

## **EMS MEDICAL CONTROL AND TRAINING AGREEMENT**

This Agreement is entered into pursuant to the Interlocal Cooperation Act, Tex. Gov. Code §791.011 et. seq. by and between the City of San Antonio (CITY), a Texas municipal corporation, acting through its City Manager pursuant to Ordinance No. 2011-08-18-~~0677~~ passed on August 18, 2011, and the University of Texas Health Science Center at San Antonio (CENTER).

**WHEREAS**, the CITY operates the Emergency Medical Services (EMS) throughout the CITY, a service providing emergency medical care and ambulance transport to hospital emergency rooms for those determined by medical standards to be in need; and

**WHEREAS**, this service is provided by the San Antonio Fire Department (SAFD), and in order for the SAFD to provide emergency medical services, the CITY needs online and offline EMS Medical Control Services, Emergency Medical Technician professional training, and mandated continuing education for all levels of Emergency Medical Technicians; and

**WHEREAS**, "EMT" means any SAFD Emergency Medical Technician of any level; and

**WHEREAS**, "EMTs" means all SAFD Emergency Medical Technicians of all levels; and

**WHEREAS**, the CENTER has, in the past, provided these services and the CITY wishes to arrange for such services; and

**WHEREAS**, the CENTER is willing to undertake these tasks; **NOW THEREFORE:**

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

### **SECTION A**

#### **SAFD MEDICAL DIRECTOR, SAFD ASSISTANT MEDICAL DIRECTOR AND SAFD ADMINISTRATION**

1. The CENTER shall appoint the Chair of Emergency Health Sciences as liaison to SAFD for medical training as outlined in this agreement.
2. CENTER shall immediately notify the Fire Chief if a CENTER employee associated with the provision of services covered in this contract is investigated due to administrative or policy infractions. CENTER shall provide any findings or results of said investigation to the Fire Chief upon conclusion of the investigation.
3. Official points of contact for the SAFD, will be the Fire Chief and the Assistant Chief of EMS. The Assistant Chief of EMS (or designee) shall be the primary point of contact. The SAFD Medical Director shall direct all non-medical outside entities' inquiries, issues and complaints concerning Medical Direction to the Assistant Chief of EMS.

4. CITY will provide access and technical support, as available, to the EMS patient care database for CENTER to obtain information to enable performance improvement activities. As adequate funding, equipment, and staffing are available, CITY will provide sufficient computer equipment and programming support to facilitate access to patient care and run data as it becomes available, as deemed appropriate by the Fire Chief or designee. CENTER will not be expected to perform said services in the case of a lack of adequate funding, equipment, data availability and staffing on the part of the CITY, as outlined in the above paragraph. Upon request, CITY will furnish statistical reports as appropriate and/or as they become available, with inclusion of the following information: patient distribution analysis by hospital, by unit, by time of day, by municipality served, by incident and by medical complaint. Routine reports will be determined by the SAFD Medical Director and Chief of EMS. Urgent requests will be coordinated by the SAFD Medical Director and Chief of EMS.

## **SECTION B**

### **ON LINE MEDICAL CONTROL SERVICES**

1. Personnel performing online medical control shall be a Registered Nurse and/or a Licensed Paramedic faculty member of the Department of Emergency Health Sciences and shall be a Civilian Training Officer (CTO) hired by the Center and trained by the SAFD Medical Director. Medical Control personnel will assume and carry out duties and responsibilities as per SAFD SMOPs and associated policies, under the delegated authority of the SAFD Medical Director.
2. During their assigned duty period, personnel serving as online medical control shall remain available on a twenty-four hour basis, seven days a week and respond immediately to calls from SAFD field personnel. All personnel designated as online Medical Control shall:
  - a. Be thoroughly familiar with EMS practices and the SAFD Standard Medical Operating Protocols (SMOPs) to levels acceptable to the EMS SAFD Medical Director and the Fire Chief and/or designees.
  - b. Remain cognizant of the conditions and circumstances encountered and confronted by field personnel, as well as their levels of training and shall conduct telephone exchanges with courtesy, respect, and patience at all times.
  - c. Provide requested Performance Improvement written reports to the SAFD Medical Director and the Chief of EMS in a timely manner.
  - d. Follow policies and procedures related to online Medical Direction Protocols and any related policies, procedures, and/or directives related to their role as Medical Control, as developed, promulgated, and established by the SAFD.

3. The CITY shall continue to provide Medical Control channels and radios for use by online Medical Control personnel as the primary means of communications with EMS field personnel. Medical Direction/Medical Control will be required to carry the radio at all times. The Cellular Phone System provided and maintained by the CITY to the online consultants will be utilized strictly as a back-up to the radio system and will be utilized for consultations / contact / communications with field personnel in the event of radio system failure. The number of radios and channels provided to Medical online providers shall be at the discretion of the Chief of EMS. As a norm, contact with online Medical Control will be initiated and conducted on medically-designated channels as approved and available. Medical Direction may be accomplished by cellular phone or radio transmission.
4. The City shall have the right to disapprove any particular person for continued duty as online Medical Control at any time during the life of this Agreement, offering explanation for the disapproval in writing to the Chair of the EHS Department, with a copy to the SAFD Medical Director, and shall require that, at the CITY's request, said individual be removed from online Medical Control. Online Medical Control coverage concerns resulting from such actions, whether permanent or temporary in nature, shall be assumed by the SAFD Medical Director. Patterns of unacceptable behavior, as perceived or judged by the Fire Chief or any designee and/or their respective command staffs, will be addressed during the quarterly Medical Control Performance Improvement Meetings or other meetings coordinated and facilitated by the SAFD Medical Director and/or the Chief of EMS. Continued behavior judged to be unacceptable may result in disapproval, as indicated in this Agreement.

**SECTION C**  
**INFECTION CONTROL AND**  
**AUTOMATIC EXTERNAL DEFIBRILLATION SERVICES**

1. The CENTER will provide instruction and refresher training, post-defibrillation debriefing and evaluation, and record keeping services for Automatic External Defibrillation (AED) activities for the SAFD. This service shall be provided by a CTO as designated by the CENTER and agreed upon by the Chief of EMS.
2. The CENTER shall provide (all designated appropriate uniformed employees of the SAFD), Universal Precaution Instruction, Infection Control Services, and maintain awareness of pandemic situations in order to advise on appropriate response/management. This will be accomplished by employing one Registered Nurse, as approved by the Chief of EMS, who, under the medical supervision and authority of the SAFD Medical Director, shall provide the following services as a priority over other duties and responsibilities set out within the agreement:
  - a. Maintain exposure control plans, records, and follow-up on all infectious disease exposures, as provided in the Texas Health and Safety Code, Title 2, the "Ryan White CARE Act", and Section 81.051 of the "Blood-borne Pathogen Standard", Department of State Health Services; All records will be held by CENTER and

released to CITY at the time of an SAFD employee separation, at termination of this contract, or upon the CITY's assumption of Infection Control Services;

- b. Provide the exposed personnel with timely information, appropriate immunization advice, and referral(s) in compliance with the current standard of care;
  - c. Make recommendations to the SAFD Medical Director and Fire Chief and/or designee(s) regarding Communicable Disease procedures and requirements;
  - d. Function as a liaison with Infection Control personnel within all area hospitals and with the epidemiologist of the public health authority in compliance with provisions of all applicable Texas regulations;
  - e. Maintain immunization and vaccination records as required by Section 607.004 of the Government Code and advise the Fire Chief or designee of appropriate actions and/or concerns
  - f. Conduct required yearly infection control education programs in compliance with state and federal law;
  - g. Provide requested reports to the Fire Chief or his appropriate designee as allowed by HIPAA;
  - h. Provide 24/7 coverage for exposures;
  - i. Provide yearly TB skin testing for all uniformed SAFD personnel; and
  - j. Consistently monitor, analyze, and report local, State, and/or Federal legislation related to infection control-related issues and report findings to the SAFD Medical Director and the Fire Chief or appropriate designee(s) (via e-mail or hard copy) in a timely manner.
  - k. SAFD employees shall be provided personal records upon request. Such request shall be made directly between the Infection Control Nurse and the employee;
3. The CITY will continue to provide the Infection Control Nurse with a Smart phone (as technologically appropriate) to facilitate twenty-four (24) hour communications with members of the SAFD.
4. The CITY may at any time exercise its authority to directly provide Infection Control Services in whole or part to its personnel, by providing written notice to CENTER by July 1 in a calendar year.



**SECTION D**  
**INITIAL AND CONTINUING EMT EDUCATION**

1. The CENTER shall be the educational provider for initial EMT-Basic and EMT-Paramedic certification and continuing education training for recertification. SAFD students in these classes may be officially enrolled students of the CENTER, when attending EMT-Basic and EMT-Paramedic initial training. SAFD personnel who receive initial certification and continuing education from another institution must be approved for field duty by the SAFD Medical Director to perform at the level certified following the credentialing guidelines. The parties will continue to discuss the feasibility of a hybrid educational system whereby the SAFD will take over portions of the training responsibilities. The City may at any time exercise its authority to directly provide initial EMT-Basic training and EMT-Basic continuing education in whole or part to its personnel.
2. Upon successful completion of a specified course, a student will be eligible to apply for certification or re-certification, licensure or re-licensure by DSHS or its designate by law depending on the course. All course content and instruction shall be taught at a minimum in accordance with applicable State standards, laws, guidelines and procedures, and by the Committee on Accreditation of Educational Programs for the EMS Professions (CoAEMSP). Additional curriculum development may be accomplished by the CENTER in conjunction with the CITY through the Chief of EMS or designee.
3. The CITY agrees that it is a student's responsibility to meet the CENTER's minimum requirements for enrollment, behavior, attendance and successful completion of the prescribed course of study in accordance with the rules and regulations of the Department of Emergency Health Sciences and the University of Texas System as documented in official Student Services publications. Failure of any student to meet enrollment requirements, state or national certification or recertification requirements, and attend classes or sessions as scheduled shall be immediately brought to the attention of the Fire Chief or appropriate designee(s). Any student who fails to provide an official transcript from previous college enrollment and performance will result in a hold on their record and prevent the student from obtaining an official transcript from the CENTER. Any student who fails to provide a high school transcript will be ineligible for state or national EMS certification.
4. The CITY reserves the right to designate personnel to receive initial and/or continuing education, provided those persons satisfy the requirements as prescribed by Texas law to enter the course.
  - a. The CITY will provide, at the beginning of the contract year or as soon as available thereafter, a listing of sponsored certified or licensed personnel who are to receive EMT-Basic or EMT-Paramedic continuing education training.
  - b. To the extent allowed by law, for its designated initial education EMT-B and EMT-P students, the CITY shall assist the CENTER in complying with

CENTER's immunization and/or health testing requirements and enrollment requirements.

5. Student records for all courses taught by the CENTER are confidential in accordance with state and federal law. These records will be maintained at the CENTER and access to these records will be provided in accordance with state law.
6. Tuition and Fees for October 1, 2011 – September 30, 2013.

As per the Texas Education Code, there will be no tuition or lab fees charged for EMT-Basic & EMT-Paramedic initial education.

- a. The following fees may apply:

EMT-Paramedic Recertification for Retesting	\$250 per student for a 48-hour refresher course, or \$500 for a 96-hour refresher course as required by DSHS if a candidate fails the third certification exam attempt or a certification lapses more than 90 days) or most current rate as posted by DSHS.
EMT-Basic Recertification for Retesting	\$50 per student (48-hour course, as required by DSHS if a candidate fails the third certification exam attempt or a certification lapses more than 90 days) or most current rate as posted by DSHS.
Large Class Preceptor Fee (31+ students)	For class sizes of 31 – 40 EMT-Paramedic students, there will be an extra fee of \$7,500.00 per class assessed to account for additional staffing needed. For class sizes of 31 – 40 EMT-Basic students, there will be an extra fee of \$1,600.00 per class assessed to account for additional staffing needed. For class sizes 41-45, the fee will be \$3,200.00 per class.

- b. Fees for credit hour courses are subject to change based on approval from the University of Texas System Administration or Texas legislative mandates.
- c. Fees are set according to the University of Texas System academic calendar (August – August). CENTER will notify the CITY of any fee increases by February 28.

d. The following fees shall apply:

	<b>EMT Basic</b>	<b>Paramedic</b>
	<b>(6 credit hours)</b>	<b>Training</b>
		<b>(33 credit hours)</b>
<b>Total Fees</b>	<b>\$379.04</b>	<b>\$872.12</b>
Technology fee (\$10 per credit hour)	\$60	\$330
Student Services fee (\$7.50 per credit hour; max of 90)	\$45	\$90
Application fee	\$45	\$45
Student ID	\$10	\$10
Parking fee \$7.02 (2 mo basic, 6 mo para)	\$14.04	\$42.12
Skills Testing Fee	\$150	\$150
Security Background Check	\$55	\$55
Clinical Simulation Fee	0	\$150

7. Course fees listed do not include texts (costs dependent on advertised price by publisher at time of course). These costs will be added to the fees listed above for each student.
8. The CENTER agrees to waive the following fees for the period of this contract:
  - a. Medical Services Fee
  - b. Liability Insurance
  - c. Library Fee
  - d. Student Health Insurance
  - e. Recreation Facility Fee
9. The CENTER agrees to provide the following procedures for personnel recertification:
  - a. Before each continuing education class, the CENTER will confirm the roster of SAFD personnel with the EMS Chief or designee. The CENTER will confirm the expiration date of each of these SAFD personnel prior to the CE class.
  - b. The CENTER will instruct each SAFD personnel during CE class attendance to complete a DSHS recertification application. If the SAFD personnel requests Paramedic Licensure application, he/she must pay the additional fee and provide payment before the CE class concludes.
  - c. The CENTER will collect the completed applications and submit payment to DSHS through the CENTER's Accounting Department. Processed payments will be sent to DSHS and these receipts sent to the CITY for reimbursements through processes delineated in this contract.

- d. The CENTER will verify, through the DSHS website, that SAFD personnel who completed the CE class and submitted a DSHS application become recertified by DSHS. The CENTER will notify the CITY of any SAFD personnel who are not confirmed to be recertified through the DSHS website, after a reasonable time (approximately 60 days) has passed.
  - e. When SAFD personnel receive official notification of recertification via mail from DSHS, each SAFD personnel will provide a copy of their state certification or licensure to EMS Administration's Office. Copies of personnel certifications or licenses will be sent to the CENTER for filing as part of the credentialing process as delineated in this contract. If personnel do not receive official notification within 60 days, the CITY needs to notify the CENTER of situation.
  - f. The CENTER agrees to assist and facilitate the CITY with the recertification process to the best of its ability but stipulates, according to DSHS Rule 157.34 of the Texas Administrative Code, the final responsibility is with the certificant/licensee.
  - g. The CITY agrees to facilitate the provision of schedules of its personnel to attend CE classes, the collection of personnel certifications, and report delays in receiving certification paperwork.
10. The CITY shall have the right to disapprove any particular person for continued duty as a Civilian Training Officer (CTO) or initial education instructor at any time during the life of this Agreement, offering written explanation for the disapproval to the Chair of the EHS Department, with a copy to the SAFD Medical Director. CITY and CENTER will then work together to resolve any issue.
11. CITY agrees to make all paramedic personnel available to the CENTER for up to 6 hours per year, as requested by the SAFD Medical Director, and approved by the Chief of EMS, in addition to their regularly scheduled continuing education. This additional educational time is to be used for training on new medications, equipment, protocols, and procedures being added to patient medical care protocols and procedures.
12. The CENTER agrees to coordinate and facilitate the administration of the skills testing, as required by the DSHS.
- a. CENTER shall provide an adequate number of proctors for exam.
  - b. CENTER shall provide the facilities necessary to conduct the exam.
  - c. CENTER shall provide the equipment necessary to conduct the exam.
13. The CENTER agrees to provide a venue for the Paramedic graduation service. The venue would need to be accessible for graduating Paramedics and their family members.
- a. The CENTER agrees to provide a certificate of completion for each graduating member.

- b. The CENTER agrees to coordinate a photographer for the class photograph.

**SECTION E**  
**SYSTEM QUALITY ASSURANCE AND**  
**PERFORMANCE IMPROVEMENT SERVICES**

1. The CENTER recognizes the SAFD's vision to be a nationally recognized leader in providing emergency services and commits to assisting the SAFD in attaining and maintaining the best possible emergency medical service delivery system. The Quality Assurance (QA) and Performance Improvement (PI) programs will be consistent with SAFD policy and processes.
2. The CENTER shall provide required DSHS and/or SAFD continuing education and performance improvement to all appropriate SAFD uniformed personnel. For the purpose of this Agreement, personnel performing these services shall be known as Civilian Training Officers (CTOs).
  - a. Civilian Training Officers shall be appointed as faculty in the Department of Emergency Health Sciences and shall be either, Texas Licensed Paramedics or Texas Licensed Registered Nurses and must have attained at least a Bachelor degree in a related field of study. Personnel being considered for CTO positions who do not meet these requirements may still be approved by the Chief of EMS, the SAFD Medical Director, and the Chair of the Department of EHS. All approvals shall be in writing and shall be made prior to the commencement of duties as a CTO. All personnel shall have demonstrated teaching ability, demonstrated proficiency in Emergency Medical Services, and be thoroughly familiar with EMS practices, policies, the Multi-Casualty Incident Policy (MCI), and the Standard Medical Operating Procedures (SMOPs). Medical oversight and supervision of CTO medical practice activities is authorized and provided by the SAFD Medical Director or designee.
  - b. Civilian Training Officers are responsible for evaluating field personnel and providing, coordinating, and instructing formal and informal Continuing Education activities. Unless precluded by Continuing Education, Performance Improvement or related activities as approved by the chief of EMS, each CTO will ride-out with EMS field personnel for a minimum of twenty (20) hours per week. During a call, the CTOs assume the role of evaluator and ensure that they are identified by MDT sign-on (as per policy) and on the patient form as being present during a given incident.
  - c. All paramedic contacts and evaluations will be maintained by the CENTER as required by DSHS and state law. As a minimum, each SAFD paramedic assigned to EMS will be formally evaluated on one (1) duty shift per calendar year, assuming paramedic availability (not on extended leave). A formal evaluation results in written and filed documentation of the proceedings. Fire suppression-appointed Paramedics, EMT-Basics, Airport Paramedics, Rescue and Hazmat



Paramedics, and Communications Paramedics, will be evaluated at a minimum by chart audit. Field evaluations may be performed as needed based on CTO capability and when personnel safety is not compromised. A copy of an evaluation shall be made available to the City and the SAFD Paramedic being evaluated upon request.

- d. If medical necessity occurs wherein the CTO is compelled to intervene during an EMS run or to provide expert assistance to patients commensurate with the CTO level of medical licensure/certification, then they will do so with the SAFD Medical Director's full authority and with full cooperation of SAFD personnel. This will be reported to the SAFD Medical Director as soon as reasonably possible for the record and for any subsequent performance evaluation.
  - e. For the duration of this agreement, the CENTER shall employ a minimum of ten (10) full-time-equivalent CTOs, as needed to fulfill obligations set forth in this contract.
  - f. The CENTER shall inform the Chief of EMS, as soon as possible, of any CTO separations (whether resignations, retirements, or terminations), long term absences, or hirings.
  - g. The CENTER shall fill any CTO vacancies within 60 days to maintain the minimum full-time-equivalent CTOs. The CENTER shall immediately provide notice to CITY of any vacancies. If CENTER cannot fill the CTO vacancies, the CENTER may operate at a capacity of less than ten (10) CTOs on a limited time basis, with the approval of the Chief of EMS.
3. The CENTER, under the direction of the SAFD Medical Director, utilizing the resources and personnel as listed in this Agreement, will provide support for a Performance Improvement (PI) program. The CENTER, through the SAFD Medical Director, CTO personnel, and the PI process, at a minimum will:
- a. During the Initial Education course, assure that an initial assessment of new EMTs has been conducted by providing documentation of:
    - i. A written assessment of didactic knowledge evaluation, specific to the certification level of the applicant and focusing on the clinical information;
    - ii. A situation-based practical evaluation;
    - iii. A screening process by CENTER faculty to ensure the minimum educational requirements are met; and
    - iv. Utilization of the SAFD Preceptor Program when available and appropriate.

b. Credential EMTs by providing documentation of:

- i. Individual certification/license of each certified employee as provided by CITY to the CENTER after completion of initial certification or recertification;
- ii. A process for EMTs to demonstrate skills proficiency to the satisfaction of the SAFD Medical Director;
- iii. A process for reintegration (i.e. bringing an individual from a prolonged inactive status back into active practice in the field); and
- iv. Performed field evaluations by the CENTER's CTOs, which would include demonstration of adequate patient care and scene control skills, appropriate conduct and effective human communications by EMTs or demonstration of corrective remediation, etc.

c. Assure EMTs internship by providing documentation of:

- i. A process in which newly certified/licensed EMTs, or EMTs removed from service due to prolonged absence, and other personnel, as required by the SAFD Medical Director, ride as a third person until the CTO establishes that said personnel have met pre-established competencies/prerequisites as defined by the SAFD Medical Director and agreed upon by the Fire Chief or appropriate designee; and
- ii. Utilization of the SAFD Preceptor Program when available and appropriate.

d. Assure and maintain professional development of EMTs by maintaining and providing documentation:

- i. Of professional development training of EMTs in specific content areas and specific hourly requirements required to obtain at least the minimum continuing education hours as directed by the appropriate certifying or licensing authority;
- ii. That EMTs receive continuing education in accordance with state or national recertification requirements;
- iii. That the continuing education instruction spans the three learning domains: cognitive, affective and psychomotor;
- iv. That demonstrates programmatic strengths and performance improvement plans for weaknesses; and

- v. That the continuing education clinical content is defined and approved by the SAFD Medical Director.
  - e. Assure and maintain protocol/standard of care management by providing documentation of:
    - i. On-going protocol review, updated according to current literature, practice techniques, executed and approved by the SAFD Medical Director;
    - ii. A process for protocol knowledge assessment among EMTs; protocol assessment that reflects the on-going protocol review and revision, with structure and content defined and approved by the SAFD Medical Director and a defined remediation process with established timelines;
    - iii. A process for protocol criteria to be jointly defined by the SAFD Medical Director and the Chief of EMS or designee; and
    - iv. A reassessment/re-education process and timeline that clearly identifies the criteria for identification of weakness and successful completion of re-education; or revocation of credentials if unsuccessful.
  - f. Support a quality improvement program by providing documentation of:
    - i. A monthly random chart review of at least 150 runs for compliance with documentation standards, correct protocol selection, and appropriate patient care;
    - ii. An annual cardiac arrest review in accordance with current acceptable criteria, with comparative analysis with regard to nationally acceptable criteria;
    - iii. Tracking individual performance of a minimum of three (3) skills for each EMT. These will include those skills as required by DSHS; and
  - g. Provide documentation in support of the system to respond to sentinel events as determined by the SAFD Medical Director:
4. The CENTER will maintain and update an Office of the SAFD Medical Director and Performance Improvement website for SAFD personnel. This site will serve as the information point for all medical directives, credentialing guidelines, infection control, announcements, and other topics as needed. The website will contain the official SMOPs version available for download by all SAFD personnel.
  5. The CITY agrees to supply the CENTER with access to all patient care charts through electronic access. Should CENTER access fail, the CITY will allow the CENTER to temporarily utilize EMS workstations that continue to have access to patient care charts.

6. CENTER shall establish a comprehensive reporting system that will enable CITY to monitor CENTER's performance. Reports must be designed to provide data required to accurately measure performance. Reports must be provided on a regular schedule and in a format approved by CITY. At CITY's request, CENTER shall provide additional or different reports than those stated herein, or as modified by CITY. At a minimum, CENTER shall provide the following reports:
  - a. Reports for CTO field evaluations;
  - b. Reports that compare the quality of SAFD's medical service delivery to other like municipal systems.
7. The reports provided by CENTER to CITY will be reviewed at a minimum on a quarterly basis during the quarterly meetings to include SAFD Medical Director(s) or designee(s) and other appropriate CENTER staff, Chief of EMS and Chief of Fiscal Operations or designee(s), and other appropriate SAFD staff.

## **SECTION F**

### **TERM AND GENERAL PROVISIONS**

1. The term of this Agreement shall begin on October 1, 2011 and end on September 30, 2013. This Agreement may be extended by mutual agreement of the parties on the same terms and conditions, except for price, for up to one two-year renewal period, by written agreement, signed by both parties and authorized by the San Antonio City Council by passage of an ordinance.
2. The CENTER understands that the funds provided pursuant to this Agreement are funds which have been made available by the CITY's General Fund and that it will, therefore, comply with all rules, regulations, policies, and procedures applicable to these funds as directed by the CITY. However, all properties purchased with Center funds, regardless of source, are subject to the appropriate rules and regulations of the property control and procurement procedures set forth by the UT System.
3. The CENTER shall provide ethical, professional, timely, responsible, and prudent services in connection with this contract, and recognizes that the CITY is using public funds in consideration of the best interest of the citizens of the City of San Antonio and the laws of the State of Texas.
4. The CENTER agrees to consult with the CITY prior to writing all research and grant proposals which will involve personnel employed by the CITY. Any research protocol implemented will be in accordance with the University of Texas Health Science Center's Institutional Review Board (IRB) process.
5. The CENTER shall employ all the necessary personnel needed to implement this contract, unless otherwise specified in this Agreement.

6. The CENTER adheres to all UT System, state, and federal guidelines where applicable, in regards to accounting, equipment procurement, office space leasing, travel requests and reports, and employment. All records of invoices, purchases, travel, position vacancies, faculty and staff salary/benefits, recruitment and retention, and lease agreements, pertaining to this agreement, are subject to review by CITY requests or audits.
7. The CITY and the CENTER acknowledge that they are political subdivisions of the State of Texas and are subject to, and comply with, the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, §101.001, *et seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury, or death.
8. Either party may cancel and terminate all or parts of this Agreement by giving no less than ninety (90) days written notice of its intention to do so to the other party. Any payment due and payable during said ninety-day notification period shall be made on a pro-rata basis, reflecting the amount due for the period ending at termination of this Agreement.
9. This Agreement shall terminate in the event sufficient funds are not appropriated by the San Antonio City Council to meet the CITY's fiscal obligations herein, or if sufficient funds are not appropriated by the University of Texas Health Science Center at San Antonio to meet the CITY's service obligations agreed hereto, in any fiscal year. Payment for the performance of governmental functions or services under this Agreement shall only be made from current revenues available to the paying party.
10. CITY shall purchase and maintain certain training equipment specifically listed below:
  - a. IV Pumps
  - b. Video Laryngoscope
  - c. 12-lead cardiac monitor defibrillator
11. CENTER agrees that all equipment purchased with funds from CITY shall be utilized solely for the purposes of this Agreement.

## **SECTION G PAYMENT**

1. In consideration for the services provided and purchases made pursuant to the terms of this contract, the CITY agrees to pay the CENTER \$1,333,507.60 for Fiscal Year 2012 and \$1,359,580.70 for 2013 in accordance with the provisions of this section, and in conformance with Exhibit I – Budget, which is incorporated herein for all purposes. Payments will be billed on a quarterly basis as follows:



October 1, 2011 - \$333,376.90  
January 1, 2012 - \$333,376.90  
April 1, 2012 - \$333,376.90  
July 1, 2012 - \$333,376.90

October 1, 2012 - \$339,895.17  
January 1, 2013 - \$339,895.17  
April 1, 2013- \$339,895.18  
July 1, 2013- \$339,895.18

2. Payment for fees as set out herein.
3. The CENTER will provide appropriate invoices for payment thirty days prior to expected payment.
4. All unused funds in excess of actual expenditures, as determined by an annual audit conducted by CITY or its agent, will be used directly for improvement to the SAFD EMS training program. The parties shall mutually agree upon the manner in which these funds shall be spent.
5. The fees as set out herein shall be paid monthly. Within thirty days of the end of each month during the term of this contract, the CENTER shall submit an itemized invoice to the CITY for the fees required for the previous month. A separate invoice shall be submitted for each month during which fees were incurred. Upon receipt of and approval by the CITY of the CENTER's invoice, the CITY agrees to pay the CENTER the amount invoiced within thirty days of receipt, so long as the amount invoiced has been invoiced pursuant to the provisions of this contract. The CITY shall not be obligated or liable under this contract to any person other than the CENTER for payment of said education fees.

## **SECTION H NOTICE**

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

CITY

Fire Chief  
SAFD  
115 Auditorium Circle  
San Antonio, Texas 78205

CENTER

EHS Department Chairman  
UTHSC  
7703 Floyd Curl Drive, MSC 7775  
San Antonio, Texas 78229-3900

**SECTION I  
HIPAA COMPLIANCE**

1. The CENTER shall maintain the confidentiality of all medical, dental, prescription, and other patient-identifiable health information ("Patient Health Information") in accordance with all applicable federal and state laws and regulations, including the electronic transmissions standards, the Privacy Rule and the Security Rule of the Health Insurance Portability and Accessibility Act of 1996 ("HIPAA"), as may be amended from time to time.
2. The parties acknowledge that they are "Business Associates" as defined in 45 CFR 160.103 (HIPAA). The parties shall comply with the terms of the Business Associate Agreement executed by them, attached hereto as Exhibit II and incorporated herein by reference.

**SECTION J  
RECORDS RETENTION**

1. The CENTER shall properly, accurately, and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder and shall make such materials available to the CITY at all reasonable times and as often as the CITY may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by the CITY and any of its authorized representatives.
2. The CENTER shall retain any and all of the aforementioned materials produced as a result of services provided hereunder for a period of at least four years from the date of termination of this Agreement, unless required otherwise by law or court order. If, at the end of the aforementioned retention period, there is litigation or other questions arising from, involving, or concerning this documentation or the services provided hereunder, the CENTER shall retain the records until the resolution of such litigation or other such questions. The CENTER acknowledges and agrees that the CITY shall have access to any and all such documents at any and all times, as deemed necessary by the CITY, during said retention period. The CITY may, at its election and if permitted by law or court order, require the CENTER to provide said materials to the CITY prior to or at the conclusion of said retention period.

## **SECTION K INDEPENDENT CONTRACTOR**

1. It is expressly understood and agreed by both parties hereto that CITY is contracting with the CENTER as an independent contractor. The parties hereto understand and agree that the CITY shall not be liable for any claims that may be asserted by any third party occurring in connection with services performed by CENTER under this contract.
2. The parties hereto further acknowledge and agree that neither party has authority to bind the other or to hold out to third parties that it has the authority to bind the other.

## **SECTION L CONFLICT OF INTEREST**

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

## **SECTION M AMENDMENTS**

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be effected by amendment, in writing, executed by both the CITY and the CENTER and subject to approval by the San Antonio City Council, as evidenced by passage of an ordinance. CITY shall have the authority to execute an amendment to this agreement without additional City Council approval for the assumption of Registered Nurse Infection Control services or initial EMT-Basic training and EMT-Basic continuing education, and any resultant reduction in payment.

## **SECTION N SEVERABILITY**

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

construed as if such invalid, illegal, or unenforceable clause or provision was never contained herein. It is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

## **SECTION O LICENSES AND CERTIFICATIONS**

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

## **SECTION P COMPLIANCE**

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

## **SECTION Q NON-WAIVER OF PERFORMANCE**

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

## **SECTION R LAW APPLICABLE**

- 1. THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.**
2. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County,

Texas, unless otherwise mandated by law or court order.

**SECTION S  
LEGAL AUTHORITY**

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

**SECTION T  
PARTIES BOUND**

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

**SECTION U  
CAPTIONS**

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

**SECTION V  
INCORPORATION OF EXHIBITS**

Each of the exhibits attached to this Agreement is an essential part of this Agreement, which governs the rights and duties of the parties, and is hereby incorporated herein for all purposes.

----- THIS SECTION INTENTIONALLY LEFT BLANK -----

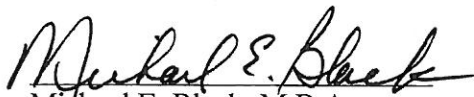


**SECTION W  
ENTIRE AGREEMENT**

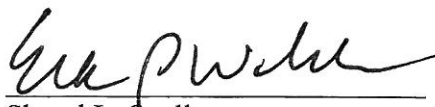
This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire Agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall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

AGREED TO AND EXECUTED in duplicate originals on September 23, 2011.

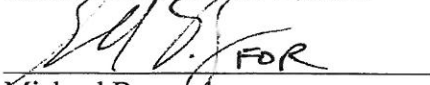
THE UNIVERSITY OF TEXAS HEALTH  
SCIENCE CENTER AT SAN ANTONIO

  
Michael E. Black, M.B.A.  
Senior Executive Vice President  
and Chief Operating Officer

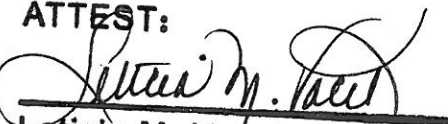
CITY OF SAN ANTONIO

  
for Sheryl L. Sculley  
City Manager

APPROVED AS TO FORM:

  
Michael Bernard  
City Attorney

ATTEST:

  
Leticia M. Vacek  
City Clerk

09/23/2011  
Date



## EXHIBIT I

MEDICAL CONTROL/TRAINING BUDGET FOR UTHSC CONTRACT 2012 AND 2013					
Cost Center	PO Line Item			YEAR 1 2011-2012	YEAR 2 2012-2013
2005010001		%	<b>PERSONNEL</b>		
			Department Chair (15%)	13,500	13,905
			<b>Civilian Training Officers</b>		
			10 FTE CTOs	564,333	564,333
			1 FTE Infection Control	68,000	70,040
			Medical Control on-call pay	52,703	54,284
			<b>TOTAL FACULTY SALARY</b>	698,536	702,562
		26%	Faculty Staff Benefits @ 26%	181,619	182,666
			<b>Administrative Services</b>		
			2.0 FTE Admin Staff (includes longevity pay)	66,925	68,933
			.58.8 FTE Administrator	29,998	29,998
			<b>TOTAL NON-FACULTY SALARIES</b>	96,923	98,931
		30%	Non-faculty Staff Benefits @30%	29,077	29,679
			<b>TOTAL SALARY &amp; STAFF BENEFITS</b>	<b>1,006,155</b>	<b>1,013,838</b>
			<b>LEASE SPACE 5437 sf @ 1.60/mo X 12</b>	<b>104,390</b>	<b>104,390</b>
			Prorated lease space 942 sq ft	13,927	13,927
2005010001			<b>TOTAL COST OF LEASED SPACE</b>	<b>118,317</b>	<b>118,317</b>
2005010001			<b>EMT-BASIC CONTINUING EDUCATION ON-LINE</b>	<b>0</b>	<b>10,000</b>
2005010001			<b>CE In-City Mileage (.555 c/mile)</b>	<b>27,041</b>	<b>27,041</b>
			\$194.25 per mo./faculty for in-city mileage X 11		
2005010001			<b>Travel</b>	<b>19,250</b>	<b>22,750</b>
			\$1,750/CTO faculty for 1 CE seminar/year x 11	19,250	22,750
2005010001			<b>Clothing Allowance, CTOs \$250 ea X 11</b>	<b>2,750</b>	<b>2,750</b>
2005010001			<b>Telecommunications</b>	<b>6,396</b>	<b>6,396</b>
			\$31/month for 4 phones	1,488	1,488
			\$27/month for 11 phones	3,564	3,564
			\$100/month long distance fees, cell ph access fee	1,200	1,200
			\$12/month for Fax line	144	144
2005010001			<b>Liability Insurance/license fees/dues</b>	<b>967</b>	<b>967</b>
			APIC	85	85
			Recertification Fees for CTOs as needed (\$126 per lic)	882	882

## EXHIBIT I

MEDICAL CONTROL/TRAINING BUDGET FOR UTHSC CONTRACT 2012 AND 2013					
Cost Center	PO Line Item			YEAR 1 2011-2012	YEAR 2 2012-2013
2005010001			<b>OPERATIONS &amp; MAINTENANCE</b>	<b>31,403</b>	<b>33,923</b>
			<b>Printing Services</b>	<b>7,598</b>	<b>7,598</b>
			CE booklets (75 @ \$15 per year)	1,125	1,125
			\$1100 for exam, DSHS applications, evaluation forms	1,100	1,100
			Copy Machine costs @ \$243.58/mo	2,923	2,923
			Repair costs for equipment (if needed)	2,000	2,000
			Graduation: Certificates, Program, Class Photo, Room setup	450	450
			<b>Supplies</b>	<b>19,805</b>	<b>22,325</b>
			\$1100 for airway mannequin ea year	1,100	1,100
			\$1000 for replacement IV arms	1,000	1,000
			\$5000 for IV supplies, ET equipment, CPR equipment, and refurbish	5,000	5,000
			\$1000 for misc (preps, electrodes, paper, scantrons, pencil sharpeners)	1,000	1,000
			\$500 ea for 1 IO mannequins, needles, replacement supplies	500	500
			AED (or on loan from SAFD during training)	0	0
			12 Lead ECG Generator = & 675 X 2		
			PALS/ACLS/BCLS/PHTLS cards for SAFD personnel	5,175	5,175
			ACLS handbooks (10 X \$28 in 2011, 50 in 2013)	280	1,400
			PALS handbooks (10 X \$35 in 2011, 50 in 2013))	350	1,750
			Office Supplies (\$450/mo) (paper, pens, folders, stationery, envelopes, staples, clip, shredder bags, hanging folders, pencils, calendars)	5,400	5,400
			<b>Equipment</b>	<b>4,000</b>	<b>4,000</b>
			PC Replacements @ \$1000/ea	2,000	2,000
			2 Printers		
			Laptop replacment: 2 @ \$1000 ea	2,000	2,000
			Monitor/Defibrillator		
			<b>SUBTOTAL</b>	<b>\$1,212,279.26</b>	<b>\$1,235,982.42</b>
2005010001		10%	HSC Indirect Costs(10%)	\$121,227.93	\$123,598.24
			<b>TOTAL</b>	<b>\$1,333,507.60</b>	<b>\$1,359,580.70</b>
			<b>Quarterly payment</b>	<b>\$333,376.90</b>	<b>\$339,895.18</b>

## **Exhibit II - Business Associate Agreement**

This Business Associate Agreement ("Agreement") dated October 1, 2011 (the "Effective Date"), is entered into by and between the City of San Antonio ("Health Care Provider") and the University of Texas Health Science Center at San Antonio ("Business Associate").

**WHEREAS**, Health Care Provider is receiving and Business Associate is providing services ("Business Arrangement") that may require Business Associate to access health information that is protected by state and/or federal law;

**WHEREAS**, Business Associate and Health Care Provider desire that Business Associate obtain access to such information in accordance with the terms specified herein;

**NOW THEREFORE**, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise specified in this Business Associate Agreement, all capitalized terms not otherwise defined shall have the meanings established for purposes of Title 45, Parts 160 and 164, of the United States Code of Federal Regulations, as amended from time to time. For purposes of clarification, the following terms shall have the definitions as set forth herein below:

"Privacy Standards" shall mean the Standards for Privacy of Individually Identifiable Health Information as codified in 45 CFR Parts 160 and 164.

"Security Standards" shall mean the Security Standards for the Protection of Electronic Protected Health Information as codified in 45 CFR Parts 160 and 164.

"Protected Health Information" or "PHI" shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual, or with respect to which there is reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term in the Privacy Standards and in the Security Standards.

2. **Business Associate Obligations.** Business Associate may receive from Health Care Provider health information that is protected under applicable state and/or federal law, including without limitation, Protected Health Information. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards or the Security Standards if the PHI were used or disclosed by Health Care Provider in the same manner. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement.

3. **Use of PHI.** Business Associate may use PHI only (i) for the purpose of performing services for Health Care Provider as such services are defined in Business Arrangement, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Health Care Provider shall retain all rights in the PHI not granted herein.

4. **Disclosure of PHI.** Business Associate may disclose PHI as necessary to perform its obligations under the Business Arrangement and as permitted by law, provided that Business Associate shall in such case: (a) obtain reasonable assurances from any person to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law or for the purpose for which it was disclosed to the person or entity; (b) agree to immediately notify Health Care Provider of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the Privacy Standards or the Security Standards; and (c) obtain reasonable assurances that all disclosures of PHI are subject to the principle of “minimum necessary use and disclosure,” i.e., only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed. In addition, Business Associate may disclose PHI as required by law. If Business Associate discloses PHI received from Health Care Provider, or created or received by Business Associate on behalf of Health Care Provider, to agents, including a subcontractor (collectively, “Recipients”), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Health Care Provider any use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within five (5) days of the Business Associate becoming aware of such use or disclosure. Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Health Care Provider in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI in violation of this Agreement.

5. **Individual Rights.** If Business Associate maintains a Designated Record Set on behalf of Health Care Provider, Business Associate shall (a) permit an individual to inspect or copy PHI contained in that set about the individual under conditions and limitations required under 45 CFR § 164.524, as it may be amended from time to time, and (b) amend PHI maintained by Business Associate as requested by Health Care Provider. Business Associate shall respond to any request from Health Care Provider for access by an individual within five (5) days of such request and shall make any amendment requested by Health Care Provider within ten (10) days of such request. The information shall be provided in the form or format requested, if it is readily producible in such form or format, or in summary, if the individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying PHI may be charged. Business Associate shall accommodate an individual’s right to have access to PHI about the individual in a Designated Record Set in accordance with the Privacy Standards set forth at 45 CFR § 164.526, as it may be amended from time to time, unless the regulation provides for a denial or an exception expressly applies. Health Care Provider shall determine whether a denial is appropriate or an exception applies. Business Associate shall notify Health Care Provider within five (5) days of receipt of any request for access or amendment by an individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set.

6. **Accounting of Disclosures.** Business Associate shall make available to Health Care Provider in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFR § 164.528, as it may be amended from time to time, incorporating exceptions to such accounting designated under the regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within thirty (30) days of Health Care Provider’s request. Such accounting must be provided without cost to the individual or to Health Care Provider if it is the first accounting requested by an individual within any twelve (12) month period; however, a reasonable,



cost-based fee may be charged for subsequent accountings if Business Associate informs the Health Care Provider and the Health Care Provider informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting shall be provided as long as Business Associate maintains PHI.

7. **Withdrawal of Consent or Authorization.** If the use or disclosure of PHI in this Agreement is based upon an individual's specific consent or authorization for the use of his or her PHI, and (i) the individual revokes such consent or authorization in writing, (ii) the effective date of such authorization has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Standards expressly applies.

8. **Reporting of Disclosures of Protected Health Information in violation of HIPAA.** Business Associate shall, within five (5) days of becoming aware of a disclosure of PHI or EPHI in violation of this Agreement by Business Associate, (its officers, directors, employees, contractors, or agents,) or by a third party to which Business Associate disclosed PHI, report such disclosure in writing to the Covered Entity and the remedial action taken or proposed to be taken with respect to such use or disclosure. Business Associate shall take all commercially reasonable action to mitigate any harm caused by inappropriate disclosure.

9. **Reporting Breaches of Protected Health Information in violation of HITECH.**

9.1 Business Associate shall secure PHI (including data in motion, data at rest, data in use and data disposed), created by Business Associate, or accessed, maintained, retained, modified, recorded, stored, destroyed, or otherwise held, used, or disclosed by Business Associate, on behalf of Covered Entity, by encrypting such ePHI in accordance with the Department of Health and Human Services Guidance at <http://www.hhs.gov/ocr/privacy> ("HHS Guidance") and the National Institute of Standards and Technologies ("NIST") at <http://www.csrc.nist.gov/> to render such information unusable, unreadable, or indecipherable to unauthorized individuals. Business Associate understands and agrees that ePHI is encrypted as specified in the HIPAA Security Rule by the use of an algorithmic process to transform data into a form in which there is a low probability of assigning meaning without use of a confidential process or key and such confidential process or key that might enable decryption has not been breached. To avoid a breach of the confidential process or key, these decryption tools shall be stored by Business Associate on a device or at a location separate from the data that are used to encrypt or decrypt.

9.2 In the event that Business Associate uses a method other than encryption or an encryption algorithm that is not specified in the Guidance or NIST Standards and Technologies to secure the ePHI as referenced above, such ePHI shall be considered to be "unsecured" in accordance with HITECH.

9.3 Under HITECH, a breach occurs when there is an unauthorized acquisition, access, use or disclosure of unsecured PHI, including ePHI, which compromises the security or privacy of the PHI/ePHI. A breach compromises the security or privacy of

PHI/ePHI if it poses a significant risk of financial, reputational, or other harm to the individual whose PHI/ePHI was compromised.

9.4 Business Associate agrees to:

- (1) implement a system to address breaches of PHI/ePHI within Business Associate's business;
- (2) maintain written documentation with respect to all suspected and confirmed breaches for six (6) years;
- (3) provide access to such documentation to Covered Entity upon request; and to submit documentation on breaches to HHS as required by HITECH on an annual basis;
- (4) develop breach notification policies and procedures;
- (5) train workforce members on, and have sanctions for failure to comply with, these policies and procedures;
- (6) allow workforce members to file complaints regarding these policies and procedures or a failure to comply with them, and refrain from intimidating or retaliatory acts towards its workforce members;

9.5 In the event that there is a breach of unsecured PHI/ePHI, Business Associate agrees to:

- (1) notify Covered Entity on the first day that a breach is known to Business Associate, or by exercising reasonable diligence, would have been known to Business Associate;
- (2) provide Covered Entity, to the extent possible, with the identity of each individual whose unsecured PHI/ePHI has been, or is reasonably believed to have been, breached;
- (3) cooperate in conducting a risk assessment, as instructed by, and under the direction of, Covered Entity, to determine whether the privacy or security of individuals' PHI/ePHI was compromised as a result of the breach,
- (4) mitigate any harm to individuals whose PHI/ePHI has been breached;
- (5) notify individuals of the breach.

9.6 Business Associate shall comply with the HIPAA obligations of Section 8 above related to unauthorized use and disclosures of PHI.

9.7 Business Associate shall destroy all paper, film, or other hard copy media by shredding or destruction, and destroy electronic media by clearing, purging or destruction consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization, such that the PHI cannot be retrieved.

10. **Records and Audit.** Business Associate shall make available to Health Care Provider and to the United States Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Health Care Provider for the purpose of determining Health Care Provider's compliance with the Privacy Standards and the Security Standards or any other health oversight agency, in a timely a manner designated by Health Care Provider or the Secretary. Except to the extent prohibited by law, Business Associate agrees to notify Health Care Provider immediately upon receipt by Business Associate of any and all requests served upon Business Associate for information or documents by or on behalf of any and all government authorities.

11. **Notice of Privacy Practices.** Health Care Provider shall provide to Business Associate its Notice of Privacy Practices ("Notice") when adopted and any amendments thereafter. Business Associate agrees that it will abide by the limitations of any Notice published by Health Care Provider of which it has knowledge. An amended Notice shall not affect permitted uses and disclosures on which Business Associate has relied prior to the receipt of such Notice.

12. **Confidentiality.** Business Associate shall take any steps required to (i) protect PHI from unauthorized uses or disclosures and (ii) maintain the confidentiality and integrity of PHI. Prior to any permitted disclosure of PHI, Business Associate shall require the person or entity to which it intends to disclose PHI to assume all of the same duties with respect to PHI that Business Associate has under this Agreement.

13. **Security.** Business Associate will: implement administrative, physical, and technical safeguards that reasonably and appropriate protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Health Care Provider; ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect the information; and report any security incidents to the Health Care Provider, in accordance with the Security Standards.

14. **Term and Termination.**

14.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this Section, provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.

14.2 Health Care Provider shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Business Associate.

14.3 Health Care Provider, at its sole discretion, may immediately terminate this Agreement and shall have no further obligations to Business Associate hereunder if any of the following events shall have occurred and be continuing:

- (a) Business Associate shall fail to observe or perform any material covenant or agreement contained in this Agreement for ten (10) days after written notice thereof has been given to Business Associate by Health Care Provider; or

- (b) A violation by Business Associate of any provision of the Privacy Standards, Security Standards, or other applicable federal or state privacy law.

14.4 Upon the termination of the Business Arrangement, either party may terminate this Agreement by providing written notice to the other party.

14.5 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Health Care Provider or to destroy all PHI received from Health Care Provider or otherwise through the performance of services for Health Care Provider, that is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy," Business Associate shall continue to comply with the covenants in this Agreement with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this Agreement shall be cause for Health Care Provider to terminate the Business Arrangement.

15. **Notice.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; or (c) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below:

<b>Health Care Provider:</b>	<b>Business Associate</b>
Fire Chief	EHS Department Chairman
SAFD	UTHSC
115 Auditorium Circle	7703 Floyd Curl Drive, MSC 7775
San Antonio, Texas 78205	San Antonio, Texas 78229-3900

16. **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

15. **Assignment.** Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Health Care Provider shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Health Care Provider, without the prior approval of Business Associate.

16. **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Health Care Provider relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangement or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangement comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be

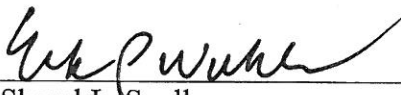
considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

17. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.

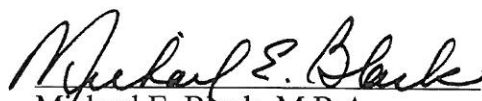
18. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

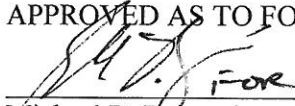
**Health Care Provider:**  
**CITY OF SAN ANTONIO**

  
↓ Sheryl L. Sculley  
City Manager

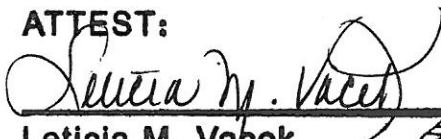
**Business Associate**  
**THE UNIVERSITY OF TEXAS HEALTH**  
**SCIENCE CENTER AT SAN ANTONIO**

  
Michael E. Black, M.B.A.  
Senior Executive Vice President  
and Chief Operating Officer

APPROVED AS TO FORM:

  
Michael D. Bernard  
City Attorney

**ATTEST:**

  
Leticia M. Vacek  
City Clerk

09/23/2011  
Date



