by written agreement, and unless a specific waiver is granted in writing by City, will be subject to the provisions of this Agreement. Upon request, WellMed agrees to provide City with an executed counterpart of any subcontract within ten (10) days following the request.

14.4. Compliance by WellMed's sub-contractors with this Agreement will be the responsibility of WellMed. WellMed agrees that payment of any WellMed sub-contractor will be submitted through WellMed, and WellMed will be responsible for all payments. Regardless of any subcontracting, WellMed is primarily liable for the performance of its obligations under this Agreement.

XV. NO SOLICITATION/CONFLICT OF INTEREST

15.1. WellMed warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this Agreement upon a contract or understanding for a commission, percentage, brokerage, or contingent fee and further that no such understanding or agreement exists or has existed with any employee of WellMed or City. For breach or violation of this warrant, City shall have the right to terminate this Agreement without liability or, at its discretion, to deduct from the Agreement or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or to seek such other remedies as legally may be available.

15.2. WellMed covenants that neither it nor any member of its governing body or of its staff presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. WellMed further covenants that in the performance of this Agreement, no persons having such interest shall be employed or appointed as a member of its governing body or of its staff.

15.3. No member of City's governing body or its staff who exercises any function or responsibility in the review or approval of this Agreement shall:

- (A) Participate in any decision relating to this Agreement which may affect his or her personal interest or the interest of any corporation, partnership, or association in which he or she has a direct or indirect interest; or
- (B) Have any direct or indirect interest in this Agreement or the proceeds thereof.

15.4. WellMed acknowledges that it is informed that Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to 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 percent (10%) or more of the voting stock or shares of the business entity, or 10% or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is subcontractor on a City contract, a partner or a parent or subsidiary business entity.

15.5. WellMed warrants and certifies, and this Agreement is made in reliance thereon, no City officer or employee nor any spouse, parent, child, sibling, or first-degree relative of a City officer or employee owns 10% or more of the voting stock or shares of WellMed or 10% or more of the fair market value of WellMed. WellMed further warrants and certifies that it has tendered to City a Discretionary Contracts Disclosure Statement in compliance with City's Ethics Code.

XVI. TERMINATION

16.1. Upon written notice in accordance with the official communication provisions in this Agreement, either Party may terminate this Agreement as of the date provided in the notice in whole or in part, upon the occurrence of the other Party's:

- (A) Failure to fulfill, in a timely and proper manner, any material obligations under this Agreement; or
- (B) Violation of any of the material covenants, conditions, or stipulations of the Agreement.

16.2. Opportunity to Cure. Prior to termination, the non-breaching Party will provide to the other written notice of the unsatisfactory performance, violations, or areas of non-compliance, with an opportunity to cure within thirty (30) days after receipt of notice of breach. However, in cases where the health, safety, and welfare of one or more persons are at risk as a consequence of either Party's unsatisfactory performance, violation, or area of non-compliance, then immediate action is necessary to cure the deficiency, and the breaching Party waives all right to receive written notice.

16.3. Breach. At the sole option of City, in the event City has provided notice of breach pursuant this Article, City may withhold payment during the applicable cure period and continue withholding for as long as WellMed fails to cure the breach. WellMed will not be relieved of liability to City for damages sustained by City by virtue of any breach of this Agreement, and City shall retain any other remedies available to City.

16.4. Within thirty (30) calendar days after the expiration or termination of this Agreement, WellMed will turn over to City copies of all records, documents, files and other instruments in its possession, other than its medical records, pertaining to WellMed's performance under this Agreement.

XVII. POLITICAL ACTIVITIES PROHIBITED

17.1. WellMed agrees that no funds, services, or contributions provided from or through City shall be contributed or used to conduct political activities for the benefit of any candidate for elective public office, political Party, organization or cause, whether partisan or non-partisan, nor shall the personnel involved in the administration of this Agreement be assigned to work for or on behalf of any partisan or non-partisan political activity.

17.2. WellMed agrees that no funds, services, or contributions provided under this Agreement may be used in any way to attempt to influence, in any manner, an elected or appointed official in any office.

17.3. The prohibitions set forth in this Article of the Agreement include, but are not limited to, the following:

- (A) an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state, or federal legislation;
- (B) working or coercing other personnel to work on any political activity (i) during Center's daily operating hours, or (ii) on their personal time, including, but not limited to activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature; and
- (C) using Multi-Service Center facilities or equipment, including physical facilities such as office space, office equipment, or supplies, such as telephones, computers, fax machines, during and after regular business hours.

17.4. WellMed agrees that in any instance where an investigation of the above is ongoing or has been confirmed, payment(s) to WellMed under this Agreement may, at City's discretion, be withheld until the situation is resolved.

17.5. This Article shall not be construed to prohibit any person from exercising his or her right to express his or her opinion or to limit any individual's right to vote. Further, staff members are not prohibited from participating in political activities on their own volition on personal time when not working at a Center.

XVIII. USE OF FUNDS OR CENTER FOR RELIGIOUS ACTIVITIES PROHIBITED

18.1. WellMed agrees that none of the performance or funds rendered under this Agreement will be used, directly or indirectly, for any sectarian or religious facility or activity, nor utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

XIX. COMPANIES MAY NOT BOYCOTT ISRAEL

19.1. Government Code §2270.002 provides that a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

1. does not boycott Israel; and
2. will not boycott Israel during the term of the contract.

"*Boycott Israel*" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

"*Company*" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exist to make a profit.

19.2. WellMed, if meeting the definition of "Company," verifies that it does not boycott Israel, and will not boycott Israel during the term of the Agreement. City relies on WellMed's verification. If found to be false, City may terminate this Agreement for material breach.

XX. PROHIBITION ON CONTRACTS WITH COMPANIES DOING BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION

20.1. Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. WellMed hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on WellMed's certification. If found to be false, or if WellMed is identified on such list during the course of its contract with City, City may terminate this Agreement for material breach.

XXI. AMENDMENT

21.1. No amendment, modification, or alteration of the terms of this Agreement is binding unless the same is in writing, dated subsequent to the execution date of this Agreement, and duly executed by the Parties. Such amendment, if materially or substantively changing the terms of this Agreement, requires the approval of City Council.

XXII. NON-DISCRIMINATION

22.1. WellMed agrees to comply with the *Non-Discrimination Policy* of City contained in Chapter 2, Article X of the City Code and further shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age, or disability, unless exempted by state or federal law, or as otherwise established in this Agreement.

XXIII. NOTICES

23.1. Notices to the Parties will be deemed sufficient if in writing and mailed by courier or Certified Mail, postage prepaid, addressed to:

CITY

City of San Antonio
Attn: Director
Department of Human Services
106 St. Mary's Street, 7th floor
San Antonio, Texas 78205

WELLMED

WellMed Charitable Foundation.
Attn: Executive Director
Senior Vice President – Shared Services
8637 Fredericksburg Rd., Suite 100
San Antonio, Texas 78240

XXIV. RELATIONSHIP OF PARTIES

24.1. Nothing in this Agreement may be construed by the Parties, or any third-party, as creating a relationship of principal and agent, partners, joint venturers or similar such relationship.

24.2. Any and all of the employees (“employees”) of a Party, wherever located, while engaged in the performance of any work required under this Agreement, will be considered employees of that Party only, and not of the other, and any and all claims that may arise from the Workers’ Compensation Act on behalf of a Party’s employees is the sole obligation and responsibility of that Party only. Any and all of the subcontractors of a Party, wherever located, while engaged in the performance of any work required under this Agreement, will be considered subcontractors of that Party only, and not of the other.

XXV. MISCELLANEOUS

25.1. Assignment. This Agreement is not assignable by either Party unless written authorization is first obtained from the other Party.

25.2. Waiver. Unless otherwise specifically provided for in the Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants, or guarantees 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. No waiver, change, modification, or discharge by either Party of any provision shall be deemed to have been made or be effective unless expressed in writing and signed by the Party to be charged. No act or omission by a Party will in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement, by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

25.3. Severability. If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, including any renewals, then it is the intention of the Parties that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision that is illegal, invalid, or unenforceable, there be added to this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

25.4. Venue. The Parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Bexar County, Texas. Any action or proceeding brought to enforce the terms of this Agreement or adjudicate any dispute arising out of this Agreement shall be brought in a court of competent jurisdiction in San Antonio, Bexar County, Texas. Venue and jurisdiction arising under or in connection with this Agreement shall lie exclusively in Bexar, County, Texas.

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

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

25.7. Entire Agreement. This Agreement and its attachments contain the final and entire agreement between the Parties and contain all terms and conditions agreed upon to date, and supersede all prior negotiations, representations, or agreements, either oral or written, regarding the Joint Use and Co-location of the Multi-Service Centers. No such other negotiations or representations may be enforced by any Party nor may they be employed for interpretation purposes in any dispute involving this Agreement.

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XXVI. AUTHORITY

26.1. The signers of this Agreement hereby represent and warrant that they have authority to execute this Agreement on behalf of each of their governing bodies.

EXECUTED as of the date of the last Party to sign below, this the ____ day of _____, 2019.

CITY

City of San Antonio, Texas

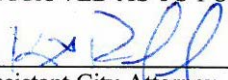
WellMed

WellMed Charitable Foundation

Melody Woosley, Director
Department of Human Services

Carol Zernial, Executive Director

APPROVED AS TO FORM:



Assistant City Attorney

ATTACHMENTS:

- Attachment A – SBEDA Plan
- Attachment B – Services Schedules
- Attachment C – Insurance Provisions

Attachment A

**SMALL BUSINESS ECONOMIC DEVELOPMENT
ADVOCACY (SBEDA) PROGRAM**

A. SBEDA Program

City has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2016-05-19-0367 and as amended, also referred to as “SBEDA” or “the SBEDA Program”), which is posted on City’s Economic Development (hereafter referred to as “EDD”) website page and also is available in hard copy form upon request to City. The SBEDA Ordinance Compliance Provisions contained in this Attachment A are governed by the terms of said Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by City, pursuant to said Ordinance, and any subsequent amendments to this referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual in effect as of the date of the execution of this Agreement. Unless defined in a contrary manner herein, terms used in this Attachment A shall be subject to the same expanded definitions and meanings as given those terms in the SBEDA Ordinance and as further interpreted in the SBEDA Policy & Procedure Manual.

B. SBEDA Program Compliance – Affirmative Procurement Initiatives

City has applied the following contract-specific Affirmative Procurement Initiatives to this Agreement. WELLMED hereby acknowledges and agrees the selected API requirement(s) also shall be extended to any change order or subsequent contract modification and, absent SBO’s granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement:

M/WBE Subcontracting Program. In accordance with SBEDA Ordinance Section III. D. 2. (d), this contract is being awarded pursuant to the M/WBE Subcontracting Program. WELLMED agrees to subcontract at least **ten percent (10%)** of the City's appropriation of this project to certified M/WBE firms headquartered or having a Significant Business Presence within the San Antonio Metropolitan Statistical Area (SAMSA).

The Subcontractor / Supplier Utilization Plan that WELLMED submitted to CITY for this contract (or, as appropriate, that it agrees to submit during the price proposal negotiation phase of this contract), and that contains the names of the certified M/WBE Subcontractors to be used by WELLMED on this contract, the respective percentages of the total prime contract dollar value to be awarded and performed by each M/WBE Subcontractor, and documentation including a description of each M/WBE Subcontractor’s scope of work and confirmation of each SBE, M/WBE and AABE Subcontractor’s commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement. In the absence of a waiver granted by the SBO, the failure of WELLMED to attain this subcontracting goal for M/WBE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for

termination of the contract with the CITY, and may result in debarment from performing future CITY contracts, withholding of payment for retainage equal to the dollar amount of the underutilization below the agreed upon M/WBE subcontracting goal, and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the SBEDA Ordinance, or under any other law.

C. Contract Requirements and Commitment

WELLMED understands and agrees the following provisions shall be requirements of this Funding Agreement and WELLMED, in acknowledging these requirements, commits to comply with these provisions.

Waiver Request - WELLMED may request, for good cause, a full or partial Waiver of **specified subcontracting goal(s)** by submitting the *Respondent/ Vendor Subcontracting Waiver Request* form (available at <http://www.sanantonio.gov/SBO/Forms.aspx>). WELLMED's Waiver request fully must document Consultant, Sub-Consultant, Contractor, Subcontractor and/or Supplier unavailability despite WELLMED's good faith efforts to comply with the goal. Such documentation shall include all good faith efforts made by WELLMED including, but not limited to, which Consultants, Sub-Consultants, Contractors, Subcontractors and/or Suppliers were contacted (with phone numbers, e-mail addresses and mailing addresses, as applicable) and the method of contact.

D. SBEDA Program Compliance – General Provisions

WELLMED acknowledges and accepts the terms of City's SBEDA Ordinance, as amended, together with all requirements, guidelines and procedures set forth in City's SBEDA Policy & Procedure Manual, are in furtherance of City's efforts at economic inclusion and, moreover, such terms are part of WELLMED's Scope of Work, as referenced in City's Funding Agreement, forming the basis for a Funding Agreement award and subsequent execution of this Agreement. These SBEDA Ordinance requirements, guidelines and procedures hereby are incorporated by reference into this Agreement and are considered by the Parties hereto to be material terms. WELLMED's agreement fully to comply with these SBEDA program terms is a material condition for being awarded this Funding Agreement by City. Without limitation, WELLMED further agrees to the following terms as part of its contract compliance responsibilities under City's SBEDA Program:

1. WELLMED shall cooperate fully with the Small Business Office and other CITY departments in their data collection and monitoring efforts regarding WELLMED's utilization and payment of Subcontractors, S/M/WBE firms, and HUBZone firms, as applicable, for their performance of Commercially Useful Functions on this contract including, but not limited to, the timely submission of completed forms and/or documentation promulgated by SBO, through the Originating Department, pursuant to the SBEDA Policy & Procedure Manual, timely entry of data into monitoring systems, and ensuring the timely compliance of its subcontractors with this term;

Attachment A

2. WELLMED shall cooperate fully with any CITY or SBO investigation (and shall also respond truthfully and promptly to any CITY or SBO inquiry) regarding possible non-compliance with SBEDA requirements on the part of WELLMED or its subcontractors or suppliers;
3. WELLMED shall permit the SBO, upon reasonable notice, to undertake inspections as necessary including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;
4. WELLMED shall notify the SBO, in writing on the Change to Utilization Plan form, through the Originating Department, of any proposed changes to WELLMED's Subcontractor / Supplier Utilization Plan for this contract, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by WELLMED to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by WELLMED of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or suppliers, shall be subject to advanced written approval by the Originating Department and the SBO;
5. WELLMED shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with the CITY, as well as any transfer or change in its ownership or business structure;
6. WELLMED shall retain all records of its Subcontractor payments for this contract for a minimum of four years or as required by state law, following the conclusion of this contract or, in the event of litigation concerning this contract, for a minimum of four years or as required by state law following the final determination of litigation, whichever is later;
7. In instances wherein the SBO determines that a Commercially Useful Function is not actually being performed by the applicable S/M/WBE or HUBZone firms listed in a WELLMED's Subcontractor / Supplier Utilization Plan, the WELLMED shall not be given credit for the participation of its S/M/WBE or HUBZone Subcontractor(s) or joint venture partner(s) toward attainment of S/M/WBE or HUBZone firm utilization goals, and the WELLMED and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance; and
8. WELLMED acknowledges that the CITY will not execute a contract or issue a Notice to proceed for this project until the WELLMED for this project have registered and/or maintained active status in the CITY's Centralized Vendor Registration System (CVR), and WELLMED has represented to CITY which primary commodity codes each Subcontractor will be performing under for this contract. CITY recommends all Subcontractors to be registered in the CVR.

For more information please see link: <http://www.sanantonio.gov/SBO/Compliance>

E. Violations, Sanctions and Penalties

In addition to the above terms, WELLMED acknowledges and agrees it is a violation of the SBEDA Ordinance and shall be deemed to have committed a material breach of this Agreement if WELLMED:

1. fraudulently obtains, retains, attempt to obtain, or aids another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefitting from the SBEDA Ordinance;
2. willfully falsifies, conceals or covers up by a trick, scheme or device, a material fact or makes any false, fictitious or fraudulent statements or representations, or makes use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statements or entries pursuant to the terms of the SBEDA Ordinance;
3. willfully obstructs, impedes or attempts to obstruct or impede any authorized official or employee investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;
4. fraudulently obtains, attempts to obtain or aids another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and
5. makes false statements to any entity that any other entity is or is not certified as an S/M/WBE for purposes of the SBEDA Ordinance.

Any person or entity violating the provisions of this **clause** shall be subject to the provisions of Section III. E. 13. of the SBEDA Ordinance and any other penalties, sanctions and remedies available under law including, but not limited to:

1. Suspension of contract
2. Withholding of funds
3. Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance
4. Refusal to accept a response or proposal
5. Disqualification of WELLMED or other business firm from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).

F. Commercial Nondiscrimination Policy Compliance

As a condition of entering into this Agreement, WELLMED represents and warrants it has complied with, throughout the course of this solicitation and contract award process and will continue to comply with, City's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, WELLMED shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s), Suppliers vendors or commercial customers, nor shall WELLMED retaliate against any person for reporting instances of such discrimination. WELLMED shall provide equal opportunity for Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s), Suppliers and vendors to participate in all of WELLMED's public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this **clause** shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in City's Relevant Marketplace. WELLMED understands and agrees a material violation of this **clause** shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of WELLMED from participating in City contracts or other sanctions. This **clause** is not enforceable by or for the benefit of, and creates no obligation to, any third party. WELLMED's certification of its compliance with this Commercial Nondiscrimination Policy, as submitted to City pursuant to the solicitation for this Agreement, hereby is incorporated into the material terms of this Agreement. WELLMED shall incorporate this Commercial Nondiscrimination Policy clause into each of its Consultant(s), Sub-Consultant(s), Contractor(s) Subcontractor(s) and Supplier agreements entered into pursuant to City contracts.

G. Prompt Payment

Upon execution of this Agreement, WELLMED shall be required to submit to City accurate progress payment information with each invoice, with regard to each of its Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and Suppliers, including HUBZone Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and Suppliers, to ensure WELLMED's reported subcontract participation is accurate. WELLMED shall pay its Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and Suppliers in compliance with Chapter 2251, Texas Government Code (known as the "Prompt Payment Act") within ten (10) days of receipt of payment from City. In the event of WELLMED's noncompliance with these prompt payment provisions, no new City contracts shall be issued to WELLMED until City's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the Agreement.

H. Definitions

Affirmative Procurement Initiatives (hereafter referred to as “API”) – refers to various Small Business Enterprise, Minority Business Enterprise, and/or Women Business Enterprise (hereafter referred to as “S/M/WBE”) Program tools and Solicitation Incentives that are used to encourage greater prime contract and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full descriptions of these and other S/M/WBE program tools, see Section III. D. of Attachment A to the SBEDA Ordinance).

Centralized Vendor Registration System (hereafter referred to as “CVR”) – refers to a mandatory electronic system wherein City requires all prospective Consultants, Sub-Consultants, Contractors and Subcontractors ready, willing and able to sell goods or services to City to register. The CVR system assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices and for receiving payments from City. The CVR-assigned identifiers also are used by City’s Goal Setting Committee for measuring relative availability and tracking utilization of SBE and M/WBE (as defined herein) firms by Industry or commodity codes and for establishing annual aspirational Goals and contract-by-contract Subcontracting Goals.

Certification or “Certified” – refers to the process by which City’s Small Business Office (hereafter referred to as “SBO”) staff determines a firm to be a bona-fide small, minority-, women-owned or emerging small business enterprise. Emerging Small Business Enterprises (hereafter referred to as “ESBEs”) automatically are eligible for Certification as SBEs. Any firm may apply for multiple Certifications covering each and every status category (e.g., SBE, ESBE, MBE, or WBE) for which it is able to satisfy eligibility standards. The SBO staff may contract these services to a regional Certification agency or other entity. For purposes of Certification, City accepts any firm that is certified by local government entities and/or other organizations identified herein that have adopted Certification standards and procedures similar to those followed by the SBO, provided the prospective firm satisfies the eligibility requirements set forth in this Ordinance in Section III.E.6 of Attachment A.

Commercially Useful Function – means a S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm also must be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it actually is performing, the S/M/WBE credit claimed for its performance of the work and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain

the appearance of meaningful and useful S/M/WBE participation when, in similar transactions in which S/M/WBE firms do not participate, there is no such role performed. The use of S/M/WBE firms by WELLMED to perform such “pass-through” or “conduit” functions that are not commercially useful shall be viewed by City as fraudulent, if WELLMED attempts to obtain credit for such S/M/WBE participation towards the satisfaction of S/M/WBE participation goals or other API participation requirements. As such, under such circumstances where a commercially useful function is not actually performed by the S/M/WBE firm, WELLMED shall not be given credit for the participation of its S/M/WBE Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s), Suppliers or joint venture partner towards attainment of S/M/WBE utilization goals, and WELLMED and S/M/WBE firm may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

Good Faith Efforts – means the documentation of WELLMED’s intent to comply with S/M/WBE Program Goals and procedures including, but are not limited to, the following:

(1) documentation reflecting WELLMED’s commitment to comply with SBE or M/WBE Program Goals as established by the GSC for a particular contract; or

(2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SBE or M/WBE subcontract opportunities on the City of San Antonio website; solicitations of bids/proposals/qualification statements from all qualified SBE or M/WBE firms listed in the Small Business Office’s directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes, to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Consultant’s posting of a bond covering the work of SBE or M/WBE Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by WELLMED and the solicitation; and documentation of consultations with trade associations and Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers representing the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers). The appropriate form and content of WELLMED’s Good Faith Efforts documentation shall be in accordance with the SBEDA Ordinance as interpreted in the SBEDA Policy & Procedure Manual.

HUBZone Firm – means a business certified by the U.S. Small Business Administration for participation in the federal HUBZone Program, as established under the 1997 Small Business Reauthorization Act. To qualify as a HUBZone firm, a small business must meet all of the following criteria:

1. The business is owned and Controlled by U.S. citizens;
2. At least thirty five percent (35%) of the business’s employees must reside in a HUBZone; and

3. The business's Principal Place of Business must be located in a HUBZone within the San Antonio Metropolitan Statistical Area. [See 13 C.F.R. 126.200 (1999).]

Independently Owned and Operated – means the ownership of an SBE firm must be direct, independent and by Individuals only. Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control as specified herein in Section III.E.6. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

Individual – means an adult person that is of legal majority age.

Industry Categories – means procurement groupings for City inclusive of Construction, Architectural & Engineering (A&E), Professional Services, Other Services and Goods and Supplies (i.e., manufacturing, wholesale and retail distribution of commodities). This term sometimes may be referred to as “business categories.”

Minority/Women Business Enterprise (hereafter referred to as “M/WBE”) – refers to a firm certified as a Small Business Enterprise and also is certified as either a Minority Business Enterprise or as a Women Business Enterprise, is at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members and/or women and is ready, willing and able to sell goods or services to be purchased by City.

M/WBE Directory – refers to a listing of minority- and women-owned businesses certified for participation in City's M/WBE Program APIs.

Minority Business Enterprise (hereafter referred to as “MBE”) – means any legal entity, except a joint venture, organized to engage in for-profit transactions, certified a Small Business Enterprise and is at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members, as defined below, and is ready, willing and able to sell goods or services to be purchased by City. To qualify as a MBE, the enterprise shall meet the Significant Business Presence requirement defined herein. Unless otherwise stated, the term MBE, as used in City's Ordinance, is not inclusive of women-owned business enterprises.

Minority Group Members – refers to African-Americans, Hispanic Americans, Asian Americans and Native Americans legally residing in or that are citizens of the United States or its territories, as defined below:

African-Americans: Persons with origins in any of the black racial groups of Africa.

Hispanic-Americans: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central and South American origin.

Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

Native Americans: Persons having no less than 1/16th percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

Originating Department – refers to a City department or authorized representative of City managing the contract.

Payment – refers to the dollars actually paid to WELLMED and/or WELLMED’s Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s), Suppliers and/or vendors for City-contracted goods and/or services.

Prime Consultant – refers to a Consultant, under contract to City, to whom a purchase order or contract is issued by City for the purposes of providing goods or services to City. For purposes of this Agreement, this term refers to WELLMED.

Relevant Marketplace – means the geographic market area affecting the S/M/WBE Program, as determined for purposes of collecting data for NERA Economic Consulting and for determining eligibility for participation under various programs established by City’s SBEDA Ordinance, defined as the San Antonio Metropolitan Statistical Area (as defined herein), which currently includes the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

Respondent – refers to an entity submitting a bid, Statement of Qualifications or Proposal in response to a solicitation issued by City. For purposes of this agreement, WELLMED is Respondent.

Responsible – means a firm capable in all respects fully to perform the contractual requirements outlined in City’s solicitation and has the integrity and reliability to assure good faith performance of all project specifications.

San Antonio Metropolitan Statistical Area (hereafter referred to as “SAMSA”) – also known as the Relevant Marketplace, referring to the geographic market area from which City’s NERA Economic Consulting analyzed contract utilization and availability data for disparity. City’s SAMSA currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

SBE Directory – refers to a listing of small businesses certified for participation in City's SBE Program APIs.

Significant Business Presence – defined as an established place of business in one or more of the eight (8) counties making up the SAMSA, from which twenty percent (20%) of the entity’s full-time, part-time and contract employees regularly are based, and from which a substantial role in

the S/M/WBE's performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence. To qualify for this Program, a S/M/WBE must be headquartered or have a *significant business presence* for at least one (1) year within the Relevant Marketplace.

Small Business Enterprise (hereafter referred to as “SBE”) – means a corporation, partnership, sole proprietorship or other recognized legal entity existing for the purpose of making a profit, is independently owned and operated by Individuals legally residing in or are citizens of the United States or its territories, meets the U.S. Small Business Administration (hereafter referred to as “SBA”) size standard for a small business in its particular industry(ies) and meets the Significant Business Presence requirements, as defined herein.

Small Business Office (hereafter referred to as “SBO”) – means the office within City’s EDD Department primarily responsible for general oversight and administration of the S/M/WBE Program.

Small Business Office Manager (hereafter referred to as “SBO Manager”) – refers to the Assistant Director of EDD responsible for the management of the SBO and ultimately responsible for oversight, tracking, monitoring, administration, implementation and reporting of the S/M/WBE Program. The SBO Manager also is responsible for enforcement of WELLMED, Consultant and vendor compliance with contract participation requirements and ensuring that overall SBEDA Program goals and objectives are met.

Small Minority Women Business Enterprise Program (hereafter referred to as “S/M/WBE Program”) – refers to the combination of SBE Program and M/WBE Program features contained in the SBEDA Ordinance.

Sub-Consultant – means any vendor of WELLMED providing goods or services to WELLMED in furtherance of WELLMED’s performance under an agreement, contract or purchase order with City. A copy of each binding agreement between WELLMED and its Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and Suppliers shall be submitted to City in writing prior to execution of this Agreement and any modification to this Agreement.

Suspension – means the temporary stoppage of a SBE or M/WBE firm’s beneficial participation in City’s S/M/WBE Program for a finite period of time, due to the cumulative contract payments the S/M/WBE firm received during a fiscal year exceeding a certain dollar threshold, as set forth in Section III.E.7 of Attachment A to the SBEDA Ordinance; or the temporary stoppage of WELLMED’s and/or S/M/WBE firm’s performance and payment under City contracts due to City’s imposition of Penalties and Sanctions, as set forth in Section III.E.13 of Attachment A to the SBEDA Ordinance.

Sub-Consultant/Supplier Utilization Plan – refers to the binding part of this Agreement stating WELLMED’s commitment for the use of Joint Venture Partners and/or Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers in the performance of this

Attachment A

Agreement, stating the name, scope of work and dollar value of work to be performed by each of WELLMED's Joint Venture partners and/or Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers in the course of the performance of this Agreement, specifying the S/M/WBE Certification category for each Joint Venture partner and/or Consultant, Sub-Consultant, Contractor, Subcontractor and/or Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or and Consultant, Sub-Consultant, Contractor, Subcontractor and/or Supplier names, scopes of work or dollar values of work to be performed requires an amendment to this Agreement approved by the EDD Manager or his/her designee.

Women Business Enterprises (hereafter referred to as "WBEs") – refers to any legal entity, except a Joint Venture, organized to engage in for-profit transactions, certified, for purposes of the SBEDA Ordinance, as being a Small Business Enterprise, is at least fifty-one percent (51%) owned, managed and controlled by one or more non-minority women Individuals lawfully residing in or are citizens of the United States or its territories, is ready, willing and able to sell goods or services to be purchased by City and meets the Significant Business Presence requirements, as defined herein. Unless otherwise stated, WBE, as used in this Agreement, is not inclusive of MBEs.

Attachment B

ANNUAL SERVICES SCHEDULES

[INSERT Agreed-upon Annual Services Schedule]

FY20 District 6 Shared Service Schedule

| COSA GL | Wellmed GL | DESCRIPTION | FY20 Wellmed Projected Services | FY20 City Projected Services | FY20 Additional City Service Reimbursable to Wellmed | GRAND TOTAL |
|---|-------------------|--|---------------------------------|------------------------------|--|------------------------|
| Personal Services | | | | | | |
| District 6 | | Position Title | Weekly Salary | Number of Weeks | | |
| 5101010 | | Environmental Svc. Assoc. | 618.00 | 52 | 32,136.00 | 32,136.00 |
| 5101010 | | Receptionist | 618.00 | 52 | 32,136.00 | 32,136.00 |
| 5101010 | | Regional Manager | 1,409.04 | 52 | 73,270.08 | 73,270.08 |
| 5101010 | | Receptionist | 618.00 | 52 | 32,136.00 | 32,136.00 |
| 5101010 | | Fitness Advisor | 762.20 | 52 | 39,634.40 | 39,634.40 |
| 5101010 | | Senior Center Manager | | | 68,796.96 | 68,796.96 |
| 5101010 | | Nutrition Site Coordinator | | | 37,051.50 | 37,051.50 |
| 5101010 | | Chauffeur FT | | | 32,672.64 | 32,672.64 |
| 5101010 | | Chauffeur PT | | | 16,336.32 | 16,336.32 |
| Total Salaries | | | \$ 209,312.48 | \$ 154,857.42 | \$ - | \$ 364,169.90 |
| 5103005 | | FICA (7.65% of Total Salaries) | | 16,012.40 | 11,846.59 | 27,859.00 |
| 5105010 | | Retirement | | 10,465.62 | 18,056.38 | 28,522.00 |
| 5104030 | | Health Insurance | | 42,200.00 | 25,410.00 | 67,610.00 |
| 5103010 | | Life Insurance | | - | 154.86 | 154.86 |
| 5103035 | | Personal Leave Buyback | | - | 1,211.00 | 1,211.00 |
| 5101050 | | Language Skill Pay | | - | - | - |
| 5402520 | | Unemployment Comp Assessment | | - | - | - |
| 5403543 | | IT Assessment | | - | - | - |
| 5405020 | | Worker's Compensation Assessment | | - | - | - |
| Total Fringe | | | \$ 68,678.03 | \$ 56,678.83 | \$ - | \$ 125,356.85 |
| Total Personal Services (Salaries & Fringe Benefits) | | | \$ 277,990.51 | \$ 211,536.25 | \$ - | \$ 489,526.75 |
| Contractual Services | | | | | | |
| 5201025 | 70400 | Education - Classes | | 900.00 | | 900.00 |
| 5201040 | 70005 | Fees to Professional Contractors | | 44,000.00 | | 44,000.00 |
| 5201044 | | Garbage Collection Expense | | 3,000.00 | | 3,000.00 |
| 5202025 | | Other Contractual Services (Property Taxes) | | | | - |
| 5203040 | | Advertising and Publication | | | | - |
| 5203050 | 77020/77040 | Membership Dues and Licenses | | | 1,000.00 | 1,000.00 |
| 5203060 | 77110 | Binding, Printing and Reproduction | | 200.00 | | 200.00 |
| 5203080 | | Subscriptions to Computer Services | | 2,125.00 | | 2,125.00 |
| 5203090 | 75025 | Transportation Fees | | 2,400.00 | 480.00 | 2,880.00 |
| 5204010 | | Linen & Laundry Services (Uniforms) | | 1,500.00 | | 1,500.00 |
| 5204020 | | Maintenance and Repair - Cmrc | | | 1,380.00 | 1,380.00 |
| 5204050 | 73040 | Maintenance and Repair - Buildings and Improvements | | 13,000.00 | | 13,000.00 |
| 5204060 | | Cleaning Services | | 52,000.00 | | 52,000.00 |
| 5204080 | 73200 | Maintenance and Repair - Machinery and Equipment | | 2,000.00 | | 2,000.00 |
| 5204090 | | Maintenance and Repair - Auto | | | 2,040.00 | 2,040.00 |
| 5205010 | 74300 | Mail and Parcel Post Service | | 150.00 | | 150.00 |
| 5205020 | | Rental of Office Equipment | | 780.00 | | 780.00 |
| 5206010 | 73000/75330 | Rental of Facilities | | 19,868.87 | | 289,908.00 |
| 5208530 | 77050 | Alarm and Security Services | | | | - |
| Total Contractual Services | | | \$ 141,923.87 | \$ 4,900.00 | \$ 270,039.13 | \$ 416,863.00 |
| Commodities | | | | | | |
| 5302010 | 74400 | Office Supplies (General Supplies) | | 8,000.00 | | 8,000.00 |
| 5303010 | 73020 | Janitorial Supplies | | 6,000.00 | | 6,000.00 |
| 5304005 | | Clothing and Linen Supplies | | | | - |
| 5304010 | 73040/73043/77240 | Food for Participants | | 10,600.00 | 124.00 | 10,724.00 |
| 5304025 | | Motor Fuel and Lubricants | | | 6,996.00 | 6,996.00 |
| 5304050 | | Tools and Apparatus | | 1,000.00 | | 1,000.00 |
| 5304070 | 71800/71810 | Recreation Supplies | | 2,500.00 | | 2,500.00 |
| 5304075 | | Computer Software | | | | - |
| 5301010 | 73040 | Maint. and Repair Materials (Buildings and Improvements) | | | | - |
| 5301020 | | M&R Parts Automotive | | | 1,380.00 | 1,380.00 |
| 5301030 | | Maint. and Repair Materials (Machinery and Equipment) | | | | - |
| 5304080 | | Other Commodities | | | 500.00 | 500.00 |
| Total Commodities | | | \$ 28,100.00 | \$ 9,000.00 | \$ - | \$ 37,100.00 |
| Fixed Charges | | | | | | |
| 5403010 | 74001 | Telephone and Fax | | 7,400.00 | | 7,400.00 |
| 5403090 | | Cable Services | | 2,076.00 | | 2,076.00 |
| 5403510 | 74003/74020/78000 | Wireless Data Communications | | | | - |
| 5404510 | | Automotive Admin Chg | | | 135.00 | 135.00 |
| 5404530 | 73010 | Gas and Electricity | | 39,000.00 | | 39,000.00 |
| 5404540 | | Water | | | | - |
| 5405030 | | Liability, Hazard, Fidelity Insurance | | 4,800.00 | | 4,800.00 |
| 5406520 | | Other Expenditures | | | | - |
| 5407025 | | DW - Food | | | 600.00 | 600.00 |
| 5407510 | | Rent of City Equip (vehicle replacement cost) | | | 15,380.00 | 15,380.00 |
| Total Fixed Charges | | | \$ 53,276.00 | \$ 16,115.00 | \$ - | \$ 69,391.00 |
| Capital Outlay | | | | | | |
| 5501000 | 73100/73110 | Computer Equipment<\$5,000 | | 2,300.00 | | 2,300.00 |
| 5501055 | | Machinery and Equipment other<\$5,000 | | | | - |
| 5501065 | | Furniture and Fixtures <\$5,000 | | 5,000.00 | | 5,000.00 |
| 5501080 | | Capital Outlay<\$5000 - Fitness Equipment | | 3,000.00 | | 3,000.00 |
| Total Capital Outlay | | | \$ 10,300.00 | \$ - | \$ - | \$ 10,300.00 |
| GRAND TOTAL | | | \$ 511,590.38 | \$ 241,551.25 | \$ 270,039.13 | \$ 1,023,180.75 |

| | |
|----------------------|----------------------|
| CITY TOTAL | \$ 511,590.38 |
| WELLMED TOTAL | \$ 511,590.38 |

FY20 District 7 Shared Service Schedule

| COSA GL | Wellmed GL | DESCRIPTION | | | FY20 Wellmed Projected Services | FY20 City Projected Services | FY20 Additional City Service Reimbursable to Wellmed | GRAND TOTAL |
|---|----------------|--|----------------------|------------------------|---------------------------------|------------------------------|--|----------------------|
| Personal Services | | | | | | | | |
| District 7 | | Position Title | Weekly Salary | Number of Weeks | | | | |
| 5101010 | | Environmental Svc. Assoc. PT | 300.00 | 52 | 15,600.00 | - | | 15,600.00 |
| 5101010 | | Environmental Svc. Assoc. PT | 300.00 | 52 | 15,600.00 | - | | 15,600.00 |
| 5101010 | | Senior Center Supervisor | 1,149.20 | 52 | 59,758.54 | - | | 59,758.54 |
| 5101010 | | Receptionist | 600.00 | 52 | 31,200.00 | - | | 31,200.00 |
| 5101010 | | Fitness Advisor | 762.20 | 52 | 39,634.40 | - | | 39,634.40 |
| 5101010 | | Senior Center Manager | | | - | 88,594.14 | | 88,594.14 |
| 5101010 | | Admin. Associate | | | - | 33,551.25 | | 33,551.25 |
| 5101010 | | Nutrition Site Coordinator | | | - | 35,527.62 | | 35,527.62 |
| 5101010 | | Chauffeur | | | - | 33,826.26 | | 33,826.26 |
| Total Salaries | | | | | \$ 161,792.94 | \$ 191,499.27 | \$ - | \$ 353,292.21 |
| 5103005 | | FICA (7.65% of Total Salaries) | | | 12,377.16 | 14,649.69 | | 27,026.85 |
| 5105010 | | Retirement | | | 8,089.65 | 22,328.81 | | 30,418.46 |
| 5104030 | | Health Insurance | | | 42,200.00 | 33,880.00 | | 76,080.00 |
| 5103010 | | Life Insurance | | | - | 191.50 | | 191.50 |
| 5103035 | | Personal Leave Buyback | | | - | 1,904.00 | | 1,904.00 |
| 5101050 | | Language Skill Pay | | | - | 1,200.00 | | 1,200.00 |
| 5402520 | | Unemployment Comp Assessment | | | - | - | | - |
| 5403543 | | IT Assessment | | | - | - | | - |
| 5405020 | | Worker's Compensation Assessment | | | - | - | | - |
| Total Fringe | | | | | \$ 62,666.81 | \$ 74,154.01 | \$ - | \$ 136,820.81 |
| Total Personal Services (Salaries & Fringe Benefits) | | | | | \$ 224,459.75 | \$ 265,653.28 | \$ - | \$ 490,113.02 |
| Contractual Services | | | | | | | | |
| 5201025 | 70400 | Education - Classes | | | 700.00 | | | 700.00 |
| 5201040 | 70005 | Fees to Professional Contractors | | | 55,000.00 | | - | 55,000.00 |
| 5201044 | | Garbage Collection Expense | | | 5,400.00 | | | 5,400.00 |
| 5202025 | | Other Contractual Services (Property Taxes) | | | | | | - |
| 5203040 | | Advertising and Publication | | | 290.00 | | | 290.00 |
| 5203050 | 77020/77040 | Membership Dues and Licenses | | | | 1,000.00 | | 1,000.00 |
| 5203060 | 77110 | Binding, Printing and Reproduction | | | | | | - |
| 5203080 | | Subscriptions to Computer Services | | | 2,125.00 | | | 2,125.00 |
| 5203090 | 75025 | Transportation Fees | | | 2,400.00 | 660.00 | | 3,060.00 |
| 5204010 | | Linen & Laundry Services (Uniforms) | | | 1,500.00 | | | 1,500.00 |
| 5204050 | 73040 | Maintenance and Repair - Buildings and Improvements | | | 7,000.00 | | | 7,000.00 |
| 5204060 | | Cleaning Services | | | 52,000.00 | | | 52,000.00 |
| 5204080 | 73200 | Maintenance and Repair - Machinery and Equipment | | | 3,000.00 | | | 3,000.00 |
| 5204090 | | Maintenance and Repair - Auto | | | | 3,300.00 | | 3,300.00 |
| 5205010 | 74300 | Mail and Parcel Post Service | | | 200.00 | | | 200.00 |
| 5205020 | | Rental of Office Equipment | | | 780.00 | | | 780.00 |
| 5206010 | 73000/75330 | Rental of Facilities | | | 32,363.75 | | 198,636.23 | 230,999.98 |
| 5208530 | 77050 | Alarm and Security Services | | | 31,500.00 | | | 31,500.00 |
| Total Contractual Services | | | | | \$ 194,258.75 | \$ 4,960.00 | \$ 198,636.23 | \$ 397,854.98 |
| Commodities | | | | | | | | |
| 5302010 | 74400 | Office Supplies (General Supplies) | | | 2,000.00 | | | 2,000.00 |
| 5303010 | 73020 | Janitorial Supplies | | | 5,000.00 | | | 5,000.00 |
| 5304005 | | Clothing and Linen Supplies | | | | 149.99 | | 149.99 |
| 5304010 | 5040/75045/772 | Food for Participants | | | 14,000.00 | 155.00 | | 14,155.00 |
| 5304025 | | Motor Fuel and Lubricants | | | | 4,125.00 | | 4,125.00 |
| 5304050 | | Tools and Apparatus | | | 1,000.00 | | | 1,000.00 |
| 5304070 | 71800/71810 | Recreation Supplies | | | 12,000.00 | | | 12,000.00 |
| 5304075 | | Computer Software | | | | | | - |
| 5301010 | 73040 | Maint. and Repair Materials (Buildings and Improvements) | | | | | | - |
| 5301020 | | Maint. and Repair Parts - Auto | | | | 1,000.00 | | 1,000.00 |
| 5301030 | | Maint. and Repair Materials (Machinery and Equipment) | | | | | | - |
| 5304080 | | Other Commodities | | | | 500.00 | | 500.00 |
| Total Commodities | | | | | \$ 34,000.00 | \$ 5,929.99 | \$ - | \$ 39,929.99 |
| Fixed Charges | | | | | | | | |
| 5403010 | 74001 | Telephone and Fax | | | 3,600.00 | | | 3,600.00 |
| 5403090 | | Cable Services | | | 2,076.00 | | | 2,076.00 |
| 5403510 | 4003/78028/780 | Wireless Data Communications | | | | | | - |
| 5404510 | | Automotive Admin Chg | | | | 135.00 | | 135.00 |
| 5404530 | 73010 | Gas and Electricity | | | 27,600.00 | | | 27,600.00 |
| 5404540 | | Water | | | | | | - |
| 5405030 | | Liability, Hazard, Fidelity Insurance | | | | | | - |
| 5406520 | | Other Expenditures | | | - | | | - |
| 5407025 | | DW - Food | | | | 600.00 | | 600.00 |
| 5407510 | | Rent of City Equip (vehicle replacement cost) | | | | 15,080.00 | | 15,080.00 |
| Total Fixed Charges | | | | | \$ 33,276.00 | \$ 15,815.00 | \$ - | \$ 49,091.00 |
| Capital Outlay | | | | | | | | |
| 5501000 | 73100/73110 | Computer Equipment<\$5,000 | | | | | | - |
| 5501055 | | Machinery and Equipment other<\$5,000 | | | | | | - |
| 5501065 | | Furniture and Fixtures <\$5,000 | | | 2,000.00 | | | 2,000.00 |
| 5501080 | | Capital Outlay<\$5000 - Fitness Equipment | | | 3,000.00 | | | 3,000.00 |
| Total Capital Outlay | | | | | \$ 5,000.00 | \$ - | \$ - | \$ 5,000.00 |
| GRAND TOTAL | | | | | \$ 490,994.50 | \$ 292,358.27 | \$ 198,636.23 | \$ 981,988.99 |

| | |
|----------------------|----------------------|
| CITY TOTAL | \$ 490,994.50 |
| WELLMED TOTAL | \$ 490,994.50 |

Attachment C

INSURANCE PROVISIONS

- A. Prior to the commencement of any work under this Agreement, WellMed shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to City’s DHS, which shall be clearly labeled “District 6 Multi-Service Senior Center” or “District 7 Multi-Service Senior Center” as applicable, 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. City will not accept a Memorandum of Insurance or Binder as proof of insurance. City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by City’s DHS. No officer or employee, other than City’s Risk Manager, shall have authority to waive this requirement.

- B. 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 which increase City’s risk with respect to this Agreement. In no instance will City allow modification whereby City may incur increased risk.

- C. WellMed’s financial integrity is of interest to City; therefore, WellMed shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at WellMed’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. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations *b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability f. Damage to property rented by you | For <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 \$100,000 |
| 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 |

| | |
|---|---|
| <p>5. Professional Liability (Claims-made basis)</p> <p style="padding-left: 40px;">To be maintained and in effect for no less than two years subsequent to the completion of the professional service.</p> | <p>\$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.</p> |
| | |

- D. WellMed agrees to require, by written contract, that all subcontractors providing goods or services hereunder provide a certificate of insurance and endorsement that name WellMed and City as additional insureds on the commercial general liability and business automobile liability policies. WellMed shall provide City with said certificate and endorsement prior to the commencement of any work by the subcontractor.
- E. As they apply to the limits required by City, in the event of a sustained loss, City reserves the right, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). Such changes shall be requested only as necessary due to changes in the law, in case law decisions, or in the event of unanticipated performance concerns. WellMed 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. WellMed shall pay any costs incurred resulting from said changes.

City of San Antonio
 Attn: Department of Human Services
 106 St. Mary’s St., 7th floor
 San Antonio, Texas 78205

- F. WellMed agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
- Name 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 City, with 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 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 City; and

Attachment C

- Provide advance written notice directly to City of any cancellation, or material change in coverage, and not less than 10 calendar days advance notice for nonpayment of premium.
- G. Within five (5) calendar days of a cancellation of coverage, WellMed shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend WellMed's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- H. In addition to any other remedies City may have upon WellMed's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, City shall have the right to order WellMed to stop work hereunder, and/or withhold any payment(s) which become due to WellMed hereunder until WellMed demonstrates compliance with the requirements hereof.
- I. Nothing herein contained shall be construed as limiting in any way the extent to which WellMed may be held responsible for payments of damages to persons or property resulting from WellMed's or its subcontractors' performance of the work covered under this Agreement.
- J. It is agreed that WellMed'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 in which the City is included as an additional insured.
- K. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of City shall be limited to insurance coverage provided.
- L. WellMed and any subcontractors are responsible for all damage to their own equipment and/or property.