

STATE OF TEXAS	§	FUNDING AGREEMENT
	§	
COUNTY OF BEXAR	§	

This FUNDING AGREEMENT (this "**Agreement**") is entered into as of the Effective Date provided on the signature page by and between the CITY OF SAN ANTONIO, a Texas municipal corporation (the "**City**"), and the SAN ANTONIO TRICENTENNIAL CELEBRATION COMMISSION ("SATCC"), a public, nonprofit local government corporation authorized under Subchapter D of Chapter 431 of the Texas Transportation Code. The City and SATCC may sometimes be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, SATCC is a local government corporation created by the City to act on the City's behalf in the performance of the City's governmental functions; and

WHEREAS, SATCC has been charged by the City Council with providing a means of assisting the City with planning, developing, identifying potential partners, fundraising, managing, and financing projects involved in the City of San Antonio's Tricentennial Celebration ("Tricentennial Celebration") activities; and

WHEREAS, the City desires to provide funding to SATCC so that it may initiate efforts associated with its charge; and

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the City and SATCC agree as follows:

I. TERM

Term. The term of this Agreement shall commence on October 1, 2016, and will remain in full force and effect through September 30, 2017. ("**Term**") unless sooner terminated, as provided below.

This Agreement may be extended for 2 additional 1 year terms, subject to and contingent upon future appropriations by City Council.

II. SCOPE OF SERVICES

2.1 Services for Compensation. SATCC agrees to provide the services described below in exchange for the compensation described hereafter (as listed in Section 2.2, the “*Services*”).

2.2 Scope of Services. Subject to being supplied the funding pursuant to Section 3.2 below, SATCC shall carry out the actions described below related to the planning and developing of the Tricentennial Celebration.

2.2.1 Marketing. SATCC shall continue to fund KGBTexas, the firm performing marketing services for the Tricentennial Celebration based upon the solicitation instituted by the City of San Antonio and the contract awarded by the SATCC in Fiscal Year 2016.

2.2.2 Event Management. SATCC shall undertake a public procurement process to solicit and hire a firm to perform event management services for the Tricentennial Celebration. SATCC shall coordinate such efforts with designated City staff to include developing a solicitation document and scope of services for managing the events to be held for the Tricentennial Celebration.

2.2.3 Contractual Services. Consistent with its Procurement Policy, SATCC shall solicit and hire agencies that will perform contractual services to assist with the creation and implementation of the Passport Activity Project, Education Institute, Timeline Exhibition Project, and World Heritage Celebration for the Tricentennial Celebration. SATCC shall coordinate such efforts with designated City staff to include developing a solicitation document and scope of services, if applicable, for each of these activities to be held for the Tricentennial Celebration.

2.3 City’s Satisfaction. SATCC shall perform its obligations under this Agreement to the City’s satisfaction and consistent with applicable governmental standards, including meeting all state and federal regulatory requirements.

III. COMPENSATION

3.1 Compensation. As compensation for the Services described in Article II above, the City shall pay to SATCC a cumulative amount not to exceed NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND 0 CENTS (\$975,000.00) (the “Compensation”). SATCC shall invoice the City as expenses are incurred and shall budget the following amounts per Services described in Article II:

(a) the amount of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) shall be allocated for the marketing effort described in Section 2.2.1;

(b) the amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) shall be allocated for the event management services described in Section 2.2.2; and

(c) the amount of FOUR HUNDRED TWENTY-FIVE THOUSAND DOLLARS

(\$425,000.00) shall be allocated toward the activities described in Section 2.2.3.

No additional fees or expenses of SATCC shall be charged by SATCC nor be payable by the City for the Services provided under this Agreement. The parties hereby agree that all expenses of SATCC that are compensable by the City have been provided for in the total payment to SATCC. Those total payments cannot exceed the amount set forth above, without prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council's passage of an ordinance.

3.2 Reallocation of Funds. Upon written approval by City, SATCC may reallocate the amounts described in Sections 3.1(a), (b) and (c) so long as the cumulative amount does not exceed the Compensation.

3.3 Use of Funds. The funding provided by the City under this Agreement shall be used solely in connection with SATCC's providing the Services described in Article II. SATCC shall provide records of expenditures for City provided funding upon reasonable request by the City.

3.3 Additional Services. Should any additional services outside the scope of this Agreement be requested and authorized by the City, and accepted by SATCC, SATCC shall be separately compensated for those services over and above the Compensation in this Article III, at an amount agreed to by the City and SATCC.

3.4 Invoices. SATCC shall submit City invoices to:

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

IV. AUDIT

4.1 SATCC's Audit. In accordance with its standard practices, SATCC shall obtain an audit conducted by an independent auditing firm annually during the Term of this Agreement. The audit shall include an audit of the separate account, if any, maintained to receive and disburse funds provided by the City to SATCC pursuant to this Agreement. A copy of the Audit Report and Letter of Internal Control and/or Management Letter prepared as a result of the audit shall be provided to City.

4.2 City's Audit. The City or its authorized representative shall at all reasonable times, on five business days' prior written notice, have the right to examine, inspect, and audit all books, papers, and bank records of SATCC directly related to the funds provided to SATCC under this Agreement, to determine the accuracy of reports made under this Agreement. The cost and expenses incurred by the City incident thereto shall be the sole responsibility of and borne by the City. Those records shall be maintained by SATCC for a period of four (4) years after the termination of the Term of this Agreement, and shall be made available for inspection and/or audit by the City or its agents at SATCC's facility. Nothing in this Agreement shall be

deemed to give the City authority to direct, question, review, audit, or otherwise influence the expenditure of any funds that are not directly paid to SATCC by the City.

4.3 Dispute Findings. Either SATCC or the City may dispute the findings of audits performed under this Agreement, by giving written notice to the other party within thirty (30) days of receiving the results of an audit. The Party electing to dispute audit results shall, within thirty (30) days following receipt of the auditor's report, submit such additional information as it believes is required to correct the auditor's report.

V. DOCUMENTS

5.1 Documents. The parties acknowledge that certain writings, documents or information produced by or submitted to SATCC in the course of its execution of the Services will be the joint property of SATCC and City. Without waiving any available claim or privilege, SATCC will in good faith share information derived from those writings or documents with City and, if any writings, documents or information are deemed non-proprietary or privileged, provide copies of those writings or documents to City. SATCC understands and acknowledges that the City has the right to use those non-proprietary writings, documents and information as City desires, without restriction. If any "open records" or equivalent request is made of the City relating to this Agreement or the Services, the City shall promptly advise SATCC, and the parties shall work cooperatively and in good faith to preserve SATCC's trade secrets, proprietary documents, and confidential information. In all events, the City shall not provide any information or documents that SATCC considers proprietary to any third party without SATCC's written consent, unless the City is legally obligated to do so and so advises SATCC in writing. In addition, any third-party requests to SATCC for records relating to this Agreement under the State's Public Information Act shall be coordinated with City. City shall provide SATCC, in accordance with the Public Information Act, the opportunity to submit third-party briefs to the Attorney General.

5.2 Documents to City. Upon expiration or termination of this Agreement, SATCC shall transfer to City true and correct copies of any non-proprietary writings, documents or information in the possession of SATCC and produced pursuant to the terms and conditions of this Agreement.

VI. RECORDS RETENTION

6.1 Records. SATCC and its subcontractors, if any, shall take commercially reasonable care in their maintenance of all documents, papers, and records, and other evidence pertaining to the Services and funding provided for in this Agreement, and shall make such documents available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period for purposes of the audit described in Article IV.

6.2 Retention. SATCC shall retain any and all documents produced as a result of services or funding provided hereunder for a period of four (4) years from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, SATCC shall retain the records until the resolution of such litigation or other such questions.

VII. SUSPENSION/TERMINATION

7.1 Suspension. Subject to the right to cure provisions contained in this Article VII, the City may suspend this Agreement if it reasonably believes that SATCC has breached this Agreement in any material way, including by violating any City, State or Federal laws. The City shall promptly apprise SATCC of the basis of the City's reasonable belief. Any such suspension shall remain in effect until the City determines that appropriate measures have been taken to ensure SATCC's future compliance. Grounds for such suspension include, but are not limited to the following:

7.1.1 Failure to abide by any terms or conditions of this Agreement;

7.1.2 Failure to keep and maintain adequate proof of insurance as required by this Agreement;

7.1.3 The commission or alleged commission of any crime by SATCC, or any officer or director.

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

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

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

7.3.2 Ceasing operations for a period of time exceeding twenty (20) days;

7.3.3 The expenditure of City funds on gratuities in the form of entertainment, gifts, or otherwise offered or given by SATCC, or any agent or representative of SATCC, to any officer or employee of the City, County, State or business prospect with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of such contract.

7.4 Defaults With Opportunity for Cure. Should SATCC default in the performance of this Agreement in a manner stated in this section, same shall be considered an Event of Default. City shall deliver written notice of the default, specifying in detail the matter(s) in default and stating the time permitted for cure, such time to be commercially reasonable. If SATCC fails to cure the default within such time period provided in the notice of default, City shall have the right, without further notice or adoption of a City ordinance, to terminate this Agreement in whole or in part as City deems appropriate. The following actions are defaults that may be cured by SATCC:

7.4.1 Failing to perform or failing to comply with any covenant herein required as reasonably determined by the City.

7.4.2 Bankruptcy or selling substantially all of company's assets

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

7.7 Ceasing Activity. Upon the effective date of expiration or termination of this Agreement, SATCC shall cease all work being performed by SATCC or any of its subcontractors on behalf of the City.

7.8 Transition Period. Regardless of the method by which this Agreement is terminated, the Parties agrees that they may provide a transition period of termination for a period not to exceed two (2) months upon City's request. During such transition period, SATCC may continue to provide services as provided for, and for which it will be compensated, under this Agreement.

VIII. NOTICE

8.1 Written Notice. Any notice, consent or other communication required or permitted under this Agreement shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or, if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to City:

City Manager's Office
City of San Antonio
P.O. Box 839966
San Antonio, TX 78283-3966

If to SATCC:

Edward Benavides
Chief Executive Officer
101 S. Santa Rosa
San Antonio, TX 78207

8.2 Time. Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as provided in this paragraph.

IX. ASSIGNMENT AND SUBCONTRACTING

9.1 Qualified Personnel. SATCC shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be under contract with SATCC.

9.2 Written Agreement. Any work or services subcontracted by SATCC hereunder shall be by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of SATCC. City shall in no event be obligated to any third party, including any subcontractor of SATCC, for performance of services or payment of fees.

X. INDEPENDENT CONTRACTOR

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

XI. CONFLICT OF INTEREST

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

XII. LEGAL/LITIGATION EXPENSES

12.1 Litigation Against City. Under no circumstances will the funds received under this Agreement or any other funds received from City be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the City or any other governmental or public entity.

12.2 Termination. During the term of this Agreement, if SATCC files and/or pursues an adversarial proceeding against the City then, at the City's option, this Agreement and all access to the funding provided for hereunder may terminate if it is found that SATCC has violated this Article.

XIII. 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 City and SATCC, and subject to approval by the City Council, as evidenced by passage of an ordinance.

XIV. 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.

XV. LICENSES/CERTIFICATIONS

SATCC warrants and certifies that, to its knowledge, SATCC 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.

XVI. COMPLIANCE WITH LAWS

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

XVII. NONWAIVER 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.

XVIII. LAW APPLICABLE

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

18.2 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.

XIX. LEGAL AUTHORITY

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

XX. 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.

XXI. 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.

XXII. 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 be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XV. Amendments.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement this ____ day of _____, 2016.

CITY OF SAN ANTONIO, TEXAS,
a Texas municipal corporation

**SAN ANTONIO TRICENTENNIAL
CELEBRATION CORPORATION**
a Texas local government corporation

Assistant City Manager

Name:
Title:

ATTEST:

Leticia Vacek
City Clerk

APPROVED AS TO FORM

City Attorney

**PROFESSIONAL SERVICES AGREEMENT
FOR
COMMUNITY GARDEN DEVELOPMENT AND IMPLEMENTATION**

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as “City”) and Bexar Land Trust, Inc., d/b/a Green Spaces Alliance of South Texas, a non-profit organization, (hereinafter referred to as “Consultant”), both of which may be referred to herein collectively as the “Parties”.

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

I. DEFINITIONS

1.1 “Director” shall mean the acting Director of City’s Parks and Recreation Department.

II. TERM

2.1 This Agreement shall commence upon execution and terminate September 30, 2017, unless terminated sooner according to the terms hereof.

III. SCOPE OF SERVICES

3.1 Consultant agrees to provide the services described in the attached Scope of Services as detailed in Exhibit-A “FY2017 Work Plan for the Community Gardens Program”. This Scope may be amended as approved by the Director of the Parks and Recreation Department.

3.2 Consultant shall provide consulting; development and facilitating services relating to community gardens in the City of San Antonio, as detailed in Exhibit-A “FY2017 Work Plan for the Community Gardens Program”.

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

3.4 The new gardens may be located on City-owned property or non City-owned property. The garden sites and conceptual plans for new gardens on City-owned property and the conceptual plans for sustaining projects for existing gardens on City-owned property are subject to the approval of City through the Director of the Parks and Recreation Department. For new garden sites located on City-owned property, a Memorandum of Understanding (MOU) between the City and the community garden

organization will be required and Consultant will assist in facilitating this Process.

3.5 Consultant hereby acknowledges that City desires to identify opportunities to leverage and / or enhance the expansion of the community garden program with other related City initiatives. Consultant will work cooperatively with City staff to identify and implement such opportunities, if appropriate.

IV. COMPENSATION TO CONSULTANT

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed \$50,000 as total compensation for the Scope of Services, as detailed in Exhibit-A "FY2017 Work Plan for the Community Gardens Program".

4.2 Upon approval of a community garden organization by Consultant and the approval of the garden site and garden plan by City; or upon completion of any services and activities provided, Consultant shall provide City with an invoice for reimbursement as detailed in Exhibit-A "FY2017 Work Plan for the Community Gardens Program". Invoices shall be submitted to City no more frequently than monthly. City agrees to provide payment to Consultant within thirty (30) calendar days after receipt of a valid invoice.

4.3 Each request for reimbursement must be accompanied and supported by copies of paid invoices, affidavits of bills paid, or evidence of a payment obligation, together with any other documentation reasonably requested by City.

4.4 City shall not be obligated or liable under this Agreement to any party, other than Consultant, for the payment of any monies or the provision of any goods or services.

4.5 No additional fees or expenses of Consultant shall be charged by Consultant nor be payable by City. The parties hereby agree that all compensable expenses of Consultant have been provided for in the total payment to Consultant as specified in Section IV.

V. OWNERSHIP OF DOCUMENTS

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

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

VI. RECORDS RETENTION

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

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

VII. TERMINATION

7.1 This Agreement may be terminated by City upon written notice, which notice shall be provided in accordance with Article VIII. Notice.

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

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

may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

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

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Director of Parks and Recreation
P O Box 839966
San Antonio TX 78283-3966

If intended for Consultant, to:

Green Spaces Alliance
Attn: Executive Director
P O Box 6250
San Antonio TX 78209-0250

IX. INSURANCE

9.1 Consultant shall be responsible for insuring its employees for Worker's Compensation or Alternative Plan. If a Worker's Compensation Policy is maintained, then for the duration of this Agreement, Consultant will attach a waiver of subrogation in favor of the City.

9.2 Consultant shall be responsible for insuring its own Property, Equipment, Autos and Legal Liability. In no event will the City be required to maintain any insurance coverage for Consultant.

X. INDEMNIFICATION

10.1 Consultant covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to Consultant's activities under this Agreement, including any acts or omissions of Consultant, any agent, officer, director, representative, employee, contractor or subcontractor of Consultant, 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 CONSULTANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

10.2 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Consultant shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or Consultant known to Consultant related to or arising out of Consultant's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at Consultant's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving Consultant of any of its obligations under this paragraph.

XI. ASSIGNMENT AND SUBCONTRACTING

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

XII. INDEPENDENT CONTRACTOR

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

XIII. NON-DISCRIMINATION

13.1 As a party to this contract, Consultant understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio 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 herein.

XIV. CONFLICT OF INTEREST

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

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

XV. AMENDMENTS

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

XVI. SEVERABILITY

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

XVII. LICENSES/CERTIFICATIONS

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

XVIII. COMPLIANCE

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

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In

case of City, such changes must be approved by the City Council, as described in Article XV. Amendments, if applicable. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XX. LAW APPLICABLE

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as it appears.

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding

the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XV. Amendments.

XXVI. PROHIBITED CONTRIBUTIONS

26.1 Consultant acknowledges that City Code Section 2-309 provides that any person acting as a legal signatory for a proposed contractual relationship that applies for a “high-risk” discretionary contract, as defined by the City of San Antonio Contracting Policy and Process Manual, may not make a campaign contribution to any councilmember or candidate at any time from the time the person submits the response to the Request for Proposal (RFP) or Request for Qualifications (RFQ) until 30 calendar days following the contract award. Consultant understands that if the legal signatory entering the contract has made such a contribution, the city may not award the contract to that contributor or to that contributor’s business entity. Any legal signatory for a proposed high-risk contract must be identified within the response to the RFP or RFQ, if the identity of the signatory will be different from the individual submitting the response.

26.2 Consultant warrants and certifies, and this contract is made in reliance thereon, that the individual signing this contract has not made any contributions in violation of City Code section 2-309, and will not do so for 30 calendar days following the award of this contract. Should the signor of this contract violate this provision, the City Council may, in its discretion, declare this contract void.

EXECUTED and **AGREED** to this the _____ day of _____, 20____.

CITY:
CITY OF SAN ANTONIO,
A Texas Municipal Corporation

CONSULTANT:
BEXAR LAND TRUST, INC., d/b/a
GREEN SPACES ALLIANCE OF
SOUTH TEXAS

 By: Xavier D. Urrutia, Director
 Parks and Recreation Department

 By: Executive Director

Date: _____

Date: _____

Approved as to form:

 City Attorney

Attachment:

Exhibit-A FY2017 Proposed Work Plan for the Community Gardens Program

FUNDING AGREEMENT FOR DREAMWEEK EVENT PLANNING AND COORDINATION

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as “City”) acting by and through its Director of the Office of EastPoint and DreamVoice, L.L.C., by and through its President (hereinafter referred to as “DreamVoice”), both of which may be referred to herein collectively as the “Parties”.

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

I. DEFINITIONS

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

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

“Director” shall mean the Director of City’s Office of EastPoint.

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

“Event” shall mean “Dreamweek” to be held on January 11, 2017 through January 22, 2017.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions herein, the Term of this Agreement shall be from the date of execution to September 30, 2017. After such date, no payment will be made to DreamVoice.

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

III. SCOPE OF SERVICES

3.1 The Event is a city-wide summit that will inspire an exchange of ideas and promote solutions on universal issues facing our multi-cultural communities. DreamWeek will consist of a series of keynote speaking engagements, luncheons, mixers, events and celebrations held throughout San Antonio. San Antonio hosts the country’s largest MLK March, and DreamWeek is designed to enhance the experience and further the dream of Dr. Martin Luther King. The City is providing funding through this

Agreement for the public purpose of supporting the Event as a catalyst for community pride.

3.2 DreamVoice agrees to provide the services and expend the funds to implement the services described in EXHIBIT A, entitled “Scope of Services and Budget”, in exchange for the compensation described in Article IV, entitled “Compensation,” below which is part of the City’s contribution to the Event.

3.3 City shall provide DreamVoice with a reimbursement of costs associated with EXHIBIT A contingent upon DreamVoice providing documentation to City indicating purchases and payments for the services described in Exhibit A.

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

IV. PAYMENT TO DREAMVOICE

4.1 In consideration of DreamVoice’s performance in a satisfactory and efficient manner, as determined solely by Director, of services and activities set forth in this Agreement, City agrees to reimburse DreamVoice an amount not to exceed ONE HUNDRED THOUSAND AND NO/100THS DOLLARS (\$100,000.00) for the purpose of undertaking and completing the Event and the Scope of Services as described in Exhibit A. It is understood that the amount reimbursed by City is not the entire amount required by the Scope of Services, however, it is the maximum amount to be contributed by City. DreamVoice shall be responsible for all other funding associated with the Event.

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

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

V. OWNERSHIP OF DOCUMENTS

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

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

VI. RECORDS RETENTION

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

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

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either party upon sixty (60) calendar days written notice, which notice shall be provided in accordance with Article VIII. Notice.

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

- 7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.
- 7.3.2 Notification of any investigation, claim or charge by a local, state or federal agency involving fraud, theft or the commission of a felony.

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

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

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

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

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

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

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

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

VIII. 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 (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Attn: Director
Office of EastPoint
P.O. Box 839966
San Antonio, TX 78283

If intended for DreamVoice, to:

DreamVoice, L.L.C.
Attn: Shokare Nakpodia
1160 E. Commerce, Suite 200
San Antonio, TX 78205

IX. [Reserved]**X. INSURANCE**

10.1 Prior to the commencement of any work under this Agreement, DreamVoice shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Office of EastPoint which shall be clearly labeled "DreamWeek Event" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the Authorized Representative of the carrier, and list the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Office of EastPoint. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

10.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

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

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence

5. Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	\$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.
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10.4 DreamVoice agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverage required of DreamVoice herein, and provide a certificate of insurance and endorsement that names the DreamVoice and the City as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of DreamVoice. DreamVoice shall provide the City with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the Agreement for all purposes.

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

City of San Antonio
Attn: Office of EastPoint
P.O. Box 839966
San Antonio, Texas 78283-3966

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

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

- Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide advance written notice directly to City of any suspension or non-renewal in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

10.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, DreamVoice shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend DreamVoice'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.

10.8 In addition to any other remedies the City may have upon DreamVoice's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order DreamVoice to stop work hereunder, and/or withhold any payment(s) which become due to DreamVoice hereunder until DreamVoice demonstrates compliance with the requirements hereof.

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

10.10 It is agreed that DreamVoice's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

10.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided.

10.12 DreamVoice and any subcontractors are responsible for all damage to their own equipment and/or property.

XI. INDEMNIFICATION

11.1 DREAMVOICE covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of,

resulting from or related to DREAMVOICE's activities under this AGREEMENT, including any acts or omissions of DREAMVOICE, any agent, officer, director, representative, employee, DreamVoice or subcontractor of DREAMVOICE, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS AGREEMENT. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. DREAMVOICE shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or DREAMVOICE known to DREAMVOICE related to or arising out of DREAMVOICE's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at DREAMVOICE's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving DREAMVOICE of any of its obligations under this paragraph.

11.2 It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this section, is an INDEMNITY extended by DREAMVOICE to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the City is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. DREAMVOICE further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

11.3 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by DREAMVOICE in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. DREAMVOICE shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If DREAMVOICE fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and DREAMVOICE shall be liable for all costs incurred by City. City shall also have the right, at its option, to be

represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of DREAMVOICE, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for DREAMVOICE or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 It is City's understanding and this Agreement is made in reliance thereon, that DreamVoice intends to use no subcontractors in the performance of this Agreement. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by City of San Antonio City Council (hereafter "City Council"), as evidenced by passage of an ordinance, prior to the provision of any services by said subcontractor.

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

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

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should DreamVoice assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option,

cancel this Agreement and all rights, titles and interest of DreamVoice shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by DreamVoice shall in no event release DreamVoice from any obligation under the terms of this Agreement, nor shall it relieve or release DreamVoice from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

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

XIV. SBEDA (RESERVED)

XV. CONFLICT OF INTEREST

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

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

XVI. AMENDMENTS

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

XVII. 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.

XVIII. LICENSES/CERTIFICATIONS

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

XIX. COMPLIANCE

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

XX. NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI.

Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXI. LAW APPLICABLE

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

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

XXII. LEGAL AUTHORITY

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

XXIII. 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.

XXIV. 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.

XXV. INCORPORATION OF EXHIBITS

Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below:

EXHIBIT A: SCOPE OF SERVICES AND BUDGET

XXVI. 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 be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

EXECUTED and **AGREED** to this the _____ day of _____, 2016 (the "Effective Date").

CITY:
CITY OF SAN ANTONIO

DREAMVOICE L.L.C:

Mike Etienne, Director
Office of EastPoint

Shokare Nakpodia, Creative Director

Approved as to Form:

Assistant City Attorney

EXHIBIT A

SCOPE OF SERVICES AND BUDGET

MISSION:

DreamWeek's mission is to continue to advance and modernize the teachings set forth by Dr. Martin Luther King, Jr.'s vision by creating dialogue across cultures and communities.

WHEN:

Each year DreamWeek takes place in the week leading up to the country's largest MLK March. This year the summit will be held Friday, January 11 to Tuesday, January 22, 2017.

ADVANCING THE VOICES OF TOLERANCE, DIVERSITY & EQUALITY:

DreamWeek provides an environment for a global exchange of ideas through a series of keynote speaking engagements, mixers, workshops and celebrations that will foster discussions centered on universal issues. The summit will revolve around the following themes: City, Health, Youth, Environment, Technology, Education, Arts, Spirit, Justice, Business, Sports and Cuisine. Each event will inspire and motivate the community to action in creating a more tolerant and enlightened society.

As the world trends toward a more integrated landscape, there is a growing need for a vehicle to promote tolerance, interaction and exchange of ideas. Within this groundswell of emerging voices are ideas that may have a profound effect on the way we see our tomorrow, today. The power lies not in the activity of a rally or a mantra, but the interactions that lead to a greater knowledge of issues that touch our lives. San Antonio's quarter century status as host to the country's largest MLK March is proof that Dr. King's words and vision still live, and motivate.

SUPPORT TO MLK, JR. COMMISSION:

DreamVoice, LLC will in addition to providing all DreamWeek official events, DreamVoice LLC shall provide wrap around design, marketing and promotional services for the MLK Jr., Commission to include, but not limited to the following events, meetings or activities:

- Car Raffle
- Poetry Slam Contest
- Commemorative Lecture Series (Trinity University)
- Town Hall Discussion
- Youth Empowerment Summit
- Gospel Choir Extravaganza
- Wreath Laying Ceremony
- Citywide Interfaith Worship Service
- Pre-March Worship | Jan Early Morning Service
- Dr. Martin Luther King Jr. Day March
- MLK Commemorative Program
- Sponsorship Banquet
- Scholarship Banquet
- Army/Air force Health Fair
- Paseo Del Rio MLK Float
- MLK Golf Tournament
- MLK Gala

In addition, DreamVoice, LLC must abide by the most recent executed Memorandum of Understanding between DreamVoice LLC and the MLK Jr., Commission as set forth by the MLK Jr., Commission of San Antonio, attached hereto, and incorporated herein, as ATTCHMENT 1.

STATE OF TEXAS § **CHAPTER 380 ECONOMIC DEVELOPMENT**
 § **PROGRAM GRANT AGREEMENT OF THE CITY**
 § **OF SAN ANTONIO**

COUNTY OF BEXAR §

This Chapter 380 Economic Development Program Grant Agreement (hereinafter referred to as this “Agreement”) is made and entered into by and between the City of San Antonio, a Texas Municipal Corporation (“City”) acting by and through its City Manager and the Greater San Antonio Chamber of Commerce (“GSACC”), both of which may be referred to herein collectively as the “Parties” or individually as a “Party”.

RECITALS

WHEREAS, GSACC is engaged in economic development activities; and

WHEREAS, GSACC is seeking economic incentives from the CITY to undertake and complete economic development activities as more specifically described in Exhibit A and attached hereto; and

WHEREAS, the CITY has identified funds to be made available to GSACC in the form of an Economic Development Program Grant for use in undertaking and completing economic development activities in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to Chapter 380 of the Texas Local Government Code the CITY is authorized to grant funds to promote state or local economic development and to stimulate business and commercial activity in the municipality; **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.

ARTICLE I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings ascribed below:

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

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

“Vice-President of Cybersecurity” shall mean the individual engaged by GSACC to provide the services set forth on Exhibit A attached hereto.

ARTICLE II. TERM

2.1 This Agreement shall become effective as of October 1, 2016, and shall remain in effect through September 30, 2017 (“Term”), unless otherwise terminated on an earlier date in accordance with the terms of this Agreement.

2.2 City may, in its sole discretion, exercise a one-year renewal option, beginning September 1, 2016 without the necessity of City Council approval, and subject to budgetary appropriation.

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

ARTICLE III. SCOPE OF SERVICES

3.1 GSACC agrees to provide the services described below in exchange for the compensation described in Article IV of this Agreement.

3.1.1 GSACC agrees to provide a job position titled Vice-President of Cybersecurity (the “VPCS”). The VPCS will work directly for GSACC and perform the services as more particularly described in **Exhibit “A”** of this Agreement.

3.1.2 All Grant Funds provided under this Agreement shall be used to fund the VPCS position and ancillary costs associated with the position.

3.1.3 The VPCS will be an employee of GSACC. City shall have the right to approve of the individual selected for the position prior to the engagement of individual by GSACC.

3.2 GSACC agrees that the VPCS shall work exclusively on Cybersecurity related issues including those that may be ancillary to such duties. City shall have the right to terminate this Agreement in whole or in part in accordance with Article VII, should GSACC’s work related to the position of Vice President of Cybersecurity and the agreed upon work program outlined in Exhibit A to be unsatisfactory to City.

3.4 Within thirty (30) days of adoption by City Council of this agreement, City and VPCS shall finalize Exhibit A outlining the milestones to be achieved and procedures to be utilized to deliver the Services during the Term of this agreement. The City and VPCS shall work jointly to finalize the Exhibit A and after approval by each respective party, Exhibit A shall become incorporated into this Agreement.

ARTICLE IV. COMPENSATION TO GSACC

4.1 In consideration of the VPCS performance in a satisfactory and efficient manner, City agrees to provide GSACC a grant for services and activities set forth in this Agreement, an amount not to exceed fifty thousand dollars and zero cents (\$50,000.00) (“Grant Funds”), to be paid to GSACC in full within thirty (30) business days of the receipt of an invoice from GSACC in a format satisfactory to City in its sole discretion. GSACC shall submit such invoice following final execution of this Agreement.

4.2 GSACC shall return any Grant Funds that are not spent as set forth in Subsection 3.1.2 within thirty (30) calendar days of written notice from City provided in accordance with Section 7.1. Additionally, if any or all SACOC’s services are unsatisfactory to City, as required by the terms of this Agreement, SACOC shall return any Grant Funds associated with such unsatisfactory work within thirty (30) calendar days of written notice from City provided in accordance with Section 7.1. For the purposes of this Agreement, “unsatisfactory work” shall mean that less than 19 of the 27 metric categories in the attached Exhibit A representing seventy percent (70%) performance of this agreement.

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

4.4 City shall not be obligated or liable under this Agreement to any party, other than GSACC, for the payment of any monies or the provision of any goods or services. The GSACC agrees to provide the City with Quarterly Progress Reports that outline how the Economic Development Grant funds provided under this Agreement were utilized to accomplish the public purpose for which this Agreement was entered into and summarizing the economic development efforts undertaken by the GSACC.

4.5 The Quarterly Progress Reports shall be submitted no later than the last calendar day of the month following the end of each full calendar quarter during the Term of this Agreement, in a mutually-acceptable format that details the GSACC’s efforts in expanding the community’s Cybersecurity industry, and shall include details on the Cybersecurity activities as described in Exhibit A.

4.6 In addition, at the option of and on request of the City, representatives of the GSACC must provide a briefing to the San Antonio City Council during a scheduled public meeting, to include discussion of the GSACC’s efforts in expanding the community’s Cybersecurity industry.

4.6 The payment of the fifty thousand dollars and zero cents (\$50,000.00) to GSACC pursuant to this Agreement is subject to GSACC securing matching funds from the public and private sector in the amount of at least fifty thousand dollars and zero cents (\$50,000.00) from the private sector and from Bexar County in the amount of at least fifty thousand dollars and zero

cents (\$50,000.00) for a total of one-hundred thousand dollars and zero cents (\$100,000.00) for the purpose of funding the VPCS position. In the event such matching funds are not raised by GSACC approximately by January 30, 2017, City may, in its sole discretion, terminate this Agreement and any Grant Funds paid to GSACC pursuant to this Agreement shall be immediately returned to City.

ARTICLE V. RECORDS RETENTION

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

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

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

ARTICLE VI. TERMINATION

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

6.2 Termination Without Cause. This Agreement may be terminated by City upon 30 calendar days' written notice, which notice shall be provided in accordance with Article VII. Notice.

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

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

6.3.2 The unsatisfactory performance of The Vice President Cybersecurity in accordance with this Agreement.

6.4 Defaults With Opportunity for Cure. Should GSACC default in the performance of this Agreement in a manner stated in this Section 6.4 below, such default shall be deemed to be an event of default hereunder. City shall deliver written notice of said default specifying such matter(s) in default. GSACC shall have sixty (60) calendar days after receipt of the written notice, in accordance with Section 7.1, to cure such default. If GSACC fails to cure the default within such sixty-day (60) cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate. In the event the City terminates this Agreement in whole or in part, then the CITY shall have the right to recapture any Grant Funds disbursed in accordance with this Agreement.

6.4.1 Bankruptcy or selling substantially all of company's assets.

6.4.2 Failing to perform or failing to comply with any covenant herein required.

6.4.3 Performing unsatisfactorily in accordance with this Agreement.

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

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

6.7 Upon the effective date of expiration or termination of this Agreement, GSACC shall cease all operations of work being performed by GSACC or any of its subcontractors pursuant to this Agreement. Provided however, such work may be continued to be performed by GSACC under any other agreement to which GSACC may be a party to.

6.8 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall

such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue GSACC for any default hereunder or other action.

ARTICLE VII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Director
Economic Development Department
100 W. Houston, Floor 19
San Antonio, Texas 78205

If intended for GSACC, to:

San Antonio Chamber of Commerce
Attn: President & CEO
602 E. Commerce Street
San Antonio, Texas 78205

ARTICLE VIII. INDEMNITY

8.1 **GSACC and City acknowledge that the City is a political subdivision of the State of Texas and that the City is subject to and shall comply with the applicable provisions of the Texas Tort Claims Act, as set out in Civil Practice and Remedies Code, Section 101.001 *et seq.* and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death. This Agreement will be interpreted according to the Constitution and laws of the State of Texas.**

8.2 **GSACC covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY (and the elected officials, employees, officers, directors, and representatives of the CITY), individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death and property damage, made upon the CITY, directly or indirectly arising out of, resulting from or related to GSACC'S activities under this AGREEMENT,**

including any acts or omissions, or willful misconduct, of GSACC, any agent, officer, contractor, subcontractor, director, representative, employee, consultant or sub-consultants of GSACC, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this AGREEMENT, all without, however, waiving any governmental immunity available to the CITY, under Texas Law and without waiving any defenses of the Parties under Texas, Federal, or International Law. The CITY, and/or shall have the right, at their option and at their own expense, to participate in such defense without relieving GSACC of any of its obligations.

GSACC further agrees to reimburse the City for any costs or expenses, including court costs and reasonable attorney's fees, which City may incur in investigating, handling or litigating any such claims. IN THE EVENT GSACC AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

8.3 GSACC SHALL ADVISE THE CITY, IN WRITING WITHIN 24 HOURS OF ANY CLAIM OR DEMAND AGAINST THE CITY, RELATED TO OR ARISING OUT OF THE GSACC'S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT THE GSACC'S COST TO THE EXTENT REQUIRED UNDER THIS AGREEMENT.

8.4 THE PROVISIONS OF THIS INDEMNITY ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

8.5 Nothing in this Agreement waives any governmental immunity available to the City under the laws of the State of Texas.

GSACC shall advise CITY in writing within 24 hours of any claim or demand against CITY or GSACC known to GSACC related to or arising out of GSACC's activities under this Agreement.

ARTICLE IX. ASSIGNMENT AND SUBCONTRACTING

9.1 GSACC shall employ the Vice-President Cybersecurity position in order to complete the work to be performed under this Agreement.

9.2 It is City's understanding and this Agreement is made in reliance thereon, that GSACC does not intend to use subcontractors in the performance of this Agreement unless agreed to by both parties in writing.

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

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

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

ARTICLE X. INDEPENDENT CONTRACTOR

10.1 GSACC covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that GSACC shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and GSACCs; that the doctrine of respondent superior shall not apply as between City and GSACC, its officers, agents, employees, contractors, subcontractors and GSACCs, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and GSACC. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party, including, without limitation, by Vice-President CyberSecurity, occurring in connection with the services to be performed by the GSACC under this Agreement and that the GSACC has no authority to bind the City.

ARTICLE XI. NO REPRESENTATIONS

11.1 Neither GSACC nor its agents or brokers have made any representations or promises with respect to their services except as may be expressly set forth in this Agreement, and any reliance by City on any representations or promises of GSACC, its agents or brokers shall be solely on the representations or promises, if any, expressly contained in this Agreement.

City is not acquiring any rights, under this Agreement by implication or otherwise except as expressly set forth in this Agreement.

ARTICLE XII. CONFLICT OF INTEREST

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

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

ARTICLE XIII. AMENDMENTS

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

ARTICLE XIV. SEVERABILITY

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

ARTICLE XV. LICENSES/CERTIFICATIONS

15.1 GSACC warrants and certifies that GSACC 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.

ARTICLE XVI. COMPLIANCE

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

ARTICLE XVII. NONWAIVER OF PERFORMANCE

17.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XV. 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.

ARTICLE XVIII. LAW APPLICABLE

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

18.2 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.

ARTICLE XIX. LEGAL AUTHORITY

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

ARTICLE XX. PARTIES BOUND

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

ARTICLE XXI. NONDISCRIMINATION AND SECTARIAN ACTIVITY

21.1 As a condition of entering into this Agreement, GSACC represents and warrants that it will comply with the CITY's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance 2010-06-17-0531. As part of such compliance, GSACC 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 subcontractors, vendors, suppliers, or commercial customers funded in whole or in part with Grant Funds made available under this Agreement, nor shall GSACC retaliate against any person for reporting instances of such discrimination. GSACC shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its 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 the CITY's relevant marketplace. GSACC understands and agrees that 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 GSACC from participating in City contracts, or other sanctions as provided by applicable law. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

21.2 None of the performances rendered by GSACC under this Agreement shall involve, and no portion of the Incentives received by GSACC under this Agreement shall be used in support of, any sectarian or religious activity, nor shall any facility used in the performance of this Agreement be used for sectarian instruction or as a place of religious worship.

21.3 GSACC shall, to the best of its knowledge and belief, include the substance of this Article in all agreements entered into by GSACC associated with the Grant Funds made available through this Agreement.

ARTICLE XXII. PARTIES' REPRESENTATIONS

22.1 This Agreement has been jointly negotiated by the City, and GSACC and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

ARTICLE XXIII. RELATIONSHIP OF PARTIES

23.1 GSACC is an independent contractor. Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of employer and employee, officer, principal and agent, partners, joint ventures or any other similar such relationship between the Parties. As between the CITY, and GSACC, the GSACC is solely responsible for compensation payable to any employee, contractor, or subcontractor of GSACC, and none of the GSACC's employees, contractors, or subcontractors will be deemed to be employees, contractors, or subcontractors of the City as a result of this Agreement. To the extent

permitted by Texas law, no director, officer, employee or agent of the CITY shall be personally responsible for any liability arising under or growing out of this Agreement.

ARTICLE XXIV. CAPTIONS

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

ARTICLE XXV. ENTIRE AGREEMENT

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

IN WITNESS THEREOF, the Parties hereto have made and executed this Agreement, to be effective on the date of the last signature below (“Effective Date”).

CITY OF SAN ANTONIO

GREATER SAN ANTONIO CHAMBER OF COMMERCE

Sheryl Sculley
City Manager or designee

Richard Perez
President & CEO

ATTEST/SEAL:

Leticia M. Vacek
City Clerk

Approved as to Form:

Martha G. Sepeda, Acting City Attorney

Exhibit A: Scope of Services

- 1) GRANTEE shall accomplish the following in accordance with the terms and conditions of the Agreement:
 - a) GRANTEE shall provide CITY's EDD Director with proper documentation verifying receipt of funding commitments from sources other than CITY and semi-annual budget reports outlining cumulative contributions and expenditures (to include all sources of funding).
 - b) GRANTEE shall provide quarterly reports on items 2a.) through 2 e.) on its activities to the CITY's EDD Director and, upon request, to the City Council of CITY, its boards, committees and/or commissions.

- 2) GRANTEE shall serve as an 'Industry Liaison' or 'sector expert' resource and collaborate with the City, San Antonio Economic Development Foundation (SAEDF) and other community economic development towards integration of private sector validated Cybersecurity Industry strategies and tactics towards accomplishment of the Goals and Objectives for publication in the annual Forefront San Antonio plan during the Term of this Agreement:
 - a) **Recruitment:** In the Forefront SA area of Recruitment GRANTEE shall define, prioritize and report Strategic Objectives that will support the mid and long-term recruitment of Cybersecurity jobs, investments and assets.
 - i) **Prospect Development:** GRANTEE shall assist in helping to secure Cybersecurity prospects, jobs, and investment to locate, expand or initiate start-up operations in San Antonio as described in Table 1: Economic Development Metrics.
 - b) **Retention and Expansion:** In the Forefront SA area of Retention and Expansion GRANTEE shall define, prioritize and report Strategic Objectives that will support the mid and long-term expansion of Cybersecurity industry investments and community assets.
 - i) **Cybersecurity Database:** Grantee shall develop and provide an annual database of local military missions, local cyber security firms and capability as well as how many are active participants in the Cyber Security Committee.
 - ii) **BRE Visits:** GRANTEE shall use its relationships with local Cybersecurity firms to organize company visits for the economic development community's business retention and expansion team and facilitate dialogue about business challenges and opportunities.
 - (1) **Export Programs:** GRANTEE shall collaborate with the Free Trade Alliance to connect to five (5) local cybersecurity companies that may be candidates to export to foreign markets.
 - c) **Entrepreneurial Development:** In the Forefront SA area of Entrepreneurial Development GRANTEE shall define, prioritize and report Strategic Objectives that will

support the mid and long-term commercialization of Cybersecurity technologies and cause the eventual addition of investments and assets.

d) Workforce Development: In the Forefront SA area of Workforce Development:

- i) **Forefront SA Updates:** GRANTEE shall assist SA Works as requested by the CITY in the development of Workforce Development tactics and activities

e) Collaboration: In the Forefront SA area of Collaboration:

- i) **Industry Feedback:** GRANTEE shall collaborate with SAEDF on industry led initiatives up to and including making resource requests through SAEDF as described in the SA Forefront plan.
- ii) **Forefront SA Collaboratives:** GRANTEE shall attend no fewer than 4 scheduled Forefront SA Collaborative meetings through September 2017.

Table 1. Economic Development Metrics

Cybersecurity Industry Recruitment		
Projects Recruited	1	Successful recruitment of a prospect through any contact with the project that can be supported.
Jobs Recruited	5	Number of full time employees (investment will not be monitored until a reasonable project profile can be established.)
Cybersecurity Industry Retention/Expansion		
BRE visits	10	Submission of name of company, contact name, title, and email.
Local expansions	1	Number of companies that are expanding that were provided technical assistance.
Jobs created/retained	20	New jobs and retained jobs to be calculated separately and should reflect only existing companies visited by industry liaison.
Cybersecurity Industry Entrepreneurial Development		
Cybersecurity BuildSec Foundry Participants	2	Number of new startups attracted to BuildSec Foundry after October 1, 2016.
Total Investment	\$250,000	Total amount of funding secured by companies that have participated in Cybersecurity Boot Camp since inception.

PROFESSIONAL SERVICES AGREEMENT FOR CONSULTING SERVICES

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as “City”) acting by and through its Director of Economic Development and the Hispanic Chamber of Commerce, located at 100 W. Houston, Ste. 1900, San Antonio, TX 78205, by and through its President (hereinafter referred to as “Consultant”), both of which may be referred to herein collectively as the “Parties”.

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

I. DEFINITIONS

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

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

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

“Director” shall mean the acting director of City’s Economic Development Department.

II. TERM

Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence October 1, 2016 and terminate on September 30, 2017.

III. SCOPE OF SERVICES

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

3.2 Consultant shall provide the following services to City:

- (A) Consultant shall on the direction of City and at an ad-hoc hourly basis at the rate of one hundred and eighty dollars (\$180.00) per hour:

- (i) Consult for the City and its various Departments on economic issues including but not limited to the Office of Management and Budget and Finance Department;
- (ii) Evaluate the economic sections of City Annual Financial Report, Budget Transmittal Letter and bond documents/presentations;
- (iii) Brief City staff, City Council, and other City-sponsored entities on economic issues;
- (iv) Provide review, edits, and comments on cost-benefit analyses and economic impact analyses for incentive projects completed by EDD staff and other City Departments as requested; and
- (v) Conduct economic impact studies on City Hotel conventions and Sports events as request by Convention and Visitors Bureau and Convention and Sports Entertainment Facilities Departments

3.3 Consultant shall also work with the City and any affiliated entities to provide any studies or analysis beyond the scope of this Agreement that will be a separately negotiated Agreement with the appropriate Department requesting the work unless the amount of the contract requires the City to conduct a competitive bid process. If the cost of the work requires the issuance of an RFP, the City agrees to notify the Consultant of the issuance of the RFP.

3.4 The work completed by Consultant shall be conducted by or supervised by Steve Nivin, Ph.D., Chief Economist.

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

3.6 Within thirty (30) days of adoption by City Council of this agreement, City and Consultant shall finalize Article III outlining scope of services during the Term of this

agreement. The City and Consultant shall work jointly to finalize the Article III and after approval by each respective party, Article III shall become incorporated into this Agreement.

IV. COMPENSATION TO CONSULTANT

4.1 In consideration of Consultant's satisfactory performance of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed FORTY FIVE THOUSAND DOLLARS (\$45,000.00) as total compensation, to be paid to Consultant as follows:

(a) Consultant shall submit monthly invoices for services performed in accordance with Article III above.

(b) City shall pay Consultant within thirty (30) days of receiving an invoice.

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

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

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by Consultant in which both Consultant and City staff work together to produce the writings, documents or information pursuant to Section 3.2(A) of this Agreement on a pro bono basis for use by the City or at the request of the City will be considered jointly owned and co-branded by both parties; and any distribution of such material by the Consultant shall be identified as jointly owned and co-branded to reflect the City's participation in the creation of any such material. Furthermore, the Consultant shall make any such writings, documents or information created with the utilization of public funds, including City staff input, available to the public at no cost other than those costs allowed by law (e.g, administrative costs). The economic reports provided pursuant to Section 3.2(A)(i) will be solely owned and branded by the Consultant, and the City agrees to minimize distribution beyond City staff to the extent possible.

5.2 Any and all writings, documents or information in whatsoever form and character produced by Consultant pursuant to Section 3.2(B) of this Agreement where the consultant may have access to financial or otherwise potentially sensitive information

regarding City financial position, sensitive project financial data or other such material is considered confidential, proprietary and the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Consultant nor discussed, released or distributed by the Consultant in any form without the permission of the City

5.3 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information produced in accordance with Section 3.2(B) of this Agreement, the City has the right to use all such writings, documents and information as City desires, without restriction.

5.4 Should Consultant publish or reference any work performed under this Agreement that involved the use or assistance of City staff, Consultant must jointly credit the City's Economic Development Department when using such information and co-brand any such material to reflect this joint ownership.

VI. RECORDS RETENTION

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

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

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

VII. TERMINATION

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

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

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

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

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

7.4.1 Bankruptcy or selling substantially all of company's assets

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

7.4.3 Performing unsatisfactorily

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

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

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

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

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

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

VIII. INSURANCE

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

8.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or

circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk.

8.3 A Consultant's financial integrity is of interest to the City; therefore, subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by the City, Consultant shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and 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:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability f. Broad form property damage, to include fire legal liability	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence
5. Professional Liability (Claims Made Form)	\$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.

8.4 Consultant agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Consultant herein, and provide a certificate of insurance and endorsement that names the Consultant and the CITY as additional insureds. Consultant shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement.

Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

8.5 The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Consultant shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Consultant shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: Economic Development Department
P.O. Box 839966
San Antonio, Texas 78283-3966

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

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

8.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Consultant's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

8.8 In addition to any other remedies the City may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Consultant to stop work hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.

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

8.10 It is agreed that Consultant's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

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

IX. INDEMNIFICATION

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

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONSULTANT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONSULTANT known to CONSULTANT related

to or arising out of CONSULTANT's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CONSULTANT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONSULTANT of any of its obligations under this paragraph.

X. 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 (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Attn: Director
P.O. Box 839966
San Antonio, TX 78283-3966

If intended for Consultant, to:

Hispanic Chamber of Commerce
Attn: Steven Nivin
200 E Grayson St #203, San Antonio, TX 78215

XI. INDEPENDENT CONSULTANT

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

XII. CONFLICT OF INTEREST

12.1 Consultant acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any

contract with the City or any City agency such as city owned utilities. An officer or employee has a “prohibited financial interest” in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subConsultant on a City contract, a partner or a parent or subsidiary business entity.

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

XIII. 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 City and Consultant, and subject to approval by the City Council, as evidenced by passage of an ordinance.

XIV. 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.

XV. LICENSES/CERTIFICATIONS

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

XVI. COMPLIANCE

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

XVII. NONWAIVER 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 City, such changes must be approved by the Director. 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.

XVIII. LAW APPLICABLE

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

18.2 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.

XIX. LEGAL AUTHORITY

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

XX. 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.

XXI. 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.

XXII. 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 be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

EXECUTED and **AGREED** to this the _____ day of _____, 2016.

CITY:

CONSULTANT:

CITY OF SAN ANTONIO

HISPANIC CHAMBER OF COMMERCE

Carlos J. Contreras III
Assistant City Manager

Ramiro Cavazos
President

SAN ANTONIO POLICE DEPARTMENT SECURITY AGREEMENT

This contract is made and entered into by and between the City of San Antonio (CITY) and _____ (CUSTOMER).

I. TERM

- 1.1 This contract shall commence upon execution, and shall terminate at such time as both parties have satisfied their obligations under the terms of this contract, unless terminated earlier pursuant to the provisions hereof.

II. SERVICES

- 2.1 CITY shall make available San Antonio Police Department (SAPD) police officers, or, in the event that insufficient SAPD police officers are available, other Texas peace officers, to provide security for the _____ to be held at the _____, beginning _____. Said security shall be provided in accordance with the Cost Estimate Sheet, which is attached hereto as Exhibit 1.
- 2.2 CUSTOMER shall retain said officers to provide security in accordance with the Cost Estimate Sheet and shall pay for said services.
- 2.3 CUSTOMER understands, acknowledges, and agrees that the officers providing security are not, while providing said security, employees of CITY, but are, instead, employed by CUSTOMER.

III. PAYMENT AND BILLING

- 3.1 CUSTOMER shall pay CITY for the services actually provided by the aforementioned officers.
- A. Where the officer is a member of the SAPD, CUSTOMER shall pay at the rate established by the Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association (CBA) in effect at the time the services are provided, plus overtime, if any. CUSTOMER shall also pay the surcharge provided for in Section 25-8 of the San Antonio City Code. CUSTOMER shall also pay the parking fee provided for in the CBA in effect at the time the services are provided.

- B. Where the officer is a CITY employee, but not a member of the SAPD, CUSTOMER shall pay at a rate of \$_____, plus overtime, if any. CUSTOMER shall also pay the surcharge provided for in Section 25-8 of the San Antonio City Code.
 - C. Where the officer is not a CITY employee, CUSTOMER shall pay at a rate of \$_____ per hour, plus overtime, if any.
- 3.2 An estimate of the amount to be paid by CUSTOMER is set out in the Cost Estimate Sheet. CUSTOMER understands, acknowledges, and agrees that the amount set out in the Cost Estimate Sheet is an estimate and that the actual costs incurred by CUSTOMER may be more or less than the estimated amount.
 - 3.3 CUSTOMER shall pay the deposit provided for in the Cost Estimate Sheet at least thirty days prior to the beginning of the event for which security is being provided for pursuant to this contract.
 - 3.4 Within thirty days of the end of the event for which security was provided for pursuant to this contract, CITY shall submit an itemized accounting to CUSTOMER of the costs incurred. In the event that the amount of the invoice exceeds the deposit, within thirty days of the receipt of said invoice, CUSTOMER shall pay CITY the difference between the deposit and the amount invoiced. In the event that the amount of the invoice is less than the deposit, within thirty days of the date the invoice is sent to CUSTOMER, CITY shall reimburse CUSTOMER the difference between the deposit and the amount invoiced.

IV. CANCELLATION

- 4.1 In the event of a change in circumstances, CUSTOMER may cancel a post assignment, so long as CITY agrees said post assignment is unnecessary.
- 4.2 CUSTOMER shall submit a request to cancel a post assignment, orally and in writing, to the SAPD Off-Duty Employment Unit, which may be reached at (210) 207-7020.
- 4.3 A request for cancellation shall be made at least four hours prior to the beginning of the assignment to be cancelled.
- 4.4 In the event cancellation is timely requested, CUSTOMER shall not have to pay CITY for the services of the assigned officer(s). In the event cancellation is not timely requested, CUSTOMER shall pay CITY for the actual number of hours worked by the officer(s) or three hours, whichever is greater, and the other costs provided for in the Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association in effect at the time the services are provided and in accordance with Section 25-8 of the San Antonio City Code.

V. TERMINATION

- 5.1 For purposes of this contract, "termination" of this contract shall mean termination by expiration of the contract term as set out in Section 1.1 of this contract or earlier termination pursuant to any of the provisions of this contract.
- 5.2 CITY may terminate this contract in accordance with this article, in whole or in part, at any time, for any reason, with written notice to CUSTOMER. Said notice shall specify the date of termination.
- 5.3 In no event shall CITY's action of terminating this contract be deemed an election of CITY's remedies, nor shall such termination limit, in any way, at law or at equity, CITY's right to seek damages from or otherwise pursue CUSTOMER for any default hereunder or other action.

VI. NON-WAIVER

- 6.1 Unless otherwise specifically provided for in this contract, a waiver by either party of a breach of any of the terms, conditions, covenants, or guarantees of this contract shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant, or guarantee herein contained. Further, any failure of either party to insist in any one or more cases upon the strict performance of any of the covenants of this contract, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification, or discharge by either party hereto of any provision of this contract shall be deemed to have been made or shall be effective, unless expressed in writing and signed by the party to be charged. 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.

VII. AUTHORITY TO BIND

- 7.1 The parties hereto 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.

VIII. INDEMNIFICATION

- 8.1 **CUSTOMER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, CITY AND ITS 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 CUSTOMER'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF CUSTOMER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONTRACTOR OR SUBCONTRACTOR OF CUSTOMER, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND/OR SUITS THAT ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES OF CITY UNDER THIS CONTRACT.

- 8.2 IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS CONTRACT THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY CUSTOMER TO INDEMNIFY, PROTECT, AND HOLD HARMLESS, CITY FROM THE CONSEQUENCES OF CITY'S OWN NEGLIGENCE, PROVIDED, HOWEVER, THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF CITY IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF CITY IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. CUSTOMER FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF CITY AND IN THE NAME OF CITY, ANY CLAIM OR LITIGATION BROUGHT AGAINST CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS, AND REPRESENTATIVES, IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.**
- 8.3 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.**
- 8.4 CUSTOMER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST CITY OR CUSTOMER KNOWN TO CUSTOMER RELATED TO OR ARISING OUT OF CUSTOMER'S ACTIVITIES**

UNDER THIS CONTRACT.

- 8.5 IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT CUSTOMER IS AND SHALL BE DEEMED TO BE AN INDEPENDENT CONTRACTOR AND OPERATOR RESPONSIBLE TO ALL PARTIES FOR ITS RESPECTIVE ACTS OR OMISSIONS AND THAT CITY SHALL IN NO WAY BE RESPONSIBLE THEREFORE.**

IX. CHANGES AND AMENDMENTS

- 9.1 Except when the terms of this contract expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both CITY and CUSTOMER.
- 9.2 It is understood and agreed by the parties hereto that changes in local, state, and federal rules, regulations, or laws applicable hereto may occur during the term of this contract and that any such changes shall be automatically incorporated into this contract without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation, or law.

X. ENTIRE AGREEMENT

- 10.1 This contract and its exhibits 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 contract shall be deemed to exist or to bind the parties hereto unless same be in writing, dated subsequent to the date hereof, and only executed by the parties.

XI. SEVERABILITY

- 11.1 If any clause or provision of this contract is held invalid, illegal, or unenforceable under present or future federal, state, or local laws, including, but not limited to, the city charter, city code, or ordinances of the city of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality, or unenforceability shall not affect any other clause or provision hereof and that the remainder of this contract shall be construed as if such invalid, illegal, or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this contract that is invalid, illegal, or unenforceable, there be added as a part of the contract a clause or provision as similar in terms to such invalid, illegal, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

XII. NOTICES

- 12.1 For purposes of this contract, all official communications and notices between the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY

CUSTOMER

XIII. LAW APPLICABLE

- 13.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.
- 13.2 VENUE AND JURISDICTION FOR ANY LEGAL ACTION OR PROCEEDING BROUGHT OR MAINTAINED, DIRECTLY OR INDIRECTLY, UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL LIE EXCLUSIVELY IN BEXAR COUNTY, TEXAS.

XIV. LEGAL AUTHORITY

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

XV. PARTIES BOUND

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

EXECUTED on _____.

CITY

CUSTOMER

Signature

Signature

Printed Name

Printed Name

Title

Title

1st Amendment to Lease Agreement

(San Antonio Education Partnership)

This 1st Amendment to Lease Agreement is entered into between Landlord and Tenant as of the Effective Date.

1. Identifying Information.

Ordinance Authorizing 1st Amendment:

Effective Date of 1st Amendment: October 1, 2016

Expiration of 1st Amendment: September 30, 2021

Landlord: City of San Antonio

Landlord's Address: P.O. Box 839966, San Antonio, Texas 78283-3966
(Attention: Director, Capital Improvement Management Services)

Tenant: San Antonio Education Partnership

Tenant's Address: 703 Urban Loop, San Antonio, Texas 78205

Lease: The following two locations, which are further depicted on the attached Exhibit A:

1. 131 El Paso Street— approximately 4,933 rentable square feet of office space and
2. 703 Urban Loop – approximately 8,727 rentable square feet of office space of which 4,053 rentable square feet is dedicated for Café College use and 4,674 square feet is dedicated as office space for Tenant

Ordinance Authorizing Original Lease: 2011-04-14-0295

2. Defined Terms.

All terms defined in the Lease and not otherwise defined in this amendment, when used in this amendment, have the meanings ascribed to them in the Lease. References to “Lease” in this amendment include the original Lease.

San Antonio Education Partnership Board of Directors approved special events, means special events or fundraising activities that have received prior written approval by the San Antonio Education Partnership Board of Directors.

3. Premises.

The Leased Premises is identified in Section 1 and graphically depicted in this first amendment to Lease.

4. Permitted Use.

Section 1, Basic Information, Definitions of the original Lease is amended as follows:

Permitted Use: Nonprofit office uses supporting the Café College Program and the San Antonio Education Partnership.

5. Maintenance.

Section 5, Tenant's Affirmative Promises, subsection 5.05 of the original Lease is hereby amended to include submission of quarterly maintenance reports as follows:

5.05. Repair, replace, and maintain the Premises, except for the (a) roof, (b) foundation, (c) structural soundness of the exterior walls, doors, corridors, windows, (d) and the 131 El Paso Street (Café College) parking lot and the light posts located within the 131 El Paso Street (Café College) parking lot, which are the maintenance responsibility of the Landlord.

As part of its maintenance responsibilities, Tenant must submit written quarterly maintenance reports to the Director of the Human Services Department. The quarterly maintenance reports are due one month after the end of each quarter of the lease no later than April 30, July 31, October 31, and January 31 in order to give Tenant sufficient time to compile each report. Quarterly maintenance report submissions begin the 4th quarter of 2016 (the period between October 1 and December 31, 2016), due no later than January 31, 2017 and each subsequent quarterly period thereafter. Tenant has the initial discretion to format the maintenance report as desired; however, once selected, this format shall be standard for all subsequent submissions. Each maintenance report must include, at a minimum, the type of maintenance, the date it was performed, the amount it cost, and who performed the service. Landlord reserves the right to require the inclusion of additional items in each maintenance report including, but not limited to:

- Pest Control Services as needed
- Fire Alarm Inspections as required
- Other required permit and or inspection fees as required.
- Security and fire alarm monitoring
- HVAC preventative maintenance and repairs
- Garbage Disposal cost
- Landscape services and any repairs to irrigation system
- Janitorial services /Cleaning Services including janitorial supplies

Other Building Repairs (i.e. electrical, plumbing, graffiti removal, etc.)
Misc. materials (i.e. light bulbs, etc.)
Salary of any maintenance staff

6. Extension.

6.01. The original Lease is extended from the Effective Date of this 1st Amendment to the Expiration of the 1st Amendment for a period of 5 years.

6.02. During the term of this amended lease agreement, rent is in the nominal amount of \$10 per year. Tenant must pay to Landlord this rent for the entire term in the amount of \$50.00 in full within 30 days of the Effective Date of this 1st Amendment.

7. No Default.

Neither Landlord nor Tenant is in default under the Lease and neither party is aware of a cause of action against the other arising out of or relating to the period before the date of Landlord's signature on this amendment.

8. Same Terms and Conditions.

This amendment is a fully integrated expression of the changes the parties intend to make to the Lease. The parties acknowledge that, except as expressly set forth in this amendment, the Lease remains in full force and effect according to its terms, and the parties reaffirm the obligations thereof. Both Landlord and Tenant are bound thereby. Neither party is in default under the Lease as amended. There have been no amendments or other modifications to the Lease except as expressly described in this amendment.

9. Public Information.

Landlord acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

In Witness Whereof, the parties have caused their representatives to set their hands.

City of San Antonio, a Texas municipal corporation

San Antonio Education Partnership

By: _____

By: _____

Printed
Name: _____

Printed
Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest:

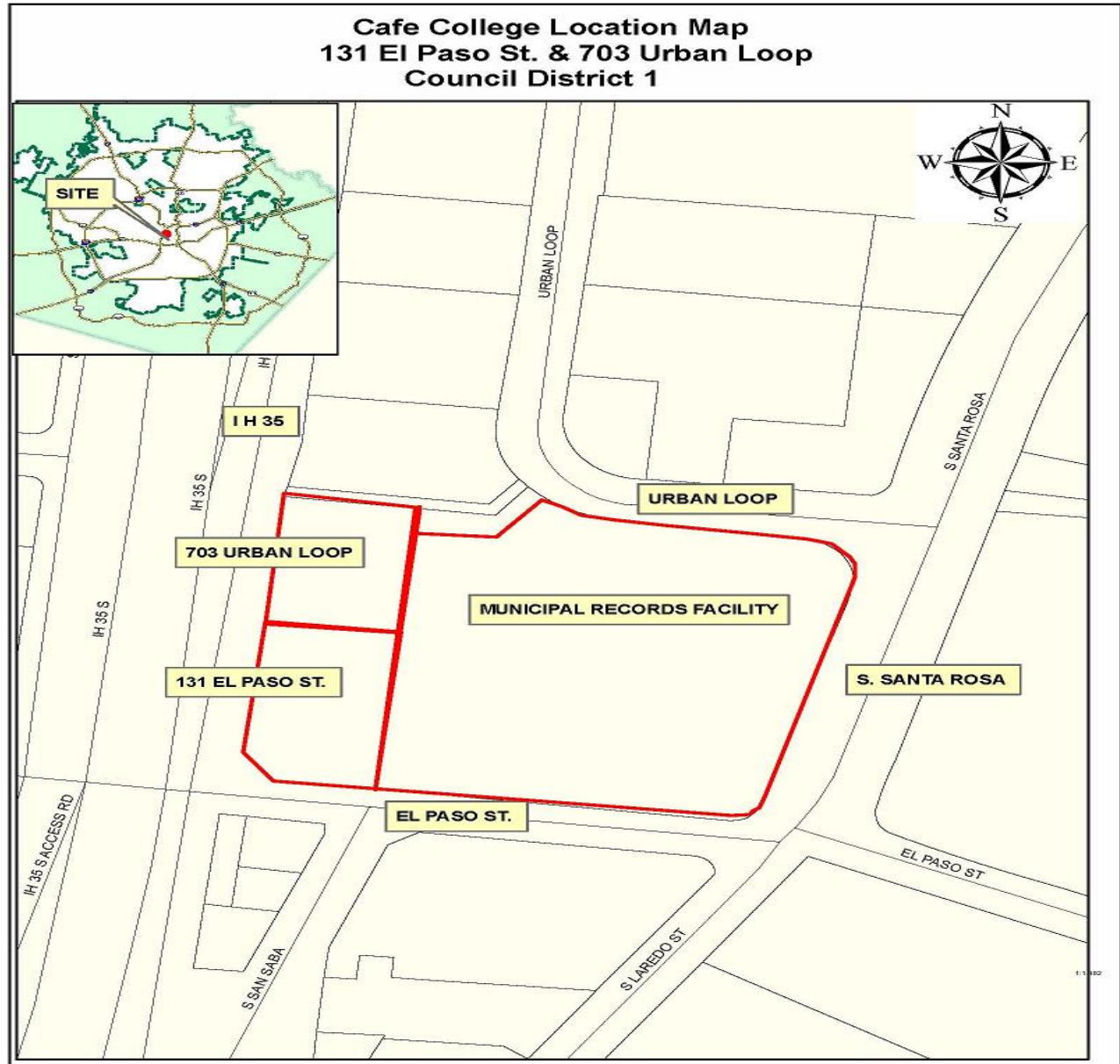
City Clerk

Approved as to Form:

City Attorney

Exhibit A: Legal Description and Site Plan

The west 100' feet of variable width of Lot 6, New City Block (N.C.B.) 13420, in the City of San Antonio, Bexar County, Texas, TEX. R-39, CENTRAL WEST AREA PROJECT 1, URBAN RENEWAL, according to plat thereof recorded in Volume 5502, Pages 29-31, of the Deed and Plat Records of Bexar County, Texas.



Contract #

STATE OF TEXAS *

COUNTY OF BEXAR *

CITY OF SAN ANTONIO *

**DELEGATE AGENCY CONTRACT
WITH
FAMILY ENDEAVORS**

This Contract is entered into by and between the City of San Antonio (hereinafter referred to as "City"), a Texas Municipal Corporation, acting by and through its Director of the Department of Human Services pursuant to Ordinance Nos. _____, dated September 15, 2016, and Family Endeavors (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Department of Human Services is designated as the managing City department (hereinafter referred to as "Managing City Department") for the City; and

WHEREAS, the City has provided certain funds from the City of San Antonio General or Grant Fund Operating Budget (hereinafter referred to as "General Fund" or "Grant Fund," as applicable) for community safety net services; and

WHEREAS, the City has adopted a budget for the expenditure of such funds, and included therein is an allocation of \$150,000.00 for a project entitled "Veteran's Homeless Program" (hereinafter referred to as the "Project"); and

WHEREAS, the City wishes to engage the Contractor to carry out the Project; NOW THEREFORE:

The parties hereto agree as follows:

I. SCOPE OF WORK

- 1.1 The Contractor will provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the City and in compliance with the **Scope of Work** and **Scorecard** attached hereto and incorporated herein for all purposes as Attachment I.

II. TERM

- 2.1 Except as otherwise provided for pursuant to the provisions hereof, this Contract shall begin on **October 1, 2016** and shall terminate on **September 30, 2017**.

III. CONSIDERATION

- 3.1 In consideration, the City will reimburse Contractor for costs incurred in accordance with the budget approved by City Council of San Antonio in the above referenced Ordinance, and all subsequently authorized amendments to that budget. Said budget is attached hereto and incorporated herein for all purposes as Attachment II. It is specifically agreed that reimbursement hereunder shall not exceed the total amount of **\$150,000.00**.

- 3.2 The funding level of this Contract is based on an allocation from the following funding sources:

\$ 150,000.00 General Fund

Consequently, Contractor agrees to comply with the **Funding Guide**, attached hereto and incorporated herein for all purposes as Attachment III.

- 3.3 Contractor understands and agrees that the funds provided to Contractor from the City's Consolidated Human Development Funding Services Pool shall represent a limited percentage of Contractor's total agency revenues and expenses for the contract term, which percentage is established by City Council and is subject to change. The percentage of the total agency revenues and expenses derived from sources other than City funds is sometimes referred to as the agency's "match" requirement. Contractor's total agency revenues and expenses derived from non-City sources and from the City is Contractor's Total Budget. Contractor shall comply with any matching fund requirements set by City Council that apply to Contractor's contract, regardless of when such requirements are passed. If Contractor receives an aggregate amount of \$1,000,000.00 or more in City funds from all City funded contracts, then Contractor shall obtain thirty-five percent (35%) of its Total Budget from non-City sources (i.e., no more than sixty-five percent (65%) of its Total Budget is derived from the City). If Contractor receives less than an aggregate amount of \$1,000,000.00 in City funds from all City funded contracts, then Contractor shall obtain fifty percent (50%) of its Total Budget from non-City sources (i.e., no more than fifty percent (50%) of its Total Budget is derived from the City). City shall require sufficient evidence that such funding is in place with Contractor's annual program budget prior to contract execution. Contractor understands that City shall have no obligation to provide any funds hereunder until Contractor demonstrates having secured the percentage of matching funds required of Contractor. Contractor understands and acknowledges that Pell grants and other awards received by individuals shall not count toward its matching fund requirements. Additionally, Contractor understands and acknowledges that in-kind contributions shall not count toward its matching fund requirements. Contractor shall provide acceptable evidence, as determined solely by the City, that Contractor has expended a funding amount from non-City funds equal to or greater than the applicable matching funds percentage requirement. City reserves the right to make a request at the end of each quarter throughout the Contract term for evidence that Contractor has expended or is on course to expend the applicable percentage of funds constituting its match prior to the end of the Contract term. If Contractor does not provide City with acceptable evidence that funds have been expended as required herein, Contractor understands and agrees that City may reduce or recapture pursuant to 4.1 the amount of City funds provided to Contractor in order to comply with the required expenditure ratio of non-City funds to the Total Budget, without first obtaining the approval of City Council.
- 3.4 It is expressly understood and agreed by the City and Contractor that the City's obligations under this Contract are contingent upon the actual receipt of adequate General or Grant Fund revenue, as applicable, to meet City's liabilities hereunder. Should City not receive sufficient funds to make payments pursuant to this Contract or should awarded Grant Funds be reduced, City shall notify Contractor in writing within a reasonable time after such fact has been determined and may, at its option, either terminate this Contract or reduce the Scope of Work and Consideration accordingly.

IV. PAYMENT

- 4.1 Contractor agrees that this is a cost reimbursement contract and that the City's liability hereunder is limited to making reimbursements for allowable costs incurred as a direct result of City-funded services provided by the Contractor in accordance with the terms of this Contract. 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 Section XII hereof, for the proper administration and performance of the services to be provided under an agreement. All requested reimbursed costs must be consistent with the terms and provisions of the approved budgeted line items described in Attachment II of this Contract, unless (a) a subsequent budget revision has been approved and signed by the Director of the Managing City Department or designee in cases where the total Contract Budget remains the same, or (b) a Contract amendment has been approved and signed by the Director of the Managing City Department pursuant to Section 24.1 of this Contract in cases where there is an increase or decrease to the total Contract Budget. Approved budget revisions and Contract amendments modify the Budget attached hereto, and in such cases Contractor's requested reimbursed costs must be consistent with the last revised, approved budget. Approved budget revisions and Contract amendments supersede prior conflicting or inconsistent agreements with regard to the referenced Project Budget, and all references in the Contract to the budget shall mean the budget as revised through approved budget revisions or Contract amendments. In no event shall the City be liable for any cost of Contractor not eligible for reimbursement as defined within the Contract. Contractor shall remit to City within ten (10) business days after the City makes the request for

remittance any funded amounts which were paid pursuant to this Article IV and used to cover disallowed costs. Any such amounts not remitted within ten (10) business days may, at City's option, be subject to offset against future funding obligations by City. For purposes of this Contract, the term, "business day" shall mean every day of the week except all Saturdays, Sundays and those scheduled holidays officially adopted and approved by the San Antonio City Council for City of San Antonio employees.

- 4.2 If specific circumstances require an advance payment on this Contract, Contractor must submit to the Director of the Managing City Department a written request for such advance payment, including the specific reason for such request in the form prescribed by the City. Contractor agrees that the City shall not be obligated to pay for any advances requested. In those instances in which advance payments are authorized, the Director of the Managing City Department may, in the Director's sole discretion, approve an advance payment on this Contract. It is understood and agreed by the parties hereto that (a) each request requires submission to the Director of the Managing City Department no less than ten (10) business days prior to the actual ostensible cash need; (b) each request will be considered by the Director of the Managing City Department on a case-by-case basis, and (c) the decision by the Director of the Managing City Department whether or not to approve an advance payment is final. In those instances in which advance payments are authorized:
- (A) Contractor's payments to its vendors using funds advanced by the City shall be remitted to the vendors in a prompt and timely manner, defined as not later than ten (10) calendar days after the Contractor is notified that an advance payment check is available from the City, so long as services have been performed by the subject vendor.
 - (B) The Contractor must deposit City funds in an account in a bank insured with the Federal Deposit Insurance Corporation (FDIC). In those situations where Contractor's total deposits in said bank, including all City funds deposited with said bank, exceed the FDIC insurance limit, the Contractor must arrange with said bank to automatically have the excess collaterally secured. A written copy of the collateral agreement must be obtained by Contractor from the Contractor's banking institution, maintained on file and be available for City monitoring reviews and audits. Advanced funds that cause the Contractor's account balance to exceed the FDIC limit shall be deposited in a manner consistent with the Public Funds Investment Act (Chapter 2256 of the Texas Government Code) as amended. Contractor shall maintain the FDIC insured bank account in which City funds are deposited and its recordkeeping in a manner that will allow City to track expenditures made pursuant to this and all other City contracts.
 - (C) The City may, in its sole discretion, either deduct from monthly reimbursements amounts necessary to offset the amount advanced based upon the number of months remaining in the Contract term, or from a single subsequent monthly reimbursement the full amount previously advanced to Contractor. The City may consider factors such as projected allowable costs and other indicators such as Contractor's financial stability. Contractor shall maintain a financial management system to account for periodic, or a lump sum, deduction from reimbursements.
- 4.3 Contractor shall submit to City no later than the fifteenth (15th) of every month a monthly Request for Payment in the form prescribed by City, which details the specific costs (by category and by program account number) Contractor expensed in the previous month for the services delivered as described in Article I herein, including supporting documentation of such costs as may be required by the Director of the Managing City Department. The Request for Payment shall also specify the Program Income (as defined herein) received or projected during the same time period. The Director of the Managing City Department may require the Contractor's submission of original or certified copies of invoices, cancelled checks, Contractor's general ledger and/or receipts to verify invoiced expenses.
- 4.4 City shall make reimbursement payments of eligible expenses to the Contractor of any undisputed amounts as determined by the Director of the Managing City Department in accordance with established procedures, so long as City receives a properly completed and documented Request for Payment. City shall make payment to Contractor within 30 calendar days of receiving a valid and approved Request for Payment.

- 4.5 The Contractor shall submit to City all final requests for payment no later than 45 days from the expiration or early termination date of this Contract, unless Contractor receives written authorization from the Director of the Managing City Department prior to such 45 day period allowing Contractor to submit a request for payment after such 45 day period.
- 4.6 Contractor agrees that the City shall not be obligated to any third parties of Contractor (including any subcontractors or third party beneficiaries of Contractor) under this Contract.
- 4.7 Contractor agrees that administrative overhead costs may not exceed twenty percent (20%) of the funding provided pursuant to this Contract. Contractor shall submit detailed administrative costs by line item with its annual program budget prior to Contract execution by the deadline established by the City.
- 4.8 Contractor shall maintain a financial management system, and acceptable accounting records that provide for:
- (A) accurate, current, and complete disclosure of financial support from each federal, state and locally sponsored project and program in accordance with the reporting requirements set forth in Article VIII of this Contract. If accrual basis reports are required, the Contractor 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. The Contractor shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes. Contractor shall maintain an accounting system that can separate funds by funding source and project;
 - (D) comparison of actual outlays with budget amounts for each award. Whenever appropriate or required by the 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 the City and the disbursement of said funds by the Contractor;
 - (F) procedures for determining reasonable, allowable, and allocable costs in accordance with the provisions of any and all applicable cost principles, including but not limited to the cost principles referenced in Section XII hereof, and the terms of the award, grant, or contract, with the 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 acceptable accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project. A Receipts and Disbursements Ledger must be maintained. 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.
- 4.9 Contractor agrees that Contractor costs or earnings claimed under this Contract may not be claimed under another contract or grant from another agency, organization, business entity or governmental entity.
- 4.10 Contractor shall establish and utilize a cost allocation methodology and plan which ensures that the City is paying only its fair share of the costs for services, overhead, and staffing not solely devoted to the Project funded by this Contract. The Cost Allocation Plan and supportive documentation shall be included with Contractor's annual program budget prior to Contract execution by the deadline established by the City. 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.

- 4.11 Upon expiration or early termination of this Contract, or at any time during the term of this Contract, all unused funds, rebates, or credits on-hand or collected thereafter relating to the Project, must immediately, upon receipt, be returned by Contractor to the City. Upon expiration or early termination of this Contract, all advance payments exceeding allowable costs incurred during the Contract term or for which Contractor fails to deliver services as consideration and as specified under the Contract shall be returned within twenty (20) calendar days of written notification to Contractor of the need for reimbursement.
- 4.12 Upon execution of this Contract or at any time during the term of this Contract, the City's Director of Finance, the City Auditor, or a person designated by the Director of the Managing City Department may review and approve all Contractor's systems of internal accounting and administrative controls prior to the release of funds hereunder.
- 4.13 Contractor agrees that prior to the payment of any funds under this Contract, and throughout the term of this Contract, Contractor shall maintain financial stability and operate in a fiscally responsible and prudent manner. Contractor agrees that the City may immediately terminate this Contract if the City finds, as solely determined by the City, that Contractor is in such unsatisfactory financial condition as to endanger performance under this Contract. The City may consider evidence such as the apparent inability of Contractor to meet its financial obligations and items that reflect detrimentally on the credit worthiness of Contractor. Relevant factors include, but are not limited to, pending litigation, liens and encumbrances on the assets of Contractor, the appointment of a trustee, receiver or liquidator for all or a substantial part of Contractor's property, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against Contractor. Contractor shall provide any records requested by City that City deems necessary to make such a determination.

V. PROGRAM INCOME

- 5.1 For purposes of this Contract, "program income" shall mean earnings of Contractor realized from activities resulting from this Contract or from Contractor's management of funding provided or received hereunder. Such earnings shall include, but shall not be limited to, interest income; usage or rental/lease fees; income produced from contract-supported services of individuals or employees or from the use of equipment or facilities of Contractor provided as a result of this Contract, and payments from clients or third parties for services rendered by Contractor pursuant to this Contract. At the sole option of the Director of the Managing City Department, Contractor will either (a) be required to return program income funds to City through the Managing City Department, or (b) upon prior written approval by the Director of the Managing City Department, Contractor may be permitted to retain such funds to be:
 - (A) added to the Project and used to further eligible Project objectives, in which case proposed expenditures must first be approved by the City; or
 - (B) deducted from the total Project cost for the purpose of determining the net cost reimbursed by the City.
- 5.2 In any case where Contractor is required to return program income to the Managing City Department, Contractor must return such program income to City within the timeframe that may be specified by the Director of the Managing City Department. If the Director of the Managing City Department grants Contractor authority to retain program income, Contractor must submit all reports required by the Managing City Department within the timeframe specified in the Contract.
- 5.3 Contractor shall provide the Managing City Department with thirty (30) days written notice prior to the activity that generates program income. Such notice shall detail the type of activity, time, and place of all activities that generate program income.

- 5.4 The Contractor shall fully disclose and be accountable to the City for all program income. Contractor must submit a statement of expenditures and revenues to the Managing City Department within thirty (30) days of the activity that generates program income. The statement is subject to audit verification by Managing City Department. Failure by Contractor to report program income as required is grounds for suspension, cancellation, or termination of this Contract.
- 5.5 Contractor is prohibited from charging fees or soliciting donations from participants in any City-funded project without the prior written approval of the Director of the Managing City Department.
- 5.6 Contractor shall include this Article V, in its entirety, in all of its subcontracts involving income-producing services or activities.

VI. ADMINISTRATION OF CONTRACT

- 6.1 The Contractor agrees to comply with all the terms and conditions that the City must comply with within its contract with the Grantor, if this Contract is Grant funded. If applicable, a copy of said Grant contract is attached hereto and incorporated herein for all purposes as Attachment V.
- 6.2 In the event that any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this Contract or its governing rules, regulations, laws, codes or ordinances, the City Manager, as representative of the City, is the party ultimately responsible for all matters of compliance with City of San Antonio rules and regulations and the Grantor's rules or regulations, if Grant funded, and shall have the final authority to render or secure an interpretation.
- 6.3 Contractor shall not use funds awarded from this Contract as matching funds for any federal, state or local grant without the prior written approval of the Director of the Managing City Department.
- 6.4 The City shall have the authority during normal business hours to make physical inspections of the operating facility occupied by Contractor for the administration of this Contract and to require such physical safeguarding devices as locks, alarms, security/surveillance systems, safes, fire extinguishers, sprinkler systems, etc. to safeguard property and/or equipment authorized by this Contract.
- 6.5 The Contractor Board of Directors and Management shall adopt and approve an Employee Integrity Policy and shall establish and use internal project management procedures to preclude theft, embezzlement, improper inducement, obstruction of investigation or other criminal action, and to prevent fraud and program abuse. These procedures shall specify the consequences to Contractor's employees and vendors involved in such illegal activities to include but not be limited to termination and prosecution where necessary. Said procedures shall be provided to the Managing City Department upon request by the Managing City Department.
- 6.6 Contractor agrees to comply with the following check writing and handling procedures:
 - (A) No blank checks are to be signed in advance.
 - (B) No checks are to be made payable to cash or bearer with the exception of those for petty cash reimbursement, not to exceed a \$100.00 maximum per check. Contractor agrees that the aggregate amount of petty cash reimbursement shall not exceed \$200.00 per location for any given calendar month during the term of this Contract unless Contractor receives prior written approval from the Managing City Department to exceed such limit. Such requests for petty cash must be supported by the submission to the Managing City Department of an original receipt.
 - (C) Checks issued by City to Contractor shall be deposited into the appropriate bank account immediately or by the next business day after Contractor's receipt of each such check, and shall never be cashed for purposes of receiving any of the face amount back.

- 6.7 City reserves the right to request Contractor to provide additional records for long distance calls, faxes, internet service and/or cell phone calls charged to the City.
- 6.8 The use or purchase of gift cards is not allowable and reimbursable under this Contract.

VII. AUDIT

- 7.1 If Contractor expends \$750,000.00 or more of City dollars, provided pursuant to this Contract or any other City contract, then during the term of this Contract, the Contractor shall have completed an independent audit and shall submit the required report within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months after the end of Contractor's fiscal year, expiration or early termination of this Contract, whichever is earlier. Contractor understands and agrees to furnish the Managing City Department a copy of the audit report, including a corrective action plan on all audit findings, a summary schedule of prior audit findings, management letter and/or conduct of audit letter within thirty (30) calendar days upon receipt of said report or upon submission of said corrective action plan to the auditor.

Contractor agrees and understands that upon notification from federal, state, or local entities that have conducted program reviews and/or audits of the Contractor or its programs of any findings about accounting deficiencies, or violations of Contractor's financial operations, a copy of the notification, review, investigation, and audit violations report must be forwarded to the Managing City Department within a period of ten (10) calendar days upon the Contractor's receipt of the report.

- 7.2 Contractor agrees that if Contractor receives or expends more than \$750,000.00 in federal funds from the City, the audit shall be made in accordance with the Single Audit Act Amendments of 1996, the State of Texas Single Audit Circular, and U.S. Office of Management and Budget Circular (Uniform Guidance) and Contractor shall also be required to submit copies of their annual independent audit report, and all related reports issued by the independent certified public accountant within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Federal cognizant or oversight agency for audit to the Federal Audit Clearinghouse in Jeffersonville, Indiana. Contractor may submit reports through the following website: <http://harvester.census.gov/sac/> and may also contact the Clearinghouse by telephone at (301) 763-1551 (voice) or 1-888-222-9907 (toll free) or 1-800-253-0696.

Upon completion of Form SF-SAC, Contractor may submit the completed report by mail to:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, Indiana 47132

Contractor agrees to reimburse the City or supplement any disallowed costs with eligible and allowable expenses based upon reconciled adjustments resulting from Contractor's Single Audit. Reimbursement shall be made within thirty (30) calendar days of written notification regarding the need for reimbursement.

- 7.3 If Contractor expends less than \$750,000.00 of City dollars during the term of this Contract, then the Contractor shall complete and submit an unaudited financial statement(s) within a period not to exceed nine (9) months immediately succeeding the end of Contractor's fiscal year, expiration or early termination of this Contract, whichever is earlier. Said financial statement shall include a balance sheet and income statement prepared by a bookkeeper and a cover letter signed by Contractor attesting to the correctness of said financial statement.
- 7.4 All financial statement(s) must include a schedule of receipts and disbursements by budgeted cost category for each project funded by or through the City.

- 7.5 The City reserves the right to conduct, or cause to be conducted an audit or review of all funds received under this Contract at any and all times deemed necessary by City. The City Internal Audit Staff, a Certified Public Accounting (CPA) firm, or other personnel as designated by the City, may perform such audit(s) or reviews. The City reserves the right to determine the scope of every audit. In accordance herewith, Contractor agrees to make available to City all accounting and Project records.

Contractor shall 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 Contract and shall continue to be so 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 Contract. Said records shall be maintained for the required period beginning immediately after Contract expiration, save and except when there is litigation or if the audit report covering such Contract has not been accepted, then the Contractor 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 Contractor in accounting for expenses incurred under this Contract, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Contract.

The City may, in its sole and absolute discretion, require the Contractor to use any and all of the City's accounting or administrative procedures used in the planning, controlling, monitoring and reporting of all fiscal matters relating to this Contract, and the Contractor shall abide by such requirements.

- 7.6 When an audit or examination determines that the Contractor has expended funds or incurred costs which are questioned by the City and/or the applicable state or federal governing agency, the Contractor shall be notified and provided an opportunity to address the questioned expenditure or costs.

Should any expense or charge that has been reimbursed be subsequently disapproved or disallowed as a result of any site review or audit, the Contractor will promptly refund such amount to the City no later than ten (10) days from the date of notification of such disapproval or disallowance by the City. At its sole option, the Managing City Department may instead deduct such claims from subsequent reimbursements; however, in the absence of prior notice by City of the exercise of such option, Contractor shall provide to City a full refund of such amount no later than ten (10) days from the date of notification of such disapproval or disallowance by the City. If Contractor is obligated under the provision hereof to refund a disapproved or disallowed cost incurred, such refund shall be required and be made to City by cashier's check or money order. Should the City, at its sole discretion, deduct such claims from subsequent reimbursements, the Contractor is forbidden from reducing Project expenditures and Contractor must use its own funds to maintain the Project.

Contractor agrees and understands that all expenses associated with the collection of delinquent debts owed by Contractor shall be the sole responsibility of the Contractor and shall not be paid from any Project funds received by the Contractor under this Contract.

- 7.7 If the City determines, in its sole discretion, that Contractor is in violation of the above requirements, the City shall have the right to dispatch auditors of its choosing to conduct the required audit and to have the Contractor pay for such audit from non-City resources.

VIII. RECORDS, REPORTING, AND COPYRIGHTS

- 8.1 The Managing City Department is assigned monitoring, fiscal control, and evaluation of projects. Therefore, at such times and in such form as may be required by the Managing City Department, the Contractor shall furnish to the Managing City Department and the Grantor of the grant funds, if applicable, such statements, records, data, all policies, procedures, and information and permit the City and Grantor of the grant funds, if applicable, to have interviews with its personnel, board members and Project participants pertaining to the matters covered by this Contract.

- 8.2 The Contractor shall submit to the Managing City Department such reports as may be required by the City, or as may be required by the Grantor, if Grant funded, including the Contract Monitoring Report, which template is attached hereto and incorporated herein as Attachment IV. At the start of the Contract term, a Contract Monitoring Report containing projected monthly performance measures for the entire Contract term shall be developed and approved by designated Contract monitoring staff. Contractor shall submit a completed Contract Monitoring Report no later than the 15th day of every month which shall reflect the actual services delivered and outcomes achieved against the projected performance measures for all months preceding the submission. The Contractor ensures that all information contained in all required reports submitted to City is accurate and support documentation shall be maintained.
- 8.3 Contractor agrees to maintain in confidence all information pertaining to the Project or other information and materials prepared for, provided by, or obtained from City including, without limitation, reports, information, Project evaluation, Project designs, data, and other related information (collectively, the "Confidential Information") and to use the Confidential Information for the sole purpose of performing its obligations pursuant to this Contract. Additionally, if applicable, Contractor shall execute a HIPAA Business Associate Agreement in substantially the same form as shown in Attachment VI, which is intended to protect the privacy and provide for the security of Protected Health Information disclosed to each other pursuant to this Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws. Contractor shall protect the Confidential Information and shall take all reasonable steps to prevent the unauthorized disclosure, dissemination, or publication of the Confidential Information. If disclosure is required (i) by law or (ii) by order of a governmental agency or court of competent jurisdiction, Contractor shall give the Director of the Managing City Department prior written notice that such disclosure is required with a full and complete description regarding such requirement. Contractor shall establish specific procedures designed to meet the obligations of this Article VIII, Section 8.3, including, but not limited to execution of confidential disclosure agreements, regarding the Confidential Information with Contractor's employees and subcontractors prior to any disclosure of the Confidential Information. This Article VIII, Section 8.3 shall not be construed to limit the City's or its authorized representatives' right of access to records or other information, confidential or otherwise, under this Contract. Upon expiration or early termination of this Contract, Contractor shall return to City all copies of materials related to the Project, including the Confidential Information.
- 8.4 The Public Information Act, Government Code Section 552.021, requires the City to make public information available to the public. Under Government Code Section 552.002(a), public information means information that is written, produced, 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, has a right of access to it, or has spent or contributed public money for the purpose of its writing, production, collection, assembly or maintenance. Therefore, if Contractor receives inquiries regarding documents within its possession pursuant to this Contract, Contractor shall within twenty-four (24) hours of receiving the requests forward such requests to City for disposition. If the requested information is confidential pursuant to state or federal law, the Contractor shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days of Contractor's receipt of such request.
- 8.5 In accordance with Texas law, Contractor 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, Contractor agrees that no such local government records produced by or on the behalf of Contractor pursuant to this Contract shall be the subject of any copyright or proprietary claim by Contractor.

Contractor acknowledges and agrees that all local government records, as described herein, produced in the course of the work required by this Contract, shall belong to and be the property of City and shall be made

available to the City at any time. Contractor further agrees to turn over to City all such records upon expiration or early termination of this Contract, if requested by the City. Contractor agrees that it shall not, under any circumstances, release any records created during the course of performance of the Contract to any entity without the written permission of the Director of the Managing City Department, unless required to do so by a court of competent jurisdiction. The Managing City Department shall be notified of such request as set forth in Article VIII., section 8.3 of this Contract.

- 8.6 Ownership of Intellectual Property. Contractor and City agree that the Project shall be and remain the sole and exclusive proprietary property of City. The Project shall be deemed a "work for hire" within the meaning of the copyright laws of the United States, and ownership of the Project and all rights therein shall be solely vested in City. Contractor hereby grants, sells, assigns, and conveys to City all rights in and to the Project and the tangible and intangible property rights relating to or arising out of the Project, including, without limitation, any and all copyright, patent and trade secret rights. All intellectual property rights including, without limitation, patent, copyright, trade secret, trademark, brand names, color schemes, designs, screens, displays, user interfaces, data structures, organization, sequences of operation, trade dress, and other proprietary rights (the "Intellectual Property Rights") in the Project shall be solely vested in City. Contractor agrees to execute all documents reasonably requested by City to perfect and establish City's right to the Intellectual Property Rights. In the event City shall be unable, after reasonable effort, to secure Contractor's signature on any documents relating to Intellectual Property Rights in the Project, including without limitation, any letters patent, copyright, or other protection relating to the Project, for any reason whatsoever, Contractor hereby irrevocably designates and appoints City and its duly authorized officers and agents as Contractor's agent and attorney-in-fact, to act for and in Contractor's behalf and stead to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright or other analogous protection thereon with the same legal force and effect as if executed by Contractor. Provided, however, nothing herein contained is intended nor shall it be construed to require Contractor to transfer any ownership interest in Contractor's best practice and benchmarking information to the City.
- 8.7 Within a period not to exceed 90 days from the expiration or early termination date of the Contract, Contractor shall submit all final client and/or fiscal reports and all required deliverables to City. Contractor understands and agrees that in conjunction with the submission of the final report, the Contractor shall execute and deliver to City a receipt for all sums and a release of all claims against the Project.
- 8.8 Contractor shall provide to the Managing City Department all information requested by the Managing City Department relating to the Contractor's Board functions. Information required for submission shall include but may not be limited to:
- (A) Roster of current Board Members (name, title, address, telephone number, fax number and e-mail address);
 - (B) Current Bylaws and Charter;
 - (C) Terms of Officers;
 - (D) Amendments to Bylaws;
 - (E) Schedule of anticipated board meetings for current Fiscal Year;
 - (F) Minutes of board meetings that are approved by the Contractor's board; and
 - (G) Board Agenda, to be submitted at least three (3) business days prior to each Board meeting.
- 8.9 Contractor agrees to comply with official records retention schedules in accordance with the Local Government Records Act of 1989 and any amendments thereto, referenced in section 12.3 of this Contract.

IX. INSURANCE

- 9.1 Contractor agrees to comply with the following insurance provisions:
- (A) Prior to the commencement of any work under this Contract, Contractor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the Managing City Department, which shall be clearly labeled "**Veteran's Homeless Program**" in the Description of Operations block of the

Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the authorized representative of the carrier, and list the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Contract until such certificate and endorsements have been received and approved by the Managing City Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

(B) The City reserves the right to review the insurance requirements of this Article during the effective period of this Contract 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 Contract. In no instance will City allow modification whereby City may incur increased risk.

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

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal / Advertising Injury d. Sexual Abuse / Molestation**	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence
** Required for projects involving services to children	

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

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

City of San Antonio
Attn: Department of Human Services
P.O. Box 839966
San Antonio, Texas 78283-3966

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

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

(G) Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this Contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Contract.

(H) In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

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

(J) It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Contract.

(K) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Contract and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided.

(L) Contractor and any Subcontractors are responsible for all damage to their own equipment and/or property.

X. INDEMNITY

10.1 CONTRACTOR AGREES TO COMPLY WITH THE FOLLOWING INDEMNITY PROVISION:

CONTRACTOR covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages,

losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONTRACTOR'S activities under this CONTRACT, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, consultant or subcontractor of CONTRACTOR, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this CONTRACT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

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.

CONTRACTOR shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR'S activities under this CONTRACT.

XI. SMALL, MINORITY OR WOMAN OWNED BUSINESS ADVOCACY POLICY

THIS SECTION INTENTIONALLY LEFT BLANK

XII. APPLICABLE LAWS

- 12.1 The Contractor certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988. Failure to comply with the above-referenced law and regulations could subject the Contractor to suspension of payments, termination of Contract, and debarment and suspension actions.
- 12.2 The Contractor understands that certain funds provided pursuant to this Contract are funds which have been made available by the City's General Operating Budget and/or by federal, state, or other granting entities. Consequently, Contractor agrees to comply with all laws, rules, regulations, policies, and procedures applicable to the funds received by Contractor hereunder as directed by the City or as required in this Contract. In addition, Contractor agrees that:
- (A) Contractor shall comply with the Office of Management and Budget (OMB) Circular at 2 C.F.R. 200 et al. entitled Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), as applicable to the funds received by Contractor.
- (B) Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. Contractor agrees to include within its subcontracts a requirement that its subcontractors comply with this provision.
- (C) Contractor has tendered to the City a Certification of Restrictions on Lobbying in compliance with the Byrd Anti-lobbying Amendment (31 U.S.C. §1352), and any applicable implementing regulations, if Contractor applied for or bid for an award exceeding \$100,000.00 from the City.
- 12.3 All of the work performed under this Contract by Contractor shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Texas and with the charter, ordinances, bond

ordinances, and rules and regulations of the City of San Antonio and County of Bexar. Additionally, Contractor shall comply with the following:

- Local Government Records Act of 1989 official record retention schedules found at <http://www.tsl.state.tx.us/slr/recordspubs/gr.html>
- Government Code Chapter 552 pertaining to Texas Public Information Act found at <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm>
- Texas Local Government Code Chapter 252 pertaining to purchasing and contracting authority of municipalities
- Texas Government Code Chapter 2254 pertaining to Professional and Consulting Services
- Texas Local Government Code can be found at <http://www.statutes.legis.state.tx.us/>

In addition to the applicable laws referenced above, Contractor must also adhere to compliance requirements that are applicable to the specific funding source(s) from which funds paid to Contractor hereunder originated. For example, CDBG Contractors are required to follow applicable CDBG regulations.

- 12.4 As a party to this Contract, Contractor understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio 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 herein. Additionally, Contractor certifies that it will comply fully with the following nondiscrimination, minimum wage and equal opportunity provisions, including but not limited to:
- (A) Title VII of the Civil Rights Act of 1964, as amended;
 - (B) Section 504 of the Rehabilitation Act of 1973, as amended;
 - (C) The Age Discrimination Act of 1975, as amended;
 - (D) Title IX of the Education Amendments of 1972, as amended; (Title 20 USC sections 1681-1688)
 - (E) Fair Labor Standards Act of 1938, as amended;
 - (F) Equal Pay Act of 1963, P.L. 88-38; and
 - (G) All applicable regulations implementing the above laws.
- 12.5 The Contractor warrants that any and all taxes that the Contractor may be obligated for, including but not limited to, federal, state, and local taxes, fees, special assessments, federal and state payroll and income taxes, personal property, real estate, sales and franchise taxes, are current, and paid to the fullest extent liable as of the execution date of the Contract. The Contractor shall comply with all applicable local, state, and federal laws including, but not limited to:
- (A) worker's compensation;
 - (B) unemployment insurance;
 - (C) timely deposits of payroll deductions;
 - (D) filing of Information on Tax Return form 990 or 990T, Quarterly Tax Return Form 941, W-2's Form 1099 on individuals who received compensation other than wages, such as car allowance, Forms 1099 and 1096 for contract or consultant work, non-employee compensation, etc;
 - (E) Occupational Safety and Health Act regulations; and
 - (F) Employee Retirement Income Security Act of 1974, P.L. 93-406.
- 12.6 Contractor agrees to comply with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq., and all regulations thereunder.
- 12.7 In compliance with Texas Government Code Section 2264.053, Restrictions on Use of Certain Public Subsidies, if Contractor receives a public subsidy and is found to be in violation of 8 U.S.C. 1324a(f), Contractor shall repay all funds received under this Contract with interest in the amount of three percent (3%). Such repayment shall be made within 120 days of Contractor receiving notice from the City of the violation. For the purposes of this section, a public subsidy is defined as a public program or public benefit or assistance of any type that is designed to stimulate the economic development of a corporation, industry or sector of the state's economy or to retain or create jobs in this state. This term includes grants, loans, loan guarantees, benefits relating to an enterprise or empowerment zone, fee waivers, land price

subsidies, infrastructure development and improvements designed to principally benefit a single business or defined group of businesses, matching funds, tax refunds, tax rebates or tax abatements.

- 12.8 Contractor agrees to abide by any and all future amendments or additions to all laws, rules, regulations, policies and procedures pertinent to this Contract as they may be promulgated.
- 12.9 All expenditures by the Contractor or any of its subcontractors must be made in accordance with all applicable federal, state and local laws, rules and regulations. If using City of San Antonio General Funds, expenditures shall be made in accordance with all bidding requirements that City would be required to perform under Chapter 252 of the Texas Local Government Code.
- 12.10 Contractor shall submit to the Managing City Department on an annual basis form 990 or 990T thirty (30) days after Internal Revenue Service (IRS) deadlines for completion. If filing an extension, Contractor shall notify the City in writing of the extension and the anticipated date of filing with the IRS. Contractor shall submit the 990 or 990T to the Managing City Department no later than 30 days after the date of filing the form for which Contractor received an extension.

XIII. NO SOLICITATION/CONFLICT OF INTEREST

- 13.1 The Contractor warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this Contract 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 the Contractor or the City. For breach or violation of this warrant, the City shall have the right to terminate this Contract without liability or, at its discretion, to deduct from the Contract 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.
- 13.2 Contractor 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 Contract. Contractor further covenants that in the performance of this Contract, no persons having such interest shall be employed or appointed as a member of its governing body or of its staff.
- 13.3 Contractor further covenants that no member of its governing body or of its staff shall possess any interest in, or use their position for, a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with which they have family, business, or other ties.
- 13.4 No member of City's governing body or of its staff who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this Contract shall:
 - (A) Participate in any decision relating to this Contract 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 Contract or the proceeds thereof.
- 13.5 Contractor 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 the City or any City agency such as City owned utilities. An officer or employee has "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: A City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a

business entity in which any individual or entity above listed is subcontractor on a City contract, a partner or a parent or subsidiary business entity.

- 13.6 Contractor warrants and certifies, and this Contract is made in reliance thereon, that neither the Contractor nor his or her spouse, parent, child, sibling or first-degree relative is a City officer or employee as defined by Section 2-52 (e) of the City Ethics Code. (If Contractor is a business entity, the Contractor representative further warrants and certifies that no City officer or employee nor any spouse, parent, child sibling or first-degree relative of a City officer or employee owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity). Contractor further warrants and certifies that is has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XIV. TERMINATION

- 14.1 Termination for Cause - Should the Contractor fail to fulfill, in a timely and proper manner, obligations under this Contract to include performance standards established by the City, or if the Contractor should violate any of the covenants, conditions, or stipulations of the Contract, the City shall thereupon have the right to terminate this Contract in whole or in part by sending written notice to the Contractor of such termination and specify the effective date thereof (which date shall not be sooner than the tenth (10th) day following the day on which such notice is sent). The Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed prior to such termination date. The question of satisfactory completion of such work shall be determined by the City alone, and its decision shall be final. It is further expressly understood and agreed by the parties that Contractor's performance upon which final payment is conditioned shall include, but not be limited to, the Contractor's complete and satisfactory performance, of its obligations for which final payment is sought.
- 14.2 Termination for Convenience - This Contract may be terminated in whole or in part when the City determines that continuation of the Project would not produce desired results commensurate with the further expenditure of funds or if the City has insufficient revenue to satisfy the City's liabilities hereunder. Such termination by City shall specify the date thereof, which date shall not be sooner than the thirtieth (30th) day following the day on which notice is sent. The Contractor shall also have the right to terminate this Contract and specify the date thereof, which date shall not be sooner than the end of the thirtieth (30th) day following the day on which notice is sent. The Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed prior to such termination date. The question of satisfactory completion of such work shall be determined by the City alone, and its decision shall be final. It is further expressly understood and agreed by the parties that Contractor's performance upon which final payment is conditioned shall include, but not be limited to, the Contractor's complete and satisfactory performance of its obligations for which final payment is sought.
- 14.3 Notwithstanding any other remedy contained herein or provided by law, the City may delay, suspend, limit, or cancel funds, rights or privileges herein given the Contractor for failure to comply with the terms and provisions of this Contract. Specifically, at the sole option of the City, the Contractor may be placed on probation during which time the City may withhold reimbursements in cases where it determines that the Contractor is not in compliance with this Contract. The Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract, and the City may withhold funds otherwise due as damages, in addition to retaining and utilizing any other remedies available to the City.
- 14.4 Should the Contractor be debarred by City pursuant to a debarment policy currently existing or hereafter adopted, said debarment may within City's sole and absolute discretion, be grounds for termination for cause.

XV. PROHIBITION OF POLITICAL ACTIVITIES

- 15.1 Contractor agrees that no funds provided from or through the 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 the Project provided for in this Contract be assigned to work for or on behalf of any partisan or non-partisan political activity.

- 15.2 Contractor agrees that no funds provided under this Contract may be used in any way to attempt to influence, in any manner, a member of Congress or any other state or local elected or appointed official.
- 15.3 The prohibitions set forth in sections 15.1 and 15.2 of Article XV of this Contract 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 directing other personnel to work on any political activity during time paid for with City funds, 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;
 - (C) coercing personnel, whether directly or indirectly, to work on political activities on their personal time, including 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
 - (D) using facilities or equipment paid for, in whole or in part with City funds for political purposes including physical facilities such as office space, office equipment or supplies, such as telephones, computers, fax machines, during and after regular business hours.
- 15.4 To ensure that the above policies are complied with, Contractor shall provide every member of its personnel paid out of City funds with a statement of the above prohibitions and have each said individual sign a statement acknowledging receipt of the policy. Such statement shall include a paragraph that directs any staff person who has knowledge of violations or feels that he or she has been pressured to violate the above policies to call and report the same to the Managing City Department. Contractor shall list the name and number of a contact person from the Managing City Department on the statement that Contractor's personnel can call to report said violations.
- 15.5 Contractor agrees that in any instance where an investigation of the above is ongoing or has been confirmed, reimbursements paid to the Contractor under this Contract may, at the City's discretion, be withheld until the situation is resolved.
- 15.6 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, Contractor and staff members are not prohibited from participating in political activities on their own volition, if done during time not paid for with City funds.

XVI. PERSONNEL MANAGEMENT

- 16.1 The Contractor agrees to establish internal procedures that assure employees of an established complaint and grievance policy. The grievance policy will include procedures to receive, investigate, and resolve complaints and grievances in an expeditious manner.
- 16.2 Contractor is permitted to pay its full time employees funded through this Contract for the total number of holidays authorized by the City Council for City employees. If the Contractor elects to observe more than the total number of holidays authorized by the City Council for City employees, then such additional days are not eligible for reimbursement under this Contract.

- 16.3 Contractor agrees that the job titles and descriptions set forth in the budget (Attachment II) that affect a salary or range increase may not be changed without justification and prior written approval from the Director of the Managing City Department.
- 16.4 Contractor agrees that all copies of written job descriptions will be filed in all individual personnel folders for each position in the organization funded through this Contract.
- 16.5 The Contractor agrees to provide the City with the names and license registration of any employees of Contractor regulated by state law whose activities contribute towards, facilitate, or coordinate the performance of this Contract.
- 16.6 At the sole discretion of the Director of the Managing City Department, Contractor may be reimbursed by City for the cost of pay granted to full time, permanent employees that is not chargeable to annual or personal leave only for the reasons listed below:
- (A) To attend annual training in a branch of the Armed Services, not to exceed fifteen (15) business days during the term of this Contract;
 - (B) To serve as a juror;
 - (C) To attend the funeral of someone in the immediate family. Immediate family shall include father, step-father, father-in-law, mother, step-mother, mother-in-law, sister, step-sister, brother, step-brother, spouse, child, and relative, if such relative is actually a member of the employee's household, if he or she was the legal guardian of the employee, or if the employee had legal guardianship of said relative. In such event, the Contractor may grant up to three (3) work days of leave with pay that is not chargeable to annual or personal leave; or
 - (D) To attend seminars or workshops.
- 16.7 Chief Executive Officers (CEOs), directors and other supervisory personnel of Contractor may not supervise a spouse, parents, children, brothers, sisters, and in-laws standing in the same relationship, (hereinafter referred to as "Relatives") who are involved in any capacity with program delivery supported through City funds. Relatives, however, may be co-workers in the same Project in a non-supervisory position.

XVII. ADVERSARIAL PROCEEDINGS

- 17.1 Contractor agrees to comply with the following special provisions:
- (A) Under no circumstances will the funds received under this Contract be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the City or any other public entity; and
 - (B) Contractor, at the City's option, could be ineligible for consideration to receive any future funding while any adversarial proceedings against the City remains unresolved.

XVIII. CITY-SUPPORTED PROJECT

- 18.1 Contractor shall publicly acknowledge that this Project is supported by the City of San Antonio, Department of Human Services. Throughout the term of this Contract, Contractor agrees to include written acknowledgment of the City's financial support in all Project-related presentations, press releases, flyers, brochures and other informational material prepared and distributed by Contractor. Contractor shall obtain the City's prior approval of the language and logo, as applicable, to be used.

XIX. EQUIPMENT

- 19.1 The City retains ownership of all equipment/property purchased with funds received through the City and such equipment/property shall, at the City's sole option, revert to the City at Contract's expiration or early termination, for whatever reason. The Contractor agrees to relinquish and transfer possession of and, if applicable, title to said property without the requirement of a court order upon expiration or early termination of this Contract. Equipment that has reverted to the Contractor through a City-paid lease agreement with option to buy will be considered the same as though the equipment was purchased outright with City funds. It is understood that the terms, "equipment" and "property", as used herein, shall include not only furniture and other durable property, but also vehicles.
- 19.2 Contractor agrees that no equipment purchased with City funds may be disposed of without receiving prior written approval from the Managing City Department. In cases of theft and/or loss of equipment, it is the responsibility of the Contractor to replace it with like equipment. City funds cannot be used to replace equipment in those instances. All replacement equipment will be treated in the same manner as equipment purchased with City funds.
- 19.3 Contractor shall maintain records on all items obtained with City funds to include:
- (A) A description of the equipment, including the model and serial number, if applicable;
 - (B) The date of acquisition, cost and procurement source, purchase order number, and vendor number;
 - (C) An indication of whether the equipment is new or used;
 - (D) The vendor's name (or transferred from);
 - (E) The location of the property;
 - (F) The property number shown on the property tag; and
 - (G) A list of disposed items and disposition
- 19.4 The Contractor is fully and solely responsible for the safeguarding, maintaining, and reporting of lost, stolen, missing, damaged, or destroyed equipment/property purchased or leased with City funds. All lost, stolen, missing, damaged and/or destroyed equipment/property shall be reported to the local Police Department and, if applicable, the Federal Bureau of Investigation (FBI). The Contractor shall make such reports immediately and shall notify and deliver a copy of the official report to the Managing City Department within seventy-two (72) hours from the date that Contractor discovers the equipment/property having been lost, stolen, missing, damaged and/or destroyed. The report submitted by the Contractor to the Managing City Department shall minimally include:
- (A) A reasonably complete description of the missing, damaged or destroyed articles of property, including the cost and serial number and other pertinent information;
 - (B) A reasonably complete description of the circumstances surrounding the loss, theft, damage or destruction; and
 - (C) A copy of the official written police report or, should the Police not make such copy available, a summary of the report made to the Police, including the date the report was made and the name and badge number of the Police Officer who took the report.
- 19.5 All equipment purchased under this Contract shall be fully insured against fire, loss and theft.
- 19.6 The Contractor shall provide an annual inventory of assets purchased with funds received through the City to the Managing City Department.

XX. TRAVEL

- 20.1 The costs associated with budgeted travel for business, either in-town or out-of-town, are allowable costs provided documentation of expenses is present and approved in the budget.
- 20.2 Contractor agrees that mileage reimbursement paid to Contractor's employees shall be reimbursed at a rate no more liberal than the City's policy for mileage reimbursement, which is consistent with IRS rules.

Contractor further agrees that in order for its employees to be eligible for mileage reimbursement, the employees 1) shall be required to possess a valid Texas Driver's License and liability insurance as required by law, and 2) must record, on a daily basis, odometer readings before and after business use, showing total business miles driven each day and must keep such record on file for City inspection, if requested. Mileage records are subject to spot-checks by the City. Contractor shall strongly encourage the participation by its employees in an approved defensive driving course. Evidence of the required driver's license and liability insurance must be kept on file with the Contractor.

- 20.3 Contractor agrees that in order to obtain reimbursement of the costs associated with budgeted out of town travel for business in connection with this Contract, Contractor shall 1) provide City with detailed documentation of such business travel expense(s), 2) ensure that any and all costs associated with out-of-town travel (including per diem rates) shall not be more liberal than the City's travel policies which conform with the reimbursement rates established by the United States General Services Administration, 3) purchase all business travel at economy class rates and shall document such, and 4) submit support for conferences to include itineraries and documentation certifying conference attendance.

XXI. NO USE OF FUNDS FOR RELIGIOUS ACTIVITIES

- 21.1 Contractor agrees that none of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

XXII. DEBARMENT

- 22.1 Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal Program.
- 22.2 Contractor shall provide immediate written notice to City, in accordance with the notice requirements of Article XXVI herein, if, at any time during the term of the Contract, including any renewals hereof, Contractor learns that its certification was erroneous when made or have become erroneous by reason of changed circumstances.

XXIII. ASSIGNMENT

- 23.1 Contractor shall not assign nor transfer Contractor's interest in this Contract or any portion thereof without the written consent of the City Council of San Antonio, and if applicable, the Grantor of the grant source. Any attempt to transfer, pledge or otherwise assign shall be void ab initio and shall confer no rights upon any third person or party.

XXIV. AMENDMENT

- 24.1 Any alterations, additions or deletions to the terms hereof shall be by amendment in writing executed by both City and Contractor and evidenced by passage of a subsequent City ordinance, as to City's approval; provided, however, the Director of the Managing City Department shall have the authority to execute an amendment of this Contract without the necessity of seeking any further approval by the City Council of the City of San Antonio, if permitted by all applicable local, state and federal laws, and in the following circumstances:
- (A) an increase in funding of this Contract in an amount not exceeding (a) twenty-five percent (25%) of the total amount of this Contract or (b) \$25,000.00, whichever is the lesser amount; provided, however, that the cumulative total of all amendments increasing funding and executed without City Council approval pursuant to this subsection during the term of this Contract shall not exceed the foregoing amount;

- (B) modifications to the Scope of Work and Scorecard set forth in Attachment I hereto due to the adjustment described in subsection (A) of this Section or for any other reason, so long as the terms of the amendment are reasonably within the parameters set forth in the original Scope of Work and Scorecard;
- (C) budget shifts of funds, so long as the total dollar amount of the budget set forth in section 3.1 of this Contract remains unchanged (these modifications may be accomplished through Budget revisions);
- (D) modifications to the insurance provisions described in Article IX of this Contract that receive the prior written approval of the City of San Antonio's Risk Manager and the Director of the Managing City Department;
- (E) reduction of the total Contract amount in order to comply with the match requirement expenditure ratio set forth in Section 3.3, and to amend the budget accordingly which is set forth in Attachment II hereto. Contractor shall execute any and all amendments to this Contract that are required as a result of a modification made pursuant to this Section 24.1(E); or
- (F) reductions to Article I Scope of Work and Article III Consideration in order to comply with Section 3.4.

XXV. SUBCONTRACTING

- 25.1 None of the work or services covered by this Contract shall be sub-contracted without the prior written consent of the City and Grantor of the grant source, if so required by said Grantor.
- 25.2 Contractor must comply with all applicable local, state and federal procurement standards, rules, regulations and laws in all its sub-contracts related to the work or funds herein. It is further agreed by the parties hereto that the City has the authority to monitor, audit, examine, and make copies and transcripts of all sub-contracts, as often as deemed appropriate by the City. If, in the sole determination of the City, it is found that all applicable local, state and federal procurement standards, rules, regulations and laws have not been met by Contractor with respect to any of its sub-contracts, then the Contractor will be deemed to be in default of this Contract, and as such, this Contract will be subject to termination in accordance with the provisions hereof.
- 25.3 Any work or services for sub-contracting hereunder, shall be sub-contracted only by written Contract, and unless specific waiver is granted in writing by City, shall be subject by its terms to each and every provision of this Contract. Compliance by sub-contractors with this Contract shall be the responsibility of Contractor. Contractor agrees that payment for services of any sub-contractor shall be submitted through Contractor, and Contractor shall be responsible for all payments to sub-contractors.
- 25.4 Contractor certifies that its subcontractors are not presently debarred, suspended or proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal Program.

XXVI. OFFICIAL COMMUNICATIONS

- 26.1 For purposes of this Contract, all official communications and notices among the parties shall be deemed sufficient if in writing and delivered in person, mailed by overnight or express service or mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

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

Contractor:
 Executive Director
 Family Endeavors
 353 Bandera Road
 San Antonio, Texas 78228

Notices of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of the change.

XXVII. VENUE

- 27.1 Contractor and City agree that this Contract 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 Contract or adjudicate any dispute arising out of this Contract 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 Contract shall lie exclusively in Bexar County, Texas.

XXVIII. GENDER

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

XXIX. AUTHORITY

- 29.1 The signer of this Contract for Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Contract on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained. Contractor shall provide evidence to City upon execution of this Contract that it is currently operating as a Texas non-profit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code, or a for-profit entity governed by an autonomous governing body, acting in accordance with the governing instruments submitted to the City in its application for funding. Whether a non-profit or for-profit entity, Contractor must be authorized to do business in the State of Texas and be formed under and operating in accordance with all applicable laws of the State of Texas. Contractor shall provide Managing City Department verification of the foregoing requirements no later than the execution date of this Contract.

XXX. LICENSES AND TRAINING

- 30.1 Contractor warrants and certifies that Contractor's employees and its subcontractors have the requisite training, license or certification to provide the services required under this Contract, and meet all competence standards promulgated by all other authoritative bodies, as applicable to the services provided hereunder.

XXXI. INDEPENDENT CONTRACTOR

- 31.1 It is expressly understood and agreed that the Contractor is and shall be deemed to be an independent contractor, responsible for its respective acts or omissions and that the City shall in no way be responsible therefor, and that neither party hereto has authority to bind the other nor to hold out to third parties that it has the authority to bind the other.
- 31.2 Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of employer-employee, principal-agent, partners, joint venture, or any other similar such relationship, between the parties hereto.
- 31.3 Any and all of the employees of the Contractor, wherever located, while engaged in the performance of any work required by the City under this Contract shall be considered employees of the Contractor only, and

not of the City, and any and all claims that may arise from the Workers' Compensation Act on behalf of said employees while so engaged shall be the sole obligation and responsibility of the Contractor.

XXXII. SEVERABILITY

- 32.1 If any clause or provision of this Contract is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of City, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Contract shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Contract that is invalid, illegal or unenforceable, there be added as a part of this Contract a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XXXIII. CONTRIBUTION PROHIBITIONS

The provisions of Article XXXIII shall apply to all contracts considered "high profile" as that term is defined in the City of San Antonio Procurement Policy and Procedures Manual.

- 33.1 Contractor acknowledges that City Code Section 2-309 provides that any person acting as a legal signatory for a proposed contractual relationship that applies for a "high-profile" discretionary contract, as defined by the City of San Antonio Procurement Policy and Procedures Manual, may not make a campaign contribution to any councilmember or candidate at any time from the tenth business day after the Request for Proposal (RFP) or Request for Qualifications (RFQ) or other solicitation is released, or for a contract for which no competitive solicitation has been issued by the City from the time the City begins discussions or negotiations, and ending on the 30th calendar day following the contract award. Contractor understands that if the legal signatory entering the Contract has made such a contribution, the City may not award the Contract to that contributor or to that contributor's business entity. Any legal signatory for a proposed high-profile contract must be identified within the response to the RFP or RFQ, if the identity of the signatory will be different from the individual submitting the response.
- 33.2 Contractor acknowledges that the City has identified this Contract as high profile.
- 33.3 Contractor warrants and certifies, and this Contract is made in reliance thereon, that the individual signing this Contract has not made any contributions in violation of City Code section 2-309, and will not do so for 30 calendar days following the award of this Contract. Should the signer of this Contract violate this provision, the City Council may, in its discretion, declare the Contract void.

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XXXIV. ENTIRE CONTRACT

34.1 This Contract and its attachments, if any, constitute the entire and integrated Contract between the parties hereto and contain all of the terms and conditions agreed upon, and supersede all prior negotiations, representations, or contracts, either oral or written.

This Contract has been executed effective as of the date of signature of the last party to sign (the "Effective Date").

CITY OF SAN ANTONIO:

CONTRACTOR:

FAMILY ENDEAVORS

Melody Woosley, Director
Department of Human Services

Travis Pearson, Executive Director

Date

Date

APPROVED AS TO FORM:

Assistant City Attorney

Board President (if required by Agency)

ATTACHMENTS

Attachment I – Scope of Work and Scorecard
Attachment II – Budget
Attachment III – Funding Guide
Attachment IV – Contract Monitoring Report
Attachment V – Grantor Contract
Attachment VI - HIPAA Business Associate Agreement

STATE OF TEXAS * CONTRACT
 COUNTY OF BEXAR * FOR
 CITY OF SAN ANTONIO * FINANCIAL COUNSELING SERVICES
 PROJECT NUMBER: _____; CFDA: 14.218

This CONTRACT FOR FINANCIAL COUNSELING SERVICES (this "**CONTRACT**") is entered into by and between the City of San Antonio, a Texas municipal corporation ("**CITY**"), acting by and through its Director of the Department of Human Services ("**DHS**"), pursuant to Ordinance No. _____, dated _____, 2016, and Family Service Association of San Antonio, Inc., a Texas non-profit corporation ("**CONTRACTOR**").

RECITALS

WHEREAS, CITY has designated DHS to provide comprehensive direct and contractual services in the areas of early education and child care assistance, education, financial and emergency assistance, homeless assistance, and senior services;

WHEREAS, as part of its Financial Empowerment Program (the "**Program**"), CITY presently contracts with CONTRACTOR to provide certain financial counseling services (the "**Services**") to the public at The Neighborhood Place and Claude Black Community Center;

WHEREAS, CITY wishes to engage CONTRACTOR to continue performing the Services for fiscal year 2016-2017, and CONTRACTOR desires to continue to perform the Services, based on the terms and conditions set forth herein; and

WHEREAS, funds for this CONTRACT (the "**Grant Funds**") have been allocated from certain funds from the U.S. Department of Housing and Urban Development ("**HUD**") under Title I of the Housing and Community Development Act of 1974, as amended (the "**Community Development Act**"), for utilization in connection with its Community Development Block Grant Program ("**CDBG**").

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. SCOPE OF WORK

1.1 CONTRACTOR will provide, oversee, administer, and carry out all activities and services in a manner satisfactory to CITY and in compliance with the Scope of Work attached hereto as Attachment I.

II. TERM

2.1 Except as otherwise provided for pursuant to the provisions hereof, this

CONTRACT shall begin on **October 1, 2016** and shall terminate on **September 30, 2017**.

III. CONSIDERATION

3.1 As consideration for the Services, CITY will reimburse CONTRACTOR for costs incurred in accordance with the budget approved by the City Council of San Antonio (the "**City Council**") in the above-referenced ordinance (the "**Budget**"), and all subsequently authorized amendments to that Budget. The Budget is attached hereto as Attachment II. It is specifically agreed by the parties that reimbursement hereunder shall not exceed the total amount of One Hundred Thousand and 00/100 Dollars (\$100,000.00).

3.2 It is expressly understood and agreed by CITY and CONTRACTOR that CITY's obligations under this CONTRACT are contingent upon the actual receipt of adequate funds to meet CITY's liabilities hereunder. Should CITY not receive sufficient funds to make payments pursuant to this CONTRACT or should awarded Grant Funds be reduced, CITY shall notify CONTRACTOR in writing within a reasonable time after such fact has been determined and CITY may, at its sole option, either terminate this CONTRACT or reduce the Scope of Work and consideration accordingly.

IV. RECEIPT, DISBURSEMENT, AND ACCOUNT OF FUNDS BY CONTRACTOR

4.1 CONTRACTOR understands and agrees that it shall maintain a separate numbered account for the receipt and disbursement of all funds received pursuant to this CONTRACT and of any Program Income (defined in Section 6.1 below) resulting therefrom, if applicable, and further understands and agrees that:

- (A) Such account shall contain only those funds received pursuant to this CONTRACT and that no other funds shall be mingled therewith except funds deemed to be Program Income;
- (B) All checks and withdrawals from such account shall have itemized documentation in support thereof;
- (C) Such account shall be maintained, under conditions approved by CITY, in a financial institution having Federal Deposit Insurance Corporation ("**FDIC**") coverage, with any account balance exceeding the FDIC coverage likewise collaterally secured; and
- (D) Upon CONTRACTOR's written request and solely within the discretion of CITY, an alternative accounting mechanism may be permitted, provided such alternative adheres at all times to generally accepted accounting principles.

4.2 Regarding method of payment, CITY and CONTRACTOR agree as follows:

- (A) CONTRACTOR shall deliver an invoice to DHS on a monthly basis, with the prior month's invoice received by DHS no later than the fifteen (15th) day of each month;

- (B) CONTRACTOR shall submit to CITY such other reports as may be required by CITY to document CITY's liabilities under this CONTRACT;
- (C) Upon receipt of and approval by CITY of each of CONTRACTOR's invoice, CITY shall pay to CONTRACTOR an amount equal to CITY's liabilities not previously billed to and subsequently paid by CITY, subject to deduction for any costs questioned or not allowable; *provided, however*, delinquent or unacceptable billing of CITY by CONTRACTOR shall justify delay of payment by CITY; and
- (D) CONTRACTOR's financial management system shall provide for an adequate procedure to minimize the time elapsed between CITY's payment to CONTRACTOR and CITY's disbursement of funds to CONTRACTOR.

4.3 Within ten (10) business days of CITY's written request, CONTRACTOR shall refund to CITY any sum of money paid by CITY to CONTRACTOR later determined to:

- (A) Have resulted in overpayment to CONTRACTOR;
- (B) Have not been spent by CONTRACTOR strictly in accordance with the terms of this CONTRACT; and/or
- (C) Not be supported by adequate documentation to fully justify the expenditure.

4.4 Upon termination of this CONTRACT, should any expense or charge for which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by CITY, HUD, or any other federal agency, CONTRACTOR shall refund such amount to CITY within ten (10) business days of CITY's written request specifying the amount disallowed or disapproved. Refunds of disallowed or disapproved costs, however, shall not be made from funds received pursuant to this CONTRACT or from funds received from or through the federal government or CITY.

V. PAYMENT

5.1 CONTRACTOR agrees that this is a cost reimbursement contract and that CITY's liability hereunder is limited to making reimbursements for allowable costs incurred as a direct result of CITY-funded services provided by CONTRACTOR during the term of this CONTRACT. CONTRACTOR expressly understands and acknowledges that it shall not be entitled to reimbursement from this CONTRACT for work, activities or services provided or costs incurred prior to **October 1, 2016**. 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 XII below, for the proper administration and performance of the Services to be provided under this CONTRACT. All requested reimbursed costs must be consistent with the terms and provisions of the approved budgeted line items described in Attachment II of this CONTRACT, unless (A) a subsequent Budget revision has been approved and signed by the Director of DHS (the "**Director**") in cases where the total Budget remains the same, or (B) an amendment to this CONTRACT has been approved and signed by the Director pursuant to Section 24.1 below in cases where there is an increase or decrease to the total Budget. Approved Budget revisions and amendments to this CONTRACT supersede prior conflicting or inconsistent agreements with regard to the referenced Budget, and all references in this CONTRACT to the Budget shall mean the Budget as revised through

approved Budget revisions or amendments to this CONTRACT. Budget revision requests shall be submitted in advance of anticipated expense(s). CITY will not accept Budget revision requests submitted after August 31, 2017. In no event shall CITY be liable for any cost of CONTRACTOR not eligible for reimbursement as defined within this CONTRACT. Within ten (10) business days after CITY's request, CONTRACTOR shall remit to CITY any funded amounts which were paid pursuant to this Article V and used to cover disallowed costs. Any such amounts not remitted within ten (10) business days may, at CITY's option, be subject to offset against future funding obligations by CITY.

5.2 If specific circumstances require an advance payment under this CONTRACT, CONTRACTOR must submit to the Director a written request for such advance payment, including the specific reasons for such request. The Director may, in Director's sole discretion, approve an advance payment on this CONTRACT. It is understood and agreed by the parties hereto that (A) each request requires submission to the Director no less than ten (10) business days prior to the actual ostensible cash need; (B) each request will be considered by the Director on a case-by-case basis; and (C) the decision by the Director whether or not to approve an advance payment is final. In those instances in which advance payments are authorized:

- (i) Advance payments to vendors shall be remitted to the vendors in a prompt and timely manner, which shall mean no later than ten (10) days after CONTRACTOR is notified that a check is available from CITY.
- (ii) CONTRACTOR must deposit CITY funds in a separate account in a bank insured with the FDIC. In those situations where CONTRACTOR's total deposits in said bank, including all CITY funds deposited in such separate account, exceed the FDIC insurance limit, CONTRACTOR must arrange with said bank to automatically have the excess collaterally secured. A written copy of the collateral agreement must be obtained by CONTRACTOR from CONTRACTOR's banking institution, maintained on file and be available for CITY's monitoring reviews and audits. Advanced funds that cause CONTRACTOR's account balance to exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00) shall be deposited in a manner consistent with the Public Funds Investment Act, Chapter 2256 of the Texas Government Code, as amended.

5.3 CONTRACTOR agrees that reimbursements of eligible expenses shall be made monthly or bi-weekly, as determined by the Director according to standard procedures followed by CITY's Finance Department.

5.4 CONTRACTOR agrees that all requests for reimbursement shall be accompanied with documentation required by the Director.

5.5 CONTRACTOR shall submit to CITY all final requests for payment no later than forty-five (45) days from the termination date of this CONTRACT, unless CONTRACTOR receives written authorization from the Director prior to such forty-five (45) day period allowing CONTRACTOR to submit a request for payment after such forty-five (45) day period.

5.6 CONTRACTOR agrees that CITY shall not be obligated to any third parties, including, but not limited to, any subcontractors or third party beneficiaries of CONTRACTOR.

5.7 CONTRACTOR shall maintain a financial management system, and acceptable accounting records that provide for:

- (A) Accurate, current, and complete disclosure of financial support from each federal, state, and locally sponsored project, and program in accordance with the reporting requirements set forth in Article IX. If accrual basis reports are required, CONTRACTOR shall develop accrual data for its reports based on an analysis of the documentation available;
- (B) Records identifying the source and application of funds for CITY-sponsored activities, with such records reflecting 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 to adequately safeguard all such assets and ensure that they are used solely for authorized purposes;
- (D) An accounting system that can separate funds by funding source and project;
- (E) Comparison of actual outlays with budget amounts for each award, and whenever appropriate or required by CITY, financial information should be related to performance and unit cost data;
- (F) Procedures to minimize the time elapsing between the transfer of funds from CITY and the disbursement of said funds by CONTRACTOR;
- (G) Procedures for determining reasonable, allowable, and allocable costs in accordance with the provisions of any and all applicable cost principles including, but not limited to, the cost principles referenced in Article XII below, and the terms of the award, grant, or contract, with CITY;
- (H) Supporting source documentation (i.e., timesheets, employee benefits, professional services agreements, purchases, and other documentation as required by CITY); and
- (I) An accounting system based on generally accepted accounting principles that accurately reflects all costs chargeable (paid and unpaid) for the Services and maintains a receipts and disbursements ledger, a general ledger with an income and expense account for each budgeted line item is necessary, and 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.

5.8 CONTRACTOR agrees that CONTRACTOR's costs or earnings claimed under this CONTRACT will not be claimed under another contract or grant from another agency.

5.9 CONTRACTOR shall establish and utilize a cost allocation methodology and plan, which ensures that CITY is paying only its fair share of the costs for services, overhead, and staffing not solely devoted to the Services funded by this CONTRACT. The Cost Allocation Plan and supportive documentation shall be included in the financial statements that are applicable to CONTRACTOR's provision of the Services. 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.

5.10 Upon completion or termination of this CONTRACT, or at any time during the term of this CONTRACT, all unused funds, rebates, or credits on-hand or collected thereafter relating to the Services must immediately, upon receipt, be returned by CONTRACTOR to CITY.

5.11 Upon execution of this CONTRACT or at any time during the term of this CONTRACT, CITY's Director of Finance, CITY's Auditor, or a person designated by the Director may review and approve all CONTRACTOR's systems of internal accounting and administrative controls prior to the release of funds hereunder.

VI. PROGRAM INCOME

6.1 For purposes of this CONTRACT, "*Program Income*" shall mean earnings of CONTRACTOR realized from activities resulting from this CONTRACT or from CONTRACTOR's management of funding provided or received hereunder. Such earnings shall include, but shall not be limited to, interest income, usage or rental/lease fees, income produced from contract-supported services of individuals or employees or from the use of equipment or facilities of CONTRACTOR provided as a result of this CONTRACT, and payments from clients or third parties for services rendered by CONTRACTOR pursuant to this CONTRACT. At the sole option of the Director, CONTRACTOR will either (A) be required to return Program Income funds to CITY through DHS, or (B) upon prior written approval by the Director, CONTRACTOR may be permitted to retain such funds to be: (i) added to the Program and used to further eligible objectives of the Program, in which case proposed expenditures must first be approved by CITY, or (ii) deducted from the total cost of the Program for the purpose of determining the net cost reimbursed by CITY.

6.2 In any case, where CONTRACTOR is required to return Program Income to DHS, CONTRACTOR must return such Program Income to CITY within the time frame that may be specified by the Director. If the Director grants CONTRACTOR authority to retain Program Income, CONTRACTOR must submit all reports required by DHS within the time frame specified in this CONTRACT.

6.3 CONTRACTOR shall provide DHS with thirty (30) days' written notice prior to the activity that generates Program Income. Such notice shall detail the type of activity, time, and place of all activities that generate Program Income.

6.4 CONTRACTOR shall fully disclose and be accountable to CITY for all Program Income. CONTRACTOR must submit a statement of expenditures and revenues to DHS within thirty (30) days of the activity that generates Program Income. The statement is subject to audit verification by DHS. Failure by CONTRACTOR to report Program Income as required is grounds for suspension, cancellation, or termination of this CONTRACT.

6.5 CONTRACTOR is prohibited from charging fees or soliciting donations from participants in any CITY-funded project without the prior written approval of the Director.

6.6 CONTRACTOR shall include this Article VI, in its entirety, in all of its subcontracts involving income-producing services or activities resulting from this CONTRACT.

VII. ADMINISTRATION OF CONTRACT

7.1 In the event that any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this CONTRACT or its governing rules, regulations, laws, codes, or ordinances, the City Manager, as representative of CITY, the party ultimately responsible for all matters of compliance with HUD rules and regulations, shall have the final authority to render or secure an interpretation.

7.2 CONTRACTOR shall not use funds awarded from this CONTRACT as matching funds for any federal, state, or local grant without the prior written approval of the Director.

7.3 CITY shall have the authority during normal business hours to make physical inspections to the operating facilities occupied to administer this CONTRACT and to require such physical safeguarding devices as locks, alarms, security/surveillance systems, safes, fire extinguishers, sprinkler systems, etc., to safeguard property and/or equipment authorized by this CONTRACT.

7.4 CONTRACTOR's Board of Directors and management shall adopt and approve an Employee Integrity Policy and shall establish and use internal program management procedures to preclude theft, embezzlement, improper inducement, obstruction of investigation or other criminal action, and to prevent fraud and program abuse. These procedures shall specify the consequences to CONTRACTOR's employees and vendors involved in such illegal activities to include, but not be limited to, termination and prosecution where necessary. Said procedures shall be provided by CONTRACTOR to DHS upon request.

7.5 CONTRACTOR agrees to comply with the following check writing and handling procedures:

- (A) No blank checks are to be signed in advance.
- (B) No checks are to be made payable to cash or bearer, with the exception of those for petty cash reimbursement, and shall not to exceed a maximum of One Hundred and 00/100 Dollars (\$100.00) per check. CONTRACTOR agrees that the aggregate amount of petty cash reimbursement shall not exceed Two Hundred and 00/100 Dollars (\$200.00) per location for any given calendar month during the term of this CONTRACT unless CONTRACTOR receives prior written approval from DHS to exceed such limit. Such requests for petty cash must be supported by the submission to DHS of an original receipt.
- (C) Checks issued by CITY to CONTRACTOR shall be deposited into the bank account immediately or by the next business day after CONTRACTOR's receipt

of each such check, and shall never be cashed for purposes of receiving any of the face amounts back.

7.6 CITY reserves the right to request CONTRACTOR to provide additional records for long distance calls, faxes, internet service, and/or cell phone calls charged to CITY.

VIII. AUDIT

8.1 If CONTRACTOR expends Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00) or more of funds provided pursuant to this CONTRACT or any other contract with CITY, then during the term of this CONTRACT, CONTRACTOR shall have completed an independent audit and shall submit to CITY a completed copy of the audit report, including, as applicable, the corrective action plan(s) on all audit findings, a summary schedule of prior audit findings, and any management and conduct of audit letter(s), within no later than the earlier of (A) thirty (30) days after receipt of the auditor's report(s); (B) nine (9) months after the end of CONTRACTOR's fiscal year; or (C) nine (9) months after the expiration or early termination of this CONTRACT.

8.2 CONTRACTOR agrees and understands that upon notification from federal, state, or local entities that have conducted program reviews and/or audits of CONTRACTOR or its programs of any findings about accounting deficiencies, or violations of CONTRACTOR's financial operations, a copy of the notification, review, investigation, and audit violations report must be forwarded to DHS within ten (10) days upon CONTRACTOR's receipt of the report.

8.3 CONTRACTOR agrees that if CONTRACTOR expends more than Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00) in federal funds from CITY, the audit shall be made in accordance with the Single Audit Act Amendments of 1996, the State of Texas Single Audit Circular, and U.S. Office of Management and Budget Circular Uniform Guidance, and CONTRACTOR shall also be required to submit copies of its annual independent audit report, and all related reports issued by the independent certified public accountant, to the Federal Audit Clearinghouse in Jeffersonville, Indiana (the "*Clearinghouse*") by no later than the earlier of thirty (30) days after receipt of the auditor's report(s) or nine (9) months after the end of the audit period, unless a longer period is agreed to in advance by the federal cognizant or oversight agency for the audit. CONTRACTOR may submit reports through the Clearinghouse's website at <https://harvester.census.gov/facweb/> or by mail at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, Indiana 47132

CONTRACTOR agrees to reimburse CITY or supplement any disallowed costs with eligible and allowable expenses based upon reconciled adjustments resulting from CONTRACTOR's Single Audit. Reimbursement shall be made within thirty (30) days of written notification regarding the need for reimbursement.

8.4 If CONTRACTOR expends less than Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00) of CITY's funds during the term of this CONTRACT, then CONTRACTOR shall complete and submit an unaudited financial statement(s) by no later than the earlier of (A) nine (9) months immediately after the end of CONTRACTOR's fiscal year, or (B) nine (9) months after the expiration or early termination of this CONTRACT. Said financial statement shall include a balance sheet and income statement prepared by a bookkeeper and a cover letter signed by CONTRACTOR attesting to the correctness of said financial statement.

8.5 All financial statement(s) must include a schedule of receipts and disbursements by budgeted cost category for each project funded by or through CITY.

8.6 CITY reserves the right to conduct, or cause to be conducted an audit or review of all funds received under this CONTRACT at any and all times deemed necessary by CITY. CITY's internal audit staff, a certified public accounting 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, CONTRACTOR agrees to make available to CITY all accounting and records related to the Services.

8.7 CONTRACTOR shall 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 CONTRACT and shall continue to be so 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 CONTRACT. Said records shall be maintained for the required period beginning immediately after this CONTRACT's expiration, save and except when there is litigation or if the audit report covering this CONTRACT has not been accepted, then CONTRACTOR 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 CONTRACTOR in accounting for expenses incurred under this CONTRACT and contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this CONTRACT.

8.8 CITY may, in its sole and absolute discretion, require CONTRACTOR to use any and all of CITY's accounting or administrative procedures used in the planning, controlling, monitoring and reporting of all fiscal matters relating to this CONTRACT, and CONTRACTOR shall abide by such requirements.

8.9 When an audit or examination determines that CONTRACTOR has expended funds or incurred costs which are questioned by CITY and/or any state or federal governing agency, CONTRACTOR shall be notified and provided an opportunity to address the questioned expenditure or costs.

8.10 Should any expense or charge that has been reimbursed be subsequently disapproved or disallowed as a result of any site review or audit, CONTRACTOR will promptly

refund such amount to CITY no later than ten (10) days from the date of notification of such disapproval or disallowance by CITY. At its sole option, DHS may instead deduct such claims from subsequent reimbursements; *however*, in the absence of prior notice by CITY of the exercise of such option, CONTRACTOR shall provide to CITY a full refund of such amount no later than ten (10) days from the date of notification of such disapproval or disallowance by CITY. If CONTRACTOR is obligated under the provision hereof to refund a disapproved or disallowed cost incurred, such refund shall be required and be made to CITY by cashier's check or money order. Should CITY, at its sole discretion, deduct such claims from subsequent reimbursements, CONTRACTOR is forbidden from reducing expenditures for the Services and CONTRACTOR must use its own funds to cover any such deficiency.

8.11 CONTRACTOR agrees and understands that all expenses associated with the collection of delinquent debts owed by CONTRACTOR shall be the sole responsibility of CONTRACTOR and shall not be paid from any funds received by CONTRACTOR under this CONTRACT.

8.12 If CITY determines, in its sole discretion, that CONTRACTOR is in violation of the above requirements, CITY shall have the right to dispatch auditors of its choosing to conduct the required audit and to have CONTRACTOR pay for such audit from non-CITY resources.

IX. RECORDS, REPORTING, AND COPYRIGHTS

9.1 DHS is assigned to the monitoring, fiscal control, and evaluation of the Program. Therefore, at such times and in such form as may be required by DHS, CONTRACTOR shall furnish to DHS, such statements, records, data, all policies, procedures, and information and permit CITY to have interviews with its personnel, board members and Program participants pertaining to the matters covered by this CONTRACT.

9.2 CONTRACTOR shall submit to DHS such reports as may be required by CITY, including a Contract Monitoring Report, a template of which is attached hereto and incorporated herein as Attachment III. At the start of this CONTRACT term, a Contract Monitoring Report containing projected monthly performance measures for the entire CONTRACT term shall be developed and approved by designated contract monitoring staff. CONTRACTOR shall submit a completed Contract Monitoring Report no later than the fifteenth (15th) day of every month which shall reflect the actual Services delivered and outcomes achieved against the projected performance measures for all months preceding the submission. CONTRACTOR ensures that all information contained in all required reports submitted to CITY is accurate and support documentation shall be maintained.

9.3 CONTRACTOR agrees to maintain in confidence all information pertaining to the Program or other information and materials prepared for, provided by, or obtained from CITY including, without limitation, reports, information, Program evaluation, Program designs, data, and other related information (collectively, "***Confidential Information***") and to use such Confidential Information for the sole purpose of performing its obligations pursuant to this CONTRACT. CONTRACTOR shall protect Confidential Information and shall take all reasonable steps to prevent the unauthorized disclosure, dissemination, or publication of

Confidential Information. If disclosure is required (A) by law or (B) by order of a governmental agency or court of competent jurisdiction, CONTRACTOR shall give the Director prior written notice that such disclosure is required with a full and complete description regarding such requirement. CONTRACTOR shall establish specific procedures designed to meet the obligations of this Section 9.3, including, but not limited, to execution of confidential disclosure agreements, with CONTRACTOR's employees and subcontractors prior to any disclosure of any Confidential Information. This Section 9.3 shall not be construed to limit CITY's or its authorized representatives' right of access to records or other information, confidential or otherwise, under this CONTRACT. Upon expiration or early termination of this CONTRACT, CONTRACTOR shall return to CITY all copies of materials related to the Program, including any Confidential Information.

9.4 The Public Information Act, Section 552 of the Texas Government Code, gives the public the right to information about the affairs of government in Texas and the official acts of public officials and employees in Texas, unless otherwise expressly provided by law. Section 552.002(a) of the Texas Government Code defines "**public information**", in relevant part, as "information that is written, produced, collected, assembled or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; [or] for governmental body and the governmental body: (A) owns the information; (B) has a right of access to the information; or (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information[.]" Therefore, if CONTRACTOR receives a request regarding documents within its possession pursuant to this CONTRACT, CONTRACTOR shall within twenty-four (24) hours of receiving the request forward such request to CITY for disposition. If CONTRACTOR believes the requested information is confidential pursuant to state or federal law, CONTRACTOR shall submit to CITY the list of specific statutory authority mandating confidentiality no later than three (3) business days of CONTRACTOR's receipt of such request.

9.5 In accordance with Texas law, CONTRACTOR 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, CONTRACTOR agrees that no such local government records produced by or on the behalf of CONTRACTOR pursuant to this CONTRACT shall be the subject of any copyright or proprietary claim by CONTRACTOR. CONTRACTOR acknowledges and agrees that all local government records, as described herein, produced in the course of the work required by this CONTRACT, shall belong to and be the property of CITY and shall be made available to CITY at any time. CONTRACTOR further agrees to turn over to CITY all such records upon expiration or early termination of this CONTRACT, if requested by CITY. CONTRACTOR agrees that it shall not, under any circumstances, release any records created during the course of performance of this CONTRACT to any entity without the written permission of the Director, unless required to do so by a court of competent jurisdiction. DHS shall be notified of such a request for such records as set forth in Section 9.4 of this CONTRACT.

9.6 CONTRACTOR and CITY agree that the Program shall be and remain the sole and exclusive proprietary property of CITY. The Program shall be deemed a “*work for hire*” within the meaning of the copyright laws of the United States, and ownership of the Program and all rights therein shall be solely vested in CITY. CONTRACTOR hereby grants, sells, assigns, and conveys to CITY all rights in and to the Program and the tangible and intangible property rights relating to or arising out of the Program, including, without limitation, any and all copyright, patent and trade secret rights. All intellectual property rights including, without limitation, patent, copyright, trade secret, trademark, brand names, color schemes, designs, screens, displays, user interfaces, data structures, organization, sequences of operation, trade dress, and other proprietary rights (the “*Intellectual Property Rights*”) in the Program shall be solely vested in CITY. CONTRACTOR agrees to execute all documents reasonably requested by CITY to perfect and establish CITY’s right to the Intellectual Property Rights. In the event CITY shall be unable, after reasonable effort, to secure CONTRACTOR’s signature on any documents relating to Intellectual Property Rights in the Program, including, without limitation, any letters patent, copyright, or other protection relating to the Program, for any reason whatsoever, CONTRACTOR hereby irrevocably designates and appoints CITY and its duly authorized officers and agents as CONTRACTOR’s agent and attorney-in-fact to act for and in CONTRACTOR’s behalf and stead to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright or other analogous protection thereon with the same legal force and effect as if executed by CONTRACTOR; *provided, however*, nothing herein contained is intended nor shall it be construed to require CONTRACTOR to transfer any ownership interest in CONTRACTOR’s best practice and benchmarking information to CITY.

9.7 Within a period not to exceed ninety (90) days from the expiration or early termination date of this CONTRACT, CONTRACTOR shall submit all final client and/or fiscal reports and all required deliverables to CITY. CONTRACTOR understands and agrees that in conjunction with the submission of the final report, CONTRACTOR shall execute and deliver to CITY a receipt for all sums and a release of all claims against the Program.

9.8 CONTRACTOR shall provide to DHS all information requested by DHS relating to CONTRACTOR’s functions of its governing board. Information required for submission shall include, but may not be limited to:

- (A) Roster of current board members (name, title, address, telephone number, fax number and e-mail address);
- (B) Current charter, including prior amendments;
- (C) Current bylaws, including prior amendments;
- (D) Terms of officers;
- (E) Schedule of anticipated board meetings for current fiscal year;
- (F) Minutes of board meetings; and
- (G) Board’s agenda, to be submitted at least three (3) business days prior to each board meeting.

9.9 CONTRACTOR agrees to comply with official records retention schedules in accordance with the Local Government Records Act of 1989 and any amendments thereto, referenced in Section 12.3 of this CONTRACT.

X. INSURANCE

10.1 CONTRACTOR agrees to comply with the following insurance provisions:

- (A) Prior to the commencement of the Services under this CONTRACT, CONTRACTOR shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to DHS, which shall be clearly labeled "**Financial Empowerment Program**" 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. The certificate(s) must be signed by the Authorized Representative of the carrier, and list the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to CITY. CITY shall have no duty to pay or perform under this CONTRACT until such certificate and endorsements have been received and approved by the 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 X during the effective period of this CONTRACT 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 CONTRACT. In no instance will CITY allow modification whereby CITY may incur increased risk.
- (C) A CONTRACTOR's financial integrity is of interest to CITY; therefore, subject to CONTRACTOR's right to maintain reasonable deductibles in such amounts as are approved by CITY, CONTRACTOR shall obtain and maintain in full force and effect for the duration of this CONTRACT, and any extension hereof, at CONTRACTOR's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per

following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Environmental Impairment/ Impact – sufficiently broad to cover disposal liability **e. Sexual Abuse / Molestation	occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence</u>
** Required for projects involving services to children	

- (D) CONTRACTOR agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverages required of CONTRACTOR herein, and provide a certificate of insurance and endorsement that names CONTRACTOR and CITY as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of CONTRACTOR. CONTRACTOR shall provide CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by CITY's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this CONTRACT. Such modification may be enacted by letter signed by CITY's Risk Manager, which shall become a part of this CONTRACT for all purposes.
- (E) As they apply to the limits required by CITY, CITY shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. CONTRACTOR shall be required to comply with any such requests and shall submit requested documentation to CITY at the address provided below within ten (10) days. CONTRACTOR shall pay any costs incurred resulting from provision of said documents.

CITY of San Antonio
 Attn: Department of Human Services
 P.O. Box 839966
 San Antonio, Texas 78283-3966

- (F) CONTRACTOR agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
- Name 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 the exception of the workers' compensation and professional liability policies;
 - Provide for an endorsement that the "other insurance" clause shall not apply to 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;
 - Provide advance written notice directly to CITY of any suspension or non-renewal in coverage, and not less than ten (10) days advance notice for nonpayment of premium.
- (G) Within five (5) days of a suspension, cancellation or non-renewal of coverage, CONTRACTOR shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend CONTRACTOR's performance should there be a lapse in coverage at any time during this CONTRACT. Failure to provide and to maintain the required insurance shall constitute a material breach of this CONTRACT.
- (H) In addition to any other remedies CITY may have upon CONTRACTOR's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, CITY shall have the right to order CONTRACTOR to stop work hereunder, and/or withhold any payment(s) which become due to CONTRACTOR hereunder until CONTRACTOR demonstrates compliance with the requirements hereof.
- (I) Nothing herein contained shall be construed as limiting in any way the extent to which CONTRACTOR may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's or its subcontractors' performance of the work covered under this CONTRACT.
- (J) It is agreed that CONTRACTOR's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by CITY for liability arising out of operations under this CONTRACT.
- (K) It is understood and agreed that the insurance required is in addition to and

separate from any other obligation contained in this CONTRACT and that no claim or action by or on behalf of CITY shall be limited to insurance coverage provided.

- (L) CONTRACTOR and any subcontractors are responsible for all damage to their own equipment and/or property.

XI. INDEMNITY

11.1 CONTRACTOR AGREES TO COMPLY WITH THE FOLLOWING INDEMNITY PROVISIONS:

- (A) **CONTRACTOR covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon CITY directly or indirectly arising out of, resulting from or related to CONTRACTOR'S activities under this CONTRACT, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, consultant or subcontractor of CONTRACTOR, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this CONTRACT. The indemnity provided for in this Section 11.1(A) shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**
- (B) The indemnity provisions of this Article XI are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONTRACTOR shall advise the CITY in writing within twenty-four (24) hours of any claim or demand against the CITY or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR's activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at CONTRACTOR's cost. The CITY shall have the right, at its option and at its own expense, to participate in

such defense without relieving CONTRACTOR of any of its obligations under this Article XI.

XII. APPLICABLE LAWS

12.1 CONTRACTOR certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988 and the Drug-Free Workplace Rules established by the Texas Worker's Compensation Commission effective April 17, 1991. Failure to comply with the above-referenced law and regulations could subject the CONTRACTOR to suspension of payments, termination of this CONTRACT, and debarment and suspension actions.

12.2 CONTRACTOR understands that the Grant Funds provided to it pursuant to this CONTRACT are funds which have been made available to CITY by the federal government under the Community Development Act and in accordance with CITY's HUD-approved grant application and with other specific assurances made and executed by CITY. Consequently, CONTRACTOR agrees to comply with all laws, rules, regulations, policies, and procedures applicable to the Grant Funds received by CONTRACTOR hereunder as directed by CITY or as required in this CONTRACT. Without narrowing the laws and regulations with which CONTRACTOR must comply, CONTRACTOR acknowledges, understands, and agrees that:

- (A) CONTRACTOR shall comply with the Office of Management and Budget (OMB) at 2 C.F.R. 200 *et al. titled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*.
- (B) CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§1251-1387), as amended. CONTRACTOR agrees to report each violation to CITY and understands that CITY will, in turn, report each violation as required to the federal agency providing funds for this CONTRACT and the appropriate EPA Regional Office. Additionally, CONTRACTOR agrees to include these requirements in each subcontract to this CONTRACT exceeding One Hundred Fifty Thousand Dollars (\$150,000.00) financed in whole or in part with federal funds.
- (C) CONTRACTOR shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. CONTRACTOR agrees to include within its subcontracts a requirement that its subcontractors comply with this provision.
- (D) CONTRACTOR has tendered to CITY a Certification of Restrictions on Lobbying in compliance with the Byrd Anti-lobbying Amendment (31 U.S.C. §1352), and any applicable implementing regulations, if CONTRACTOR applied for or bid for an award exceeding One Hundred Thousand Dollars (\$100,000.00) from CITY.
- (E) CONTRACTOR shall comply with 24 C.F.R. § 570.602 - Section 109 of the Community Development Act, which provides that no person in the United States

shall on the grounds of race, color, national origin, religion, sex, age or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance made available pursuant to the Act or Title I programs.

- (F) CONTRACTOR shall ensure that certain newly legalized aliens, as described in 24 C.F.R. Part 49, are not eligible to apply for benefits under covered activities funded by the programs listed in 24 C.F.R. § 570.613(e). Under 24 C.F.R. § 570.613(a), “*benefits*” means financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities made available under covered activities funded by programs listed in 24 C.F.R. § 570.613(e), but do not include relocation services and payments to which displacees are entitled by law.
- (G) CONTRACTOR shall comply with 24 C.F.R. § 570.611, which provides that no persons who exercise or have exercised any functions or responsibilities with respect to any CDBG-assisted activity, or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one (1) year thereafter.
- (H) CONTRACTOR shall comply with the Americans with Disabilities Act of 1990, 42, U.S.C. 12101 *et seq.*, and all regulations thereunder.
- (I) CONTRACTOR shall comply with the requirements of 2 C.F.R. Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A-122), and OMB Circular A-133, entitled, “Audits of States, Local Governments, and Not for Profit Organizations.”

12.3 All of the Services performed under this CONTRACT by CONTRACTOR shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Texas and with the charter, ordinances, bond ordinances, and rules and regulations of CITY and Bexar County. Additionally, CONTRACTOR shall comply with the following:

- (A) Local Government Records Act of 1989 official record retention schedules found at <http://www.tsl.state.tx.us/slrn/recordspubs/gr.html>;
- (B) Chapter 552 of the Texas Government Code pertaining to Texas Public Information Act found at <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm>;
- (C) Chapter 252 of the Texas Local Government Code pertaining to purchasing and contracting authority of municipalities found at <http://www.statutes.legis.state.tx.us/SOTWDocs/LG/htm/LG.252.htm>; and
- (D) Chapter 2254 of the Texas Government Code pertaining to Professional and Consulting Services found at <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2254.htm>.

12.4 As a party to this CONTRACT, CONTRACTOR understands and agrees to comply with the *Non-Discrimination Policy* of CITY contained in Chapter 2, Article X of

CITY's Code and shall also 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 herein. Additionally, CONTRACTOR certifies that it will comply fully with the following nondiscrimination, minimum wage and equal opportunity provisions, including, but not limited to:

- (A) Title VII of the Civil Rights Act of 1964, as amended;
- (B) Section 504 of the Rehabilitation Act of 1973, as amended;
- (C) The Age Discrimination Act of 1975, as amended;
- (D) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1688);
- (E) Fair Labor Standards Act of 1938, as amended;
- (F) Equal Pay Act of 1963, P.L. 88-38; and
- (G) All applicable regulations implementing the above laws.

12.5 CONTRACTOR warrants that any and all taxes that CONTRACTOR may be obligated for, including, but not limited to, federal, state, and local taxes, fees, special assessments, federal and state payroll and income taxes, personal property, real estate, sales and franchise taxes, are current, and paid to the fullest extent liable as of the effective execution date of this CONTRACT. CONTRACTOR shall comply with all applicable local, state, and federal laws including, but not limited to:

- (A) Worker's compensation;
- (B) Unemployment insurance;
- (C) Timely deposits of payroll deductions;
- (D) Filing of Information on Tax Return form 990 or 990T, Quarterly Tax Return Form 941, W-2's Form 1099 on individuals who received compensation other than wages, such as car allowance, Forms 1099 and 1096 for contract or consultant work, non-employee compensation, etc;
- (E) Occupational Safety and Health Act regulations; and
- (F) Employee Retirement Income Security Act of 1974, P.L. 93-406.

12.6 In compliance with Section 2264.053 of the Texas Government Code, Restrictions on Use of Certain Public Subsidies, if CONTRACTOR receives a public subsidy and is found to be in violation of 8 U.S.C. § 1324a(f), CONTRACTOR shall repay all funds received under this CONTRACT with interest in the amount of three percent (3%). Such repayment shall be made within one hundred twenty (120) days of CONTRACTOR receiving notice from CITY of the violation. For purposes of this Section 12.6, a public subsidy is defined as a public program or public benefit or assistance of any type that is designed to stimulate the economic development of a corporation, industry or sector of the state's economy or to retain or create jobs in this state. This term includes grants, loans, loan guarantees, benefits relating to an enterprise or empowerment zone, fee waivers, land price subsidies, infrastructure development and improvements designed to principally benefit a single business or defined group of businesses, matching funds, tax refunds, tax rebates or tax abatements.

12.7 CONTRACTOR agrees to abide by any and all future amendments or additions to all laws, rules, regulations, policies and procedures pertinent to this CONTRACT as they may be promulgated.

12.8 All expenditures by CONTRACTOR or any of its subcontractors must be made in accordance with all applicable federal, state and local laws, rules and regulations. If using CITY's general funds, expenditures shall be made in accordance with all bidding requirements that CITY would be required to perform under Chapter 252 of the Texas Local Government Code.

12.9 CONTRACTOR shall submit to DHS on an annual basis form 990 or 990T thirty (30) days after Internal Revenue Service ("IRS") deadlines for completion. If filing an extension, CONTRACTOR shall notify CITY in writing of the extension and the anticipated date of filing with the IRS. CONTRACTOR shall submit the 990 or 990T to DHS no later than thirty (30) days after the date of filing the form for which CONTRACTOR received an extension.

XIII. NO SOLICITATION/CONFLICT OF INTEREST

13.1 CONTRACTOR warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this CONTRACT 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 CONTRACTOR or CITY. For breach or violation of this warranty, CITY shall have the right to terminate this CONTRACT without liability or, at its discretion, to deduct from this CONTRACT 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.

13.2 CONTRACTOR 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 CONTRACT. CONTRACTOR further covenants that in the performance of this CONTRACT, no persons having such interest shall be employed or appointed as a member of its governing body or of its staff.

13.3 CONTRACTOR further covenants that no member of its governing body or of its staff shall possess any interest in, or use their position for, a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with which they have family, business, or other ties.

13.4 No member of CITY's governing body or of its staff who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this CONTRACT shall:

- (A) Participate in any decision relating to this CONTRACT 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 CONTRACT or the proceeds thereof.

13.5 CONTRACTOR acknowledges that it is informed that CITY's Charter 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/her parent, child or spouse; a business entity in which the officer or employee, or his/her parent, child or spouse owns ten percent (10%) or more of the voting stock or shares of the business entity, or ten percent (10%) or more of the fair market value of the business entity; or 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.

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

XIV. TERMINATION

14.1 Should CONTRACTOR fail to fulfill, in a timely and proper manner, its obligations under this CONTRACT, including any obligations set forth in performance standards established by CITY, or if CONTRACTOR should violate any of the covenants, conditions, or stipulations of this CONTRACT, CITY shall thereupon have the right to terminate this CONTRACT in whole or in part by sending written notice to CONTRACTOR of such termination and specify the effective date thereof (which date shall not be sooner than the tenth (10th) day following the day on which such notice is sent). CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed prior to such termination date. The question of satisfactory completion of such work shall be determined by CITY alone, and its decision shall be final. It is further expressly understood and agreed by the parties that CONTRACTOR's performance upon which final payment is conditioned shall include, but not be limited to, CONTRACTOR's complete and satisfactory performance, of its obligations for which final payment is sought.

14.2 This Contract may be terminated in whole or in part when CITY determines that continuation of the Program would not produce desired results commensurate with the further expenditure of funds or if CITY has insufficient revenue to satisfy CITY's liabilities hereunder. Such termination by CITY shall specify the date thereof, which date shall not be sooner than the thirtieth (30th) day following the day on which notice is sent. CONTRACTOR shall also have the right to terminate this CONTRACT and specify the date thereof, which date shall not be sooner than the end of the thirtieth (30th) day following the day on which notice is sent. CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed prior to such termination date. The question of satisfactory completion

of such work shall be determined by CITY alone, and its decision shall be final. It is further expressly understood and agreed by the parties that CONTRACTOR's performance upon which final payment is conditioned shall include, but not be limited to, CONTRACTOR's complete and satisfactory performance of its obligations for which final payment is sought.

14.3 Notwithstanding any other remedy contained herein or provided by law, CITY may delay, suspend, limit, or cancel funds, rights or privileges herein given CONTRACTOR for failure to comply with the terms and provisions of this CONTRACT. Specifically, at the sole option of CITY, CONTRACTOR may be placed on probation during which time CITY may withhold reimbursements in cases where it determines that CONTRACTOR is not in compliance with this CONTRACT. CONTRACTOR shall not be relieved of liability to CITY for damages sustained by CITY by virtue of any breach of this CONTRACT, and CITY may withhold funds otherwise due as damages, in addition to retaining and utilizing any other remedies available to CITY.

14.4 Should CONTRACTOR be debarred by CITY pursuant to a debarment policy currently existing or hereafter adopted, said debarment may within CITY's sole and absolute discretion, be grounds for termination for cause.

XV. PROHIBITION OF POLITICAL ACTIVITIES

15.1 CONTRACTOR agrees that no funds 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 the Program provided for in this CONTRACT be assigned to work for or on behalf of any partisan or non-partisan political activity.

15.2 CONTRACTOR agrees that no funds provided under this CONTRACT may be used in any way to attempt to influence, in any manner, a member of Congress or any other state or local elected or appointed official.

15.3 The prohibitions set forth above in Sections 15.1 and 15.2 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 directing other personnel to work on any political activity during time paid for with CITY funds, 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;
- (C) Coercing personnel, whether directly or indirectly, to work on political activities on their personal time, including 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
- (D) Using facilities or equipment paid for, in whole or in part with CITY funds for political purposes including physical facilities such as office space, office equipment or supplies, such as telephones, computers, fax machines, during and after regular business hours.

15.4 To ensure that the above policies are complied with, CONTRACTOR shall provide every member of its personnel paid out of CITY funds with a statement of the above prohibitions and have each said individual sign a statement acknowledging receipt of the policy. Such statement shall include a paragraph that directs any staff person who has knowledge of violations or feels that he or she has been pressured to violate the above policies to call and report the same to DHS. CONTRACTOR shall list the name and number of a contact person from DHS on the statement that CONTRACTOR's personnel can call to report said violations.

15.5 CONTRACTOR agrees that in any instance where an investigation of the above is ongoing or has been confirmed, reimbursements paid to CONTRACTOR under this CONTRACT may, at CITY's discretion, be withheld until the situation is resolved.

15.6 This Article XV 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, CONTRACTOR and staff members are not prohibited from participating in political activities on their own volition, if done during time not paid for with CITY funds.

XVI. PERSONNEL MANAGEMENT

16.1 CONTRACTOR agrees to establish internal procedures that assure employees of an established complaint and grievance policy. The grievance policy will include procedures to receive, investigate, and resolve complaints and grievances in an expeditious manner.

16.2 CONTRACTOR is permitted to pay its full time employees funded through this CONTRACT for the total number of holidays authorized by the City Council. If CONTRACTOR elects to observe more than the total number of holidays authorized by the City Council for CITY employees, then such additional days are not eligible for reimbursement under this CONTRACT.

16.3 CONTRACTOR agrees that the job titles and descriptions set forth in the Budget, attached hereto as Attachment II, that affect a salary or range increase may not be changed without justification and prior written approval from the Director, as evidenced through a written amendment to this CONTRACT approved by the Director.

16.4 CONTRACTOR agrees that all copies of written job descriptions will be filed in all individual personnel folders for each position in the organization funded through this CONTRACT.

16.5 CONTRACTOR agrees to provide CITY with the names and license registration of any employees of CONTRACTOR regulated by state law whose activities contribute towards, facilitate, or coordinate the performance of this CONTRACT.

16.6 At the sole discretion of the Director, CONTRACTOR may be reimbursed by CITY for the cost of pay granted to full time, permanent employees that is not chargeable to annual or personal leave only for the reasons listed below:

- (A) To attend annual training in a branch of the Armed Services, not to exceed fifteen (15) business days during the term of this CONTRACT;
- (B) To serve as a juror;
- (C) To attend the funeral of someone in the immediate family, which shall include father, mother, sister, brother, husband, wife, or child, and other relative if the latter are actually members of the employee's household, not to exceed three (3) business days of leave during the term of this CONTRACT; or
- (D) To attend seminars or workshops.

16.7 Chief Executive Officers (CEOs), directors and other supervisory personnel of CONTRACTOR may not supervise a spouse, parents, children, brothers, sisters, and in-laws standing in the same relationship, ("*Relatives*") who are involved in any capacity with program delivery supported through CITY funds. Relatives, however, may be co-workers in the same program in a non-supervisory position.

XVII. ADVERSARIAL PROCEEDINGS

17.1 CONTRACTOR agrees to comply with the following provisions regarding adversarial proceedings:

- (A) Under no circumstances will the Grant Funds received under this CONTRACT be used, either directly or indirectly, to pay costs or attorneys' fees incurred in any adversarial proceeding against CITY or any other public entity; and
- (B) CONTRACTOR, at CITY's option, could be ineligible for consideration to receive any future funding while any adversarial proceedings against CITY remains unresolved.

XVIII. CITY-SUPPORTED PROGRAM

18.1 CONTRACTOR shall publicly acknowledge that the Program is supported by DHS. Throughout the term of this CONTRACT, CONTRACTOR agrees to include written acknowledgment of CITY's financial support in all Program-related presentations, press releases, flyers, brochures and other informational material prepared and distributed by CONTRACTOR. CONTRACTOR shall obtain CITY's prior approval of the language and logo, as applicable, to be used.

XIX. EQUIPMENT

19.1 CITY retains ownership of all equipment/property purchased with funds received through CITY and such equipment/property shall, at CITY's sole option, revert to CITY at CONTRACT's expiration or early termination, for whatever reason. CONTRACTOR agrees to relinquish and transfer possession of and, if applicable, title to said property without the requirement of a court order upon expiration or early termination of this CONTRACT. Equipment that has reverted to CONTRACTOR through a CITY-paid lease agreement with option to buy will be considered the same as though the equipment was purchased outright with CITY funds. It is understood that the terms, "*equipment*" and "*property*", as used herein, shall include not only furniture and other durable property, but also vehicles.

19.2 CONTRACTOR agrees that no equipment purchased with CITY funds may be disposed of without receiving prior written approval from DHS. In cases of theft and/or loss of equipment, it is the responsibility of CONTRACTOR to replace it with like equipment. CITY funds cannot be used to replace equipment in those instances. All replacement equipment will be treated in the same manner as equipment purchased with CITY funds.

19.3 CONTRACTOR shall maintain records on all items obtained with CITY funds to include:

- (A) A description of the equipment, including the model and serial number, if applicable;
- (B) The date of acquisition, cost and procurement source, purchase order number, and vendor number;
- (C) Information from which one can calculate the percentage of federal participation in the cost of the equipment;
- (D) An indication of whether the equipment is new or used;
- (E) The vendor's name (or transferred from);
- (F) The location of the property;
- (G) The property number shown on the property tag; and
- (H) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where CONTRACTOR compensates the CITY for its share.

19.4 CONTRACTOR shall provide to the CITY an annual physical inventory of equipment and a reconciliation of the results with the equipment records. CONTRACTOR shall investigate any differences between quantities determined by the physical inspection and those shown in the accounting records to determine the causes of the difference. CONTRACTOR shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

19.5 CONTRACTOR is fully and solely responsible for the safeguarding, maintaining, and reporting of lost, stolen, missing, damaged, or destroyed equipment/property purchased or leased with Grant Funds. All lost, stolen, missing, damaged and/or destroyed equipment/property shall be reported to the local police department and, if applicable, the

Federal Bureau of Investigation. CONTRACTOR shall make such reports immediately and shall notify and deliver a copy of the official report to DHS within seventy-two (72) hours from the date that CONTRACTOR discovers the equipment/property having been lost, stolen, missing, damaged and/or destroyed. The report submitted by CONTRACTOR to DHS shall, at minimum, include:

- (A) A reasonably complete description of the missing, damaged or destroyed articles of property, including the cost and serial number and other pertinent information;
- (B) A reasonably complete description of the circumstances surrounding the loss, theft, damage or destruction; and
- (C) A copy of the official written police report or, should the police not make such copy available, a summary of the report made to the police, including the date the report was made and the name and badge number of the police officer who took the report.

19.6 All equipment purchased under this CONTRACT shall be fully insured against fire, loss and theft.

XX. TRAVEL

20.1 The costs associated with budgeted travel for business, either in-town or out-of-town, are allowable costs provided documentation of expenses is present and approved in the Budget.

20.2 CONTRACTOR agrees that mileage reimbursement paid to CONTRACTOR's employees shall be reimbursed at a rate no more liberal than CITY's policy for mileage reimbursement, which is consistent with IRS rules. CONTRACTOR further agrees that in order for its employees to be eligible for mileage reimbursement, the employees (A) shall be required to possess a valid Texas driver's license and liability insurance as required by law, and (B) must record, on a daily basis, odometer readings before and after business use, showing total business miles driven each day and must keep such record on file for CITY's inspection, if requested. Mileage records are subject to spot-checks by CITY. CONTRACTOR shall strongly encourage the participation by its employees in an approved defensive driving course. Evidence of the required driver's license and liability insurance must be kept on file with CONTRACTOR.

20.3 CONTRACTOR agrees that in order to obtain reimbursement of the costs associated with budgeted out-of-town travel for business in connection with this CONTRACT, CONTRACTOR shall (A) provide CITY with detailed documentation of such business travel expense(s); (B) ensure that any and all costs associated with out-of-town travel (including per diem rates) shall not be more liberal than CITY's travel policies which conform with the reimbursement rates established by the United States General Services Administration; (C) purchase all business travel at economy class rates and shall document such; and (D) submit support for conferences to include itineraries and documentation certifying conference attendance.

XXI. NO USE OF FUNDS FOR RELIGIOUS ACTIVITIES

21.1 CONTRACTOR agrees that none of the Services rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said Services rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

XXII. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

22.1 CONTRACTOR certifies, and CITY relies thereon in execution of this CONTRACT, that neither CONTRACTOR nor its principals are presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded for the award of contracts by any federal governmental agency or department. "*Principals*," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).

22.2 CONTRACTOR shall provide immediate written notice to CITY, in accordance with Article XXVI, if at any time during the term of this CONTRACT, including any renewals hereof, CONTRACTOR learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

22.3 CONTRACTOR's certification is a material representation of fact upon which City has relied in entering into this CONTRACT. Should CITY determine, at any time during this CONTRACT, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, City may terminate this CONTRACT in accordance with the termination provisions of Article XIV.

XXIII. ASSIGNMENT

23.1 CONTRACTOR shall not assign nor transfer CONTRACTOR's interest in this CONTRACT or any portion thereof without the written consent of the City Council. Any attempt to transfer, pledge or otherwise assign shall be void *ab initio* and shall confer no rights upon any third person or party.

XXIV. AMENDMENT

24.1 Any alterations, additions or deletions to the terms hereof shall be by amendment in writing executed by both CITY and CONTRACTOR and evidenced by passage of a subsequent CITY ordinance, as to CITY's approval; *provided, however*, the Director shall have the authority to execute an amendment of this CONTRACT without the necessity of seeking any further approval by the City Council, if permitted by all applicable local, state and federal laws, and in the following circumstances:

- (A) An increase in funding of this CONTRACT in an amount not exceeding (i) twenty-five percent (25%) of the total amount of this CONTRACT or (ii) Twenty Five Thousand Dollars (\$25,000.00), whichever is the lesser amount; *provided, however*, that the cumulative total of all amendments increasing funding and executed without City Council approval pursuant to this subsection during the term of this CONTRACT shall not exceed the foregoing amount;
- (B) Modifications to the Scope of Work set forth in Attachment I hereto due to the adjustment described in the preceding subsection (A) or for any other reasons, so long as the terms of the amendment are reasonably within the parameters set forth in the original Scope of Work;
- (C) Budget line item shifts of funds, so long as the total dollar amount of the Budget set forth in Section 3.1 remains unchanged, *provided; however*, that Budget line item shifts of funds related to personnel services cannot exceed the total dollar amount allocated to personnel services set forth Attachment II of this CONTRACT; and
- (C) Modifications to the insurance provisions described in Article X of this CONTRACT that receive the prior written approval of CITY's Risk Manager and the Director; or
- (D) Reductions to Article I (Scope of Work) and Article III (Consideration) to compensate for insufficient funding as set forth in Section 3.2 above.

XXV. SUBCONTRACTING

25.1 None of the Services covered by this CONTRACT shall be sub-contracted without the prior written consent of DHS.

25.2 CONTRACTOR must comply with all applicable local, state and federal procurement standards, rules, regulations and laws in all its sub-contracts related to the Services and the Grant Funds. It is further agreed by the parties hereto that CITY has the authority to monitor, audit, examine, and make copies and transcripts of all sub-contracts, as often as deemed appropriate by CITY. If, in the sole determination of CITY, it is found that all applicable local, state and federal procurement standards, rules, regulations and laws have not been met by CONTRACTOR with respect to any of its sub-contracts, then CONTRACTOR will be deemed to be in default of this CONTRACT, and as such, this CONTRACT will be subject to termination in accordance with the provisions hereof.

25.3 Any work or services for sub-contracting hereunder, shall be sub-contracted only by written contract, and unless specific waiver is granted in writing by CITY, shall be subject by its terms to each and every provision of this CONTRACT. Compliance by sub-contractors with this CONTRACT shall be the responsibility of CONTRACTOR. CONTRACTOR agrees that payment for services of any sub-contractor shall be submitted through CONTRACTOR, and CONTRACTOR shall be responsible for all payments to sub-contractors.

25.4 CONTRACTOR certifies that its subcontractors are not presently debarred, suspended or proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal program.

XXVI. OFFICIAL COMMUNICATIONS

26.1 For purposes of this CONTRACT, all official communications and notices between the parties shall be deemed sufficient if in writing and delivered in person, mailed by overnight or express service or mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

If to CITY:

Director
Department of Human Services
106 S. St. Mary's Street, 7th Floor
San Antonio, Texas 78205

If to CONTRACTOR:

President/CEO
Family Service Association of San Antonio, Inc.
702 San Pedro
San Antonio, Texas 78212

Notices of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of the change.

XXVII. VENUE

27.1 CONTRACTOR and CITY agree that this CONTRACT 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 CONTRACT or adjudicate any dispute arising out of this CONTRACT 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 CONTRACT shall lie exclusively in Bexar County, Texas.

XXVIII. CONSTRUCTION

28.1 When a reference is made in this CONTRACT to an Article, Section, or Attachment such reference will be to an Article, Section, or Attachment of this CONTRACT unless otherwise indicated. When a reference is made to this CONTRACT in this CONTRACT, such reference will be to this CONTRACT and the Attachments attached hereto, as this CONTRACT and its Attachments may be amended from time to time in accordance with Article XXIV. The headings in this CONTRACT are for reference only and shall not affect the interpretation of this CONTRACT. Where appropriate, all personal pronouns used herein,

whether used in the masculine, feminine or neuter gender, shall include all other genders and singular nouns used herein shall include the plural and vice versa. The term "*days*" when used herein shall mean calendar days. The term "*business day*" when used herein shall mean that part of any given day from Monday through Friday excluding those scheduled holidays officially adopted and approved by the City Council for CITY employees.

XXIX. AUTHORITY

29.1 The signer of this CONTRACT for CONTRACTOR represents, warrants, assures and guarantees that she has full legal authority to execute this CONTRACT on behalf of CONTRACTOR and to bind CONTRACTOR to all of the terms, conditions, provisions and obligations herein contained. CONTRACTOR shall provide evidence to CITY upon execution of this CONTRACT that it is currently operating as a Texas non-profit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code, or a for-profit entity governed by an autonomous governing body, acting in accordance with the governing instruments submitted to CITY in its application for funding. Whether a non-profit or for-profit entity, CONTRACTOR must be authorized to do business in the State of Texas and be formed under and operating in accordance with all applicable laws of the State of Texas. CONTRACTOR shall provide DHS verification of the foregoing requirements no later than the effective execution date of this CONTRACT.

XXX. LICENSES AND TRAINING

30.1 CONTRACTOR warrants and certifies that CONTRACTOR's employees and its subcontractors have the requisite training, license or certification to provide the services required under this CONTRACT, and meet all competence standards promulgated by all other authoritative bodies, as applicable to the services provided hereunder.

XXXI. INDEPENDENT CONTRACTOR

31.1 It is expressly understood and agreed that CONTRACTOR is and shall be deemed to be an independent contractor, responsible for its respective acts or omissions and that CITY shall in no way be responsible therefor, and that neither party hereto has authority to bind the other nor to hold out to third parties that it has the authority to bind the other.

31.2 Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of employer-employee, principal-agent, partners, joint venture, or any other similar such relationship, between the parties hereto.

31.3 Any and all of the employees of CONTRACTOR, wherever located, while engaged in the performance of any work required by CITY under this CONTRACT shall be considered employees of CONTRACTOR only, and not of CITY, and any and all claims that may arise from the Workers' Compensation Act on behalf of said employees while so engaged shall be the sole obligation and responsibility of CONTRACTOR.

XXXII. SEVERABILITY

32.1 If any clause or provision of this CONTRACT is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to CITY's Charter, Code, or ordinances, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this CONTRACT shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this CONTRACT that is invalid, illegal or unenforceable, there be added as a part of this CONTRACT a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XXXIII. CONTRIBUTION PROHIBITIONS

33.1 The provisions of this Article XXXIII shall apply to all contracts considered "*high profile*" as that term is defined in CITY's Procurement Policy and Procedures Manual.

33.2 CONTRACTOR acknowledges that Section 2-309 of CITY's Code provides that any person acting as a legal signatory for a proposed contractual relationship that applies for a "high-profile" discretionary contract, as defined by CITY's Procurement Policy and Procedures Manual, may not make a campaign contribution to any councilmember or candidate at any time from the tenth business day after the Request for Proposal ("*RFP*") or Request for Qualifications ("*RFQ*") or other solicitation is released, or for a contract for which no competitive solicitation has been issued by CITY from the time CITY begins discussions or negotiations, and ending on the thirtieth (30th) day following the contract award. CONTRACTOR understands that if the legal signatory entering this CONTRACT has made such a contribution, CITY may not award this CONTRACT to that contributor or to that contributor's business entity. Any legal signatory for a proposed high-profile contract must be identified within the response to the RFP or RFQ, if the identity of the signatory will be different from the individual submitting the response.

33.3 CONTRACTOR acknowledges that CITY has identified this CONTRACT as high profile.

33.4 CONTRACTOR warrants and certifies, and this CONTRACT is made in reliance thereon, that the individual signing this CONTRACT has not made any contributions in violation of Section 2-309 of CITY's Code, and will not do so for thirty (30) days following the award of this CONTRACT. Should the signer of this CONTRACT violate this provision, the City Council may, in its discretion, declare this CONTRACT void.

XXXIV. ENTIRE CONTRACT

34.1 This CONTRACT and its Attachments constitute the entire and integrated contract between the parties hereto and contain all of the terms and conditions agreed upon, and supersede all prior negotiations, representations, or contracts, either oral or written.

XXXV. COUNTERPARTS

35.1 This CONTRACT may be executed in any number of multiple counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument. Each such counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or other electronic transmission of any signed original document or retransmission of any signed facsimile or other electronic transmission will be deemed the same as delivery of an original.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned parties have executed this CONTRACT to be effective as of the date last written below.

CITY OF SAN ANTONIO:

Melody Woosley, Director
Department of Human Services

Date

CONTRACTOR:

Family Service Association of San Antonio, Inc.

Nancy Hard, President/CEO

Date

8/16/16

APPROVED AS TO FORM:

Caroline E. Cho
Assistant City Attorney

Board President (if required by
CONTRACTOR)

ATTACHMENTS

Attachment I – Scope of Work
Attachment II – Budget
Attachment III– Contract Monitoring Report

IN WITNESS WHEREOF, the undersigned parties have executed this CONTRACT to be effective as of the date last written below.

CITY OF SAN ANTONIO:

CONTRACTOR:

Family Service Association of San Antonio, Inc.

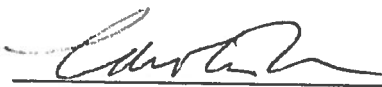
Melody Woosley, Director
Department of Human Services

Nancy Hard, President/CEO

Date

Date

APPROVED AS TO FORM:



Caroline E. Cho
Assistant City Attorney

Board President (if required by
CONTRACTOR)

ATTACHMENTS

Attachment I – Scope of Work
Attachment II – Budget
Attachment III– Contract Monitoring Report

ATTACHMENT I

SCOPE OF WORK



**CITY OF SAN ANTONIO
DEPARTMENT OF HUMAN SERVICES**

SCOPE OF WORK

**Family Service Association of San Antonio, Inc.
Financial Empowerment Services
FY 2016-2017**

PROGRAM OBJECTIVE:

To improve the economic status of the City's lower income working families by teaching them how to build, save, and protect financial assets. In order to accomplish this we provide one-on-one financial counseling and coaching. Our holistic approach to financial counseling builds clients' defenses against detrimental practices such as fraudulent lending, renting and debt management that are perpetrated against low-income families. We are also concerned with overcoming barriers such as minimal educational attainment, insufficient job skills and ineffective support systems that contribute to a lack of individual employability and perpetuate intergenerational cycles of poverty.

SERVICE PLAN:

According to recent research, a quarter of American households are "asset poor," meaning these individuals and families have insufficient financial resources to support them at the poverty level for three months (during a suspension of income). Even more troubling, asset poverty affects children at a disproportionately greater rate. Our Financial Empowerment Center's purpose is to assist individuals and families to increase their asset accumulation while providing education and resources to prevent exploitation that too often occurs through predatory lending, renting and debt management. Primary goals include assisting individuals to become banked with FDIC/FCUA member institutions, reduce debt, develop and maintain savings habits and increase credit scores. Financial Counselors meet confidentially with each individual and/or family to assess immediate financial circumstances and provide support to stabilize the situation, if needed. The counselors then analyze the circumstances holistically, and work with clients to develop outcome-oriented action plans. Financial Counselors take into consideration the core areas such as education, unemployment/underemployment, budgeting, money management and goal setting for wealth creation.

We provide low-to-moderate-income, economically vulnerable families with the skills and knowledge to enable them to successfully manage their finances, learn safe money management, save for their asset goals, and proactively engage in our economy. We are dedicated to improving the economic sustainability and asset accumulation abilities of families in targeted neighborhoods by working collaboratively with other public and private agencies to increase economic opportunities and financial knowledge. We will address the participants' needs for education and job training in high-growth occupations in order to create income stability and financial sustainability where necessary. Research has shown that



**CITY OF SAN ANTONIO
DEPARTMENT OF HUMAN SERVICES**

we get better outcomes when we intentionally bundle services such as education and job training with financial counseling.

Family Service will provide financial counseling services at no cost to participants at the Neighborhood Place and other satellite locations as jointly determined. We will conduct community outreach and marketing for financial counseling services. We will meet the milestones and outcomes within the timeframe the agreement states. Any material changes to its milestones, outcomes, and timeframes or any significant events which could potentially impact the progress or outcomes will be reported to the City immediately. We will track client intake and outcome data, oversee client management and database systems, and work with community partners.

TARGETED POPULATION: Family Service's targeted population is the low to moderate income families of the City of San Antonio.

NUMBER OF PARTICIPANTS/ CLIENTS SERVED: A total of 300 clients will be served by one and a half full time counselor.

ATTACHMENT II

BUDGET

Agency Name: Family Service Association, Inc.

V17.1
Amended 4/1/16

Original
\$100,000.00

PROGRAM LINE ITEM BUDGET

Agency Name: Family Service Association, Inc.
 Program Title: Financial Empowerment Center

Budget Version: Original
 Total Program Budget: \$100,000.00




COSA GL	Contractor's GL	GL DESCRIPTION	Total Cost to COSA	ESG Programs Only - Agency Match
5201025		Education		
5203090		Transportation Fees - Must not exceed current IRS Standard Mileage Rate	0.00	
5205050		Freight and Storage		
5204010		Linen and Laundry Service		
5204050		Maintenance and Repair - Buildings and Improvements		
5204080		Maintenance and Repair - Machinery and Equipment		
5208530		Alarm and Security Services		
5201040		Fees to Professional Contractors - (Enter Details Below)	5,036.92	
		Contractor Name	Purpose/Description of Services to be Provided	Contract Amount
		Insperty	Benefits Administration	5,036.92
5203040		Advertising and Publication		
5203050		Membership Dues and Licenses		
5203060		Binding, Printing and Reproduction		
5203070		Subscriptions to Publications		
Total Contractual Services			\$5,336.92	\$0.00
Commodities				
5302010		Office Supplies	975.01	
5303010		Janitorial Supplies		
5304005		Clothing and Linen Supplies		
5304025		Motor Fuel and Lubricants		
5304070		Recreation Supplies		
5301010		Maintenance and Repair Materials (Buildings and Improvements)		
5301030		Maintenance and Repair Materials (Machinery and Equipment)		
5304075		Computer Software		
5304080		Other Commodities	0.00	
		Purpose/Description of Other Commodities	Amount	
Total Commodities			\$975.01	\$0.00
Fixed Charges				
5403010		Telecommunications		
5404530		Gas and Electricity		
5404540		Water		
5405030		Liability, Hazard, Fidelity Insurance		
5407020		Direct Assistance Payments To Program Participants - (Itemize by Type Below)	0.00	
		(Rental, Medical, Educational, Food for Program Participants, etc.)	Amount	
Total Fixed Charges			\$0.00	\$0.00

Total Capital Outlay		\$0.00	\$0.00
Total Program Budget		\$100,000.00	\$0.00

* Administrative Cost % for COSA Program

*Total Administrative Cost for this COSA funded program may not exceed 20% of the City's allocation to the Agency for this program.

COSA USE ONLY

Approved		Date	7/22/2016
Program Monitor Signature			
Approved		Date	7/22/16
Fiscal Monitor Signature			
Approved		Date	7/22/16
Additional Fiscal Approver Signature			



Agency Name:
Program Name:

CONTRACT MONITORING REPORT

Department of Human Services
FY 2016-2017

Agency Rep:
Phone Number:
Monitor:
Phone Number:

[illegible]

Contract # _____

**PROFESSIONAL SERVICES CONTRACT
WITH
SOUTH ALAMO REGIONAL ALLIANCE FOR THE HOMELESS (SARAH)**

This CONTRACT is made and entered into by and between the CITY OF SAN ANTONIO, a Texas municipal corporation (hereinafter referred to as "CITY"), acting by and through its Director of the Department of Human Services and **South Alamo Regional Alliance for the Homeless (SARAH)** (hereinafter referred to as "CONSULTANT"), both of which may be collectively referred to as the "Parties."

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

I. TERM

- 1.1 This CONTRACT shall commence on October 1, 2016 and shall terminate on September 30, 2017 unless earlier termination shall occur pursuant to any provision hereof.

II. SCOPE OF SERVICES

- 2.1 The CONSULTANT agrees to provide all services in compliance with the Statement of Work and Budget attached hereto as Attachment "A" in a manner satisfactory to the Director of the Department of Human Services (hereinafter referred to as "Director"). The determination made by Director shall be final, binding and conclusive on all Parties hereto. CITY shall have the right to terminate this CONTRACT, in whole or in part, in accordance with Article XIV, Termination, should CONSULTANT's work not be satisfactory to Director; however, CITY shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should CITY elect not to terminate.

III. COMPENSATION TO CONSULTANT

- 3.1 In consideration of CONSULTANT's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this CONTRACT, CITY agrees to pay CONSULTANT an amount not to exceed \$75,000.00 as total compensation, to be paid to CONSULTANT in accordance with the Budget details set forth in the Statement of Work and Budget after determination by the Director of the Department of Human Services that the CONSULTANT has satisfactorily performed the services set forth in the attached Statement of Work.
- 3.2 If specific circumstances require an advance payment on this CONTRACT, CONSULTANT must submit to the Director of the Department of Human Services a written request for such advance payment, including the specific reason for such request in the form prescribed by the CITY. CONSULTANT agrees that the CITY shall not be obligated to pay for any advances requested. In those instances in which advance payments are authorized, the Director of the Department of Human Services may, in the Director's sole discretion, approve an advance payment on this CONTRACT. It is understood and agreed by the parties hereto that (a) each request requires submission to the Director of the Department of Human Services no less than ten (10) business days prior to the actual ostensible cash need; (b) each request will be considered by the Director of the Department of Human Services on a case-by-case basis, and (c) the decision by the Director of the Department of Human Services whether or not to approve an advance payment is final. The City may, in its sole discretion, either deduct from future payments amounts necessary to offset the amount advanced based upon the number of months remaining in the CONTRACT term, or from a single subsequent payment the full amount previously advanced to CONSULTANT. The City may consider factors such as projected allowable costs and other indicators such as CONSULTANT's financial stability. CONSULTANT shall maintain a financial management system to account for periodic, or a lump sum, deduction from reimbursements.
- 3.3 Beginning quarterly after the execution date of the CONTRACT, CONSULTANT shall submit an invoice for the preceding quarter to CITY, in a form acceptable to CITY, which CITY shall pay within thirty (30) days of

receipt and approval by Director. Invoices shall be submitted to: City of San Antonio, Department of Human Services, Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976.

- 3.4 The Parties hereby agree that all compensable expenses of CONSULTANT have been provided for in the total payment to CONSULTANT as specified in section 3.1 above. No additional fees or expenses of CONSULTANT shall be charged by CONSULTANT nor be payable by CITY, without prior approval and written agreement of the Parties.
- 3.5 Final payment due under the CONTRACT will not be paid until all the work, reports, data, documents and any other unfinished services necessary to complete performance under the CONTRACT have been received, performed and are approved by the CITY. The CITY shall not be liable for any payment under this CONTRACT for services which are unsatisfactory or which have not been approved by the CITY.
- 3.6 CITY shall not be obligated or liable under the CONTRACT to any party, other than CONSULTANT, including any subcontractors, for payment of any monies for provision of any goods or services.
- 3.7 If this CONTRACT is partially or wholly grant funded, and reduced funds are awarded to the CITY, the budget for this CONTRACT may be adjusted to correspond to the actual award received by the CITY.

IV. INDEPENDENT CONTRACTOR

- 4.1 CONSULTANT understands and agrees that CONSULTANT is and shall be deemed to be an independent contractor, and not an officer, agent, servant or employee of CITY, and that CONSULTANT is responsible for the acts or omissions of its officers, agents, employees, contractors, subcontractors and consultants, and that the CITY shall in no way be responsible therefor. Nothing contained herein shall be deemed or construed by the Parties hereto or by any third party as creating the relationship of employer-employee, principal-agent, partners, joint venture, or any other similar such relationship, between the Parties hereto. CONSULTANT understands and agrees that the CITY shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the CONSULTANT under this Contract and that the CONSULTANT has no authority to bind the CITY.

V. CONFIDENTIALITY

- 5.1 No reports, information, designs, data nor any other documentation developed by, given to, prepared by, or assembled by CONSULTANT under this CONTRACT shall be disclosed or made available to any individual or organization by CONSULTANT without the express prior written approval of CITY. In the event CONSULTANT receives a request to disclose or produce documents, CONSULTANT shall inform the CITY immediately for the purpose of receiving direction regarding the manner of processing.
- 5.2 CONSULTANT shall comply with laws, regulations and rules pertaining to confidentiality and shall establish a method to secure the confidentiality of documents and information that CONSULTANT may have access to, in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting CITY's right of access to records or other information under this CONTRACT.

VI. OWNERSHIP OF DOCUMENTS

- 6.1 Any and all records, data, finished or unfinished documents, writings, reports, charts, schedules, or information produced by, or on behalf of, CONSULTANT, and any related responses, inquiries, correspondence and materials which has come into CONSULTANT's custody, even if not produced by, or on behalf of, CONSULTANT, in whatsoever form and character (hereinafter referred to as "documents") pursuant to the provisions of this CONTRACT are the exclusive property of CITY; and no such documents shall be the subject of any copyright or proprietary claim by CONSULTANT.
- 6.2 CONSULTANT understands and acknowledges that as the exclusive owner of any and all such documents, CITY has the right to use all such documents as CITY desires, without restriction or further compensation to CONSULTANT. CONSULTANT shall deliver, at CONSULTANT's sole cost and expense, all

CONTRACT related documents and reports to the CITY in accordance with the dates established under this CONTRACT, and in a timely and expeditious manner, and if a delivery date is not specified, then upon termination of the CONTRACT if requested by the CITY.

- 6.3 CONSULTANT shall notify CITY immediately of any requests for information from a third party which pertain to documents obtained and/or generated pursuant to this CONTRACT. CONSULTANT understands and agrees that CITY reserves the right to process and handle all such requests.

VII. RIGHT OF REVIEW AND RECORDS RETENTION

- 7.1 CONSULTANT and its subcontractors, if any, shall properly, accurately and completely maintain all documents, and shall make such materials available to the CITY at their respective offices, at all reasonable times and as often as CITY may deem necessary during the CONTRACT period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by CITY and any of its authorized representatives.
- 7.2 CONSULTANT shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the CONTRACT. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, CONSULTANT shall retain the records until the resolution of such litigation or other such questions. CONSULTANT acknowledges and agrees that CITY shall have access to any and all such documents at any and all times, as deemed necessary by CITY, during said retention period. CITY may, at its election, require CONSULTANT to return the documents to CITY at CONSULTANT's expense prior to or at the conclusion of the retention period. In such event, CONSULTANT may retain a copy of the documents.

VIII. LICENSES AND CERTIFICATIONS

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

IX. COMPLIANCE

- 9.1 CONSULTANT shall provide and perform all services under this CONTRACT in compliance with all applicable federal, state, local laws, rules and regulations. Failure to comply with applicable laws and regulations could subject the CONSULTANT to suspension of payments, termination of CONTRACT, and debarment and suspension actions. In the event that any disagreement or dispute should arise between the Parties hereto pertaining to the interpretation or meaning of any part of this CONTRACT or its governing rules, regulations, laws, codes or ordinances, CITY, as the party ultimately responsible for all matters of compliance with City of San Antonio and applicable grant rules and regulations, shall have the final authority to render or secure an interpretation.
- 9.2 The CONSULTANT certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988.
- 9.3 As a party to this CONTRACT, CONSULTANT understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio 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 herein. Also, CONSULTANT certifies that it will comply fully with the following nondiscrimination and equal opportunity provisions:
- a. Titles VI and VII of the Civil Rights Act of 1964, as amended;
 - b. Section 504 of the Rehabilitation Act of 1973, as amended;

- c. The Age Discrimination Act of 1975, as amended;
- d. Title IX of the Education Amendments of 1972, as amended; and
- e. All applicable regulations implementing the foregoing laws.

X. CONFLICT OF INTEREST

- 10.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in the City's Ethics Code, from having a financial interest in any CONTRACT with City. An officer or employee has a "prohibited financial interest" in a CONTRACT with the 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; an entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the entity, or ten (10) percent or more of the fair market value of the entity; an entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary entity.
- 10.2 CONSULTANT warrants and certifies, and this CONTRACT is made in reliance thereon, that it, its officers, employees and agents performing on this CONTRACT are neither a City officer nor an employee as defined by Section 2-52 (e) of the City's Ethics Code. CONSULTANT further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XI. INSURANCE

- 11.1 Prior to the commencement of any work under this CONTRACT, CONSULTANT shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the CITY's Department of Human Services, which shall be clearly labeled "Consulting Services- U.S. Housing and Urban Development TX-500 San Antonio/Bexar County Homeless Continuum of Care FY 2016-2017 Notice of Funding Availability (NOFA) Application Administration and Coordination" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The CITY will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the authorized representative of the carrier, and list the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the CITY. The CITY shall have no duty to pay or perform under this CONTRACT until such certificate and endorsements have been received and approved by the CITY's Human Services Department. No officer or employee, other than the CITY's Risk Manager, shall have authority to waive this requirement.
- 11.2 The CITY reserves the right to review the insurance requirements of this Article during the effective period of this CONTRACT 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 CONTRACT. In no instance will CITY allow modification whereby CITY may incur increased risk.
- 11.3 A CONSULTANT's financial integrity is of interest to the CITY; therefore, subject to CONSULTANT's right to maintain reasonable deductibles in such amounts as are approved by the CITY, CONSULTANT shall obtain and maintain in full force and effect for the duration of this CONTRACT, and any extension hereof, at CONSULTANT'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:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Products/completed operations c. Personal / Advertising Injury	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Professional Liability (Claims Made Basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional services	\$100,000 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.

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

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

City of San Antonio
Attn: Human Services Department
P.O. Box 839966
San Antonio, Texas 78283-3966

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

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

11.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, CONSULTANT shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend CONSULTANT's performance should there be a lapse in coverage at any time during this CONTRACT. Failure to provide and to maintain the required insurance shall constitute a material breach of this CONTRACT.

- 11.8 In addition to any other remedies the CITY may have upon CONSULTANT's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the CITY shall have the right to order CONSULTANT to stop work hereunder, and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof.
- 11.9 Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subcontractors' performance of the work covered under this CONTRACT.
- 11.10 It is agreed that CONSULTANT's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this CONTRACT.
- 11.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this CONTRACT and that no claim or action by or on behalf of the CITY shall be limited to insurance coverage provided.
- 11.12 CONSULTANT and any subcontractors are responsible for all damage to their own equipment and/or property.

XII. INDEMNITY

- 12.1 **CONSULTANT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONSULTANT'S activities under this CONTRACT including any acts or omissions of CONSULTANT, any agent, officer, director, representative, employee, consultant or subcontractor of CONSULTANT, and their respective officers, agents, employees, directors and representatives while in the exercise of the rights or performance of the duties under this CONTRACT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONSULTANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**
- 12.2 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONSULTANT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONSULTANT known to CONSULTANT related to or arising out of CONSULTANT's activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at CONSULTANT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONSULTANT of any of its obligations under this paragraph.
- 12.3 Defense Counsel - CITY shall have the right to select or to approve defense counsel to be retained by CONSULTANT in fulfilling its obligation hereunder to defend and indemnify CITY, unless such right is expressly waived by CITY in writing. CONSULTANT shall retain CITY approved defense counsel within seven (7) business days of CITY's written notice that CITY is invoking its right to indemnification under this

CONTRACT. If CONSULTANT fails to retain counsel within such time period, CITY shall have the right to retain defense counsel on its own behalf, and CONSULTANT shall be liable for all costs incurred by CITY. CITY shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

- 12.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONSULTANT or any subcontractor under worker's compensation or other employee benefit acts.

XIII. NON-DISCRIMINATION

- 13.1 As a condition of entering into this CONTRACT, CONSULTANT represents and warrants that it will 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 treatment of subcontractors, vendors, suppliers, or customers, nor shall CONSULTANT retaliate against any person for reporting instances of such discrimination. CONSULTANT shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities.

XIV. TERMINATION

- 14.1 For purposes of this CONTRACT, "termination" of this CONTRACT shall mean termination by expiration of the CONTRACT term or earlier termination pursuant to any of the provisions hereof.
- 14.2 **TERMINATION BY NOTICE:** The CONTRACT may be terminated by either party upon written notice, provided such notice specifies an effective date of termination, which shall be not less than thirty (30) days from the date such notice is received by the other party. If the notice does not specify a date of termination, the effective date of termination shall be thirty (30) days after receipt of the notice by the other party. All files are the property of the CITY and, at the CITY'S request, will be delivered at no cost to the CITY or its designated recipient at the effective date of termination.
- 14.3 **TERMINATION FOR CAUSE:** Should either party default in the performance of any of the terms or conditions of this CONTRACT, the non-defaulting party shall deliver to the defaulting party written notice thereof specifying the matters of default. The defaulting party shall have ten (10) days after its receipt of the written notice to cure such default. If the defaulting party fails to cure the default within such ten (10) day period, the non-defaulting party may elect to terminate this CONTRACT, in whole or in part, upon written notice, as of the date provided in the notice.
- 14.4 **TERMINATION BY LAW:** If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein or if any law is interpreted to prohibit such performance, and the CONTRACT may not be continued by severance of the prohibited duties, this CONTRACT shall automatically terminate as of the effective date of such prohibition.
- 14.5 **NON-APPROPRIATION:** In the event that through action or no action initiated by the City of San Antonio, the CITY's legislative body does not appropriate funds for the continuation of this CONTRACT and has no funds to do so from other sources, this CONTRACT may be terminated. To effect this termination, the CITY shall, thirty (30) days prior to the period for which funds are not appropriated, send the CONSULTANT written notice stating that the City of San Antonio failed to appropriate funds.
- 14.6 **EFFECT OF TERMINATION:** Upon the effective date of expiration or termination of this CONTRACT CONSULTANT shall cease all operations of work being performed by CONSULTANT or any of its approved subcontractors pursuant to this CONTRACT. The period between notice of termination and the effective date of termination shall be used to effect an orderly transfer of records and documents and funds, if any, from the CONSULTANT to the CITY or to such person(s) as the CITY may designate, if so requested

by CITY; otherwise, the documents shall be retained by CONSULTANT in accordance with Article VII, Right of Review and Records Retention. Any records or documents transfer shall be completed within fifteen (15) days of the termination date. Any such transfer of records or funds shall be completed at the CONSULTANT'S sole cost and expense.

- 14.7 Within thirty (30) days of the effective date of termination (unless an extension is authorized in writing by the CITY), the CONSULTANT shall submit to the CITY, its claim, in detail, for the monies owed by the CITY for services performed under this CONTRACT through the effective date of termination. Failure by CONSULTANT to submit its claims within said thirty (30) days shall negate any liability on the part of CITY and constitute a waiver by CONSULTANT of any and all right or claims to collect funds that CONSULTANT may rightfully be otherwise entitled to for services performed pursuant to this CONTRACT.
- 14.8 Upon termination of this CONTRACT, the CITY may immediately commence an audit of the CONSULTANT'S books, accounts, and records. Within thirty (30) days after being notified by the CITY of the results of said audit, the CONSULTANT shall pay the CITY any amount shown by said audit to be owed the CITY.
- 14.9 Termination not sole remedy. In no event shall CITY's action of terminating this CONTRACT, whether for cause or otherwise, be deemed an election of CITY's remedies, nor shall such termination limit, in any way, at law or at equity, CITY's right to seek damages from or otherwise pursue CONSULTANT for any default hereunder or other action.

XV. AMENDMENT

- 15.1 Except where the terms of this CONTRACT expressly provide otherwise, any amendment to this CONTRACT shall not be binding on the Parties unless such amendment be in writing, executed by both CITY and CONSULTANT and dated subsequent to the date hereof.
- 15.2 It is understood and agreed by Parties hereto, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this CONTRACT and that any such changes shall be automatically incorporated into this CONTRACT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. NOTICE

- 16.1 Any notice required, permitted or appropriate under this CONTRACT shall be deemed sufficient, if in writing, and to have been duly given if and when delivered personally, with receipt acknowledged, or upon receipt if sent certified mail, return receipt requested, postage prepaid, to CITY or CONSULTANT at the respective address set forth below or to any other address of which written notice of change is given:

CITY

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

CONSULTANT

Executive Director
South Alamo Regional Alliance for the Homeless
(SARAH)
1 Haven for Hope Way
San Antonio, Texas 78207

XVII. LEGAL AUTHORITY

- 17.1 The person signing on behalf of CONSULTANT represents and warrants and certifies that he has full legal authority to execute this CONTRACT on behalf of CONSULTANT and has authority to bind CONSULTANT to all the terms, conditions, provisions and obligations contained herein.

XVIII. SUBCONTRACTING AND ASSIGNING INTEREST

- 18.1 CONSULTANT shall perform all necessary work or shall supply qualified personnel as maybe necessary to

complete the work to be performed under this CONTRACT. CONSULTANT shall obtain prior written approval from CITY before assigning or subcontracting any responsibilities under this CONTRACT. The violation of this provision by CONSULTANT shall not release CONSULTANT from any obligation under the terms of this CONTRACT, nor shall it relieve or release CONSULTANT from the payment of any damages to CITY which CITY sustains as a result of such violation.

- 18.2 Any services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the CITY, shall be subject by its terms to each and every provision of this CONTRACT. Compliance by subcontractors with this CONTRACT shall be the responsibility of CONSULTANT. CITY shall in no event be obligated to any third party, including any subcontractor of CONSULTANT, for performance of services or payment of fees.

XIX. SUCCESSORS AND ASSIGNS

- 19.1 This CONTRACT shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and their assigns, however, CONSULTANT may not assign this CONTRACT without prior written consent of CITY in accordance with Article XVIII hereof.

XX. NON-WAIVER

- 20.1 Unless otherwise specifically provided for in this CONTRACT, a waiver by either party of a breach of any of the terms, conditions, covenants or guarantees of this CONTRACT shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this CONTRACT shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. No act or omission by a party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXI. VENUE AND GOVERNING LAW

- 21.1 ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY LEGAL ACTION, CLAIM OR DISPUTE ARISING DIRECTLY OR INDIRECTLY AS A RESULT OF THIS CONTRACT SHALL BE IN BEXAR COUNTY, TEXAS.**

XXII. SEVERABILITY

- 22.1 If any clause or provision of this CONTRACT is held invalid, illegal or unenforceable under present or future laws during the term of this CONTRACT, including any extension, it is the intention of the Parties hereto that the remainder of the CONTRACT shall not be affected thereby, and that in lieu of each clause or provision of the CONTRACT that is held invalid, illegal or unenforceable, a new clause or provision be added, as similar in terms and content, to be legal, valid, and enforceable under the CONTRACT.

XXIII. ENTIRE AGREEMENT

- 23.1 Each of the Attachments listed below is an essential part of the CONTRACT, which governs the rights and duties of the Parties. This CONTRACT, together with its authorizing ordinance, exhibits and attachments, if any, embodies the final and entire agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties and relating to matters in this CONTRACT. No other

agreements, oral or otherwise regarding the matters of this CONTRACT shall be deemed to exist or to bind the Parties unless same be executed in accordance with Section XV.

This CONTRACT has been executed effective as of the date of signature of the last party to sign (the "Effective Date").

CITY
City of San Antonio, Texas

CONSULTANT
South Alamo Regional Alliance for the Homeless (SARAH)

Melody Woosley, Director
Department of Human Services

Bill Hubbard Executive Director

Date

Date

APPROVED AS TO FORM:

Assistant City Attorney

Attachment A – Statement of Work and Budget
Attachment B – General Information Form



CITY OF SAN ANTONIO
DEPARTMENT OF HUMAN SERVICES

Statement of Work

**South Alamo Regional Alliance for the Homeless, SARAH
Continuum of Care
FY 2016-2017**

CONSULTANT agrees to provide the following services and abide by the following provisions:

- Coordinate with Collaborative Applicant responsibilities prior to HUD established deadlines as follows:
 - Manage Planning Grant funding (in part or in whole) to SARAH and report updates and expenditure drawdowns at monthly Board of Director meetings.
 - Continue to staff SARAH as budget allows
 - Evaluate and rank outcomes of renewal projects and activities
 - Evaluate and rank new project applications, ensuring that new projects meet HUD requirements related to focus area and target parameters to increase the probability of obtaining HUD funding
 - Prepare and timely submit the HUD Continuum of Care Notice of Funding Availability (NOFA) application
 - Prepare and timely submit application for HUD Planning Grant
 - Coordinate any other reporting, research and writing required by HUD
- Conduct Continuum of Care Board of Director business matters as identified in CoC bylaws:
 - Maintain 17 members, including 4 officers (President, Vice President, Secretary and Treasurer)
 - Hold Board of Director meetings to meet at least as frequently as bylaw minimum requirements
 - Maintain standing subcommittees identified in bylaw requirements
 - Work with the Board of Directors to identify and remove real or perceived conflicts of interest within the member agencies which may include reorganization of the Board of Directors, rewriting the SARAH Bylaws to reflect any Board changes and take any other administrative steps necessary in that regard.

PROGRAM OBJECTIVE: SARAH is comprised of local member agencies dedicated to providing services to those that are homeless or at risk of homelessness, with the goal of reducing the number of people living on the streets and shelters in San Antonio/Bexar County. Funding from the City of San Antonio will assist SARAH in accomplishing the administrative functions required by HUD to maintain and increase HUD funding levels.

BUDGET

\$25,000 Contract total (\$6,250.00 billed on a quarterly basis for operating expenses)

Attachment A**CITY OF SAN ANTONIO
DEPARTMENT OF HUMAN SERVICES****SCOPE OF WORK****South Alamo Regional Alliance for the Homeless (SARAH)
Continuum of Care
FY 2016-2017**

PROGRAM OBJECTIVE: SARAH is comprised of local member agencies dedicated to providing services to those that are homeless or at risk of homelessness, with the goal of reducing the number of people living on the streets and shelters in San Antonio/Bexar County. Funding from the City of San Antonio allows SARAH to contract with Corporation for Supportive Housing (CSH) to complete an assessment of current homeless shelter and housing services, make recommendations on what the mix of shelter/housing should look like, and strategies to help us get there. Special emphasis will be placed on increasing Permanent Supportive Housing opportunities for those individuals that may not be able live independently.

CSH is a nationally recognized company with expertise in homeless services, U. S. Department of Housing and Urban Development (HUD) policy and housing strategies. They have many years of experience consulting with many communities to provide custom community planning and cutting-edge innovations. They engage government leaders and public agencies through systems reform, policy collaboration and advocacy. SARAH enjoys a close working relationship with CSH staff and has been working with them on Coordinated Entry, the Mayor's Challenge to end Veteran Homelessness and several other projects. This contract management agreement will be a natural extension of current projects to assist in developing a system that will end homelessness in San Antonio/Bexar County.

SERVICE PLAN: The Service Plan includes several key tasks to be completed by SARAH utilizing a contract with CSH. SARAH will oversee and monitor the CSH contract to include the elements below, with SARAH reporting to the City no less frequently than monthly. The monthly written reports will provide updates on the project plan for CSH's work to develop a process map and gap analysis of the San Antonio Homeless Services Process, including Coordinated Entry, Housing Inventory, Service Provider Collaboration and Service Delivery.

CSH project will begin in October and will have four distinct phases

- **System Mapping** – CSH will utilize data provided by the Continuum of Care (CoC) to create a system map of current housing models and will provide a gap analysis of local housing models. CoC System map and gaps analysis will be created to establish the community need for homeless interventions, as well as appropriate target populations for each intervention.

Attachment A

- **Transitional Housing (TH) Analysis & Conversion Recommendations** - HUD is encouraging CoCs to take a strategic look at all programs in the community to ensure the interventions match the need. CSH will analyze the transitional housing projects in the CoC and provide organizational and systemic recommendations on the best use of TH stock in a community.
- **Provider Training Series / Community Discussions** – CSH will provide presentations and / or trainings to support recommendations of systems analysis, discussion will focus on Housing First (Getting people housed and keeping them housed) and Financing Supportive Housing Models.
- **Financial Modeling** - CSH will use local numbers and average costs to provide 3-4 scenarios that can range from 100% developed units to a few configurations of mixed development and rental assistance. CSH will consult with the City, San Antonio Housing Authority, SARAH and other stakeholders on the types of scenarios that will be most useful for the community. CSH anticipates meeting with the City at least every 2 weeks, SAHA at least 3 times regarding HUD Voucher distribution policies and processes, SARAH at least weekly, if not more often. Stakeholder meetings will occur monthly in a group session. The other groups will be individual meetings and conference calls as appropriate for cost and subject matter.

Budget (Timetable and Associated Fee)

SARAH Contract Administration Fee: \$2,000.00 (Billable in January, 2017 quarterly invoice). CSH Consulting Fee: \$48,000.00 (to be billed in the quarter following completion as set forth below)

Deliverable	Cost
Phase 1: System Flow Mapping & Gaps Analysis <i>Timeline: October 2016 – December 2016 (3 months)</i>	\$17,000 for consulting services \$ 3,000 in travel costs Billable in January, 2017 quarterly invoice
Phase 2: Transitional Housing Analysis & Conversion Recommendations <i>Timeline: October 2016 – December 2016 (3 months)</i>	\$ 8,000 for consulting services \$ 3,000 in travel costs Billable in January, 2017 quarterly invoice
Phase 3: Provider Training Series <i>Timeline: January 2016 – April 2016 (4 months)</i>	\$6,000 for two one-day trainings for up to 50 people \$3,000 in travel costs \$8,000 for two 75 minute webinars for up to 100 people Billable in July, 2017 quarterly invoice
Total	\$48,000

ATTACHMENT B**GENERAL INFORMATION****1. Respondent Information:** Provide the following information regarding the Respondent:

(NOTE: Co-Respondents are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors are not Co-Respondents and should not be identified here. If this proposal includes Co-Respondents, provide the required information in this Item #1 for each Co-Respondent by copying and inserting an additional block(s) before Item #2.)

Respondent Name:

(NOTE: Give exact legal name as it will appear on the contract, if awarded.)

Principal Address:

City: State: Zip Code:

Telephone #: Fax #:

Website Address:

Year Established:

Number of Years in Business Under Present Name:

Social Security or Federal Employer Identification #:

Texas Comptroller's Taxpayer Number, if applicable:

(NOTE: This is an 11-digit number sometimes referred to as the Comptroller's TIN or TID.)

DUNS Number:

Business Structure: Check the box that indicates the business structure of the Respondent.

☐ Individual or Sole Proprietorship If checked, list Assumed Name, if any:

☐ Partnership

☒ Corporation

If checked, check one: ☐ For-Profit

☒ Non-Profit

Also, check one: ☐ Domestic

☐ Foreign

☐ Other

If checked, list business structure:

Name of Contract Signatory:

Job Title:

(NOTE: This RFP solicits proposals to provide services under a contract which has been identified as "High Profile". Therefore, Respondent must provide the name of person that will sign the contract for the Respondent, if awarded.)

Provide any other names under which Respondent has operated within the last 10 years and length of time under for each:

ATTACHMENT B

Provide address of office from which this project would be managed:

1 Haven for Hope Way			
(Street Address)			
San Antonio	Texas	78207	
(City)	(State)	(Zip Code)	
Telephone #:	210-596-8272	Fax #:	None
Annual Revenue:	\$614,616		
Total Number of Employees:	4 Staff		
Total Number of Current Clients/Customers:	2,781 plus		

Briefly describe other lines of business that the company is directly or indirectly affiliated with:

SARAH is the Continuum of Care charge with the planning, administration and oversight of homeless prevention services within San Antonio and Bexar County's boundary lines.

List Related Companies:

None

2. Contact Information: List the one person who the City may contact concerning your proposal or setting dates for meetings:

Name:	Bill Hubbard	Title:	Executive Director
Address:	1 Haven for Hope Way		
City:	San Antonio	State:	Texas
		Zip Code:	78207
Telephone #:	210-596-8272	Fax #:	None
Email:	billhubbard@sarahhomeless.org		

3. Does Respondent anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?

☐ Yes ☒ No

4. Is Respondent authorized and/or licensed to do business in the State of Texas?

☒ Yes ☐ No

If "Yes", list authorizations/licenses

Internal Revenue Service, Articles of Incorporation of a Texas Non-Profit Corporation, EIN: 74-3013287

5. Where is the Respondent's corporate headquarters located?

Address:	1 Haven for Hope Way,		
City:	San Antonio	State:	Texas
		Zip Code:	78207

ATTACHMENT B**6. Local/County Operation:** Does the Respondent have an office located in San Antonio, Texas?☒ Yes☐ No

If "Yes", respond to A and B below:

A. How long has Respondent conducted business from its San Antonio office?

Years: Months:

B. State the number of full-time employees at the San Antonio office?

If "No", does the Respondent have an office located within Bexar County, Texas?

☐ Yes☒ No

If "Yes", respond to C and D below:

How long has Respondent conducted business from its Bexar County office?

Years: Months:

State the number of full-time employees at the Bexar County office?

7. Debarment/Suspension Information: Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity?☐ Yes☒ No

If "Yes", identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

8. Surety Information: Has the Respondent ever had a bond or surety canceled or forfeited?☐ Yes☒ No

If "Yes", state the name of the bonding company, date, amount of bond, and reason for such cancellation or forfeiture.

9. Bankruptcy Information: Has the Respondent ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?☐ Yes☒ No

If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities, and amount of assets.

ATTACHMENT B

10. Disciplinary Action: Has the Respondent ever received any disciplinary action, or any pending disciplinary action, from any regulatory bodies or professional organizations?

☐ Yes ☒ No

If "Yes", state the name of the regulatory body or professional organization, date, and reason for disciplinary or pending disciplinary action.

11. Previous Contracts:

A. Has the Respondent ever failed to complete any contract awarded?

☐ Yes ☒ No

If "Yes", state the name of the organization contracted with, services contracted, date, contract amount, and reason for failing to complete the contract.

B. Has any officer or partner proposed for this assignment ever been an officer or partner of some other organization that failed to complete a contract?

☐ Yes ☒ No

If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount, and reason for failing to complete the contract.

C. Has any officer or partner proposed for this assignment ever failed to complete a contract handled in his or her own name?

☐ Yes ☒ No

If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount, and reason for failing to complete the contract.

ATTACHMENT B**REFERENCES**

Provide three (3) current private or public agency references, that Respondent has provided services to within the past three (3) years. The contact person named should be familiar with the day-to-day management of the contract and be willing to respond to questions regarding the type, level, and quality of service provided.

Reference No. 1:

Firm/Company Name:	American G.I. Forum National Veterans Outreach Program, Inc.				
Name:	Carlos Martinez	Title:	President and CEO		
Address:	611 N. Flores				
City:	San Antonio	State:	Texas	Zip Code:	78205
Telephone #:	210-223-4088	Fax #:	210-223-4970		
Email:	cmartinez@agif-nvop.org				
Date and Type of Service(s) Provided:	N/A				

Reference No. 2:

Firm/Company Name:	Haven for Hope				
Name:	Scott Ackerson	Title:	VP of Strategic Relationships		
Address:	1 Haven for Hope Way				
City:	San Antonio	State:	Texas	Zip Code:	78207
Telephone #:	210-220-2110	Fax #:	210-220-2122		
Email:	scott.ackerson@havenforhope.org				
Date and Type of Service(s) Provided:	N/A				

Reference No. 3:

Firm/Company Name:	Family Endeavors				
Name:	Travis Pearson	Title:	Chief Executive Officer		
Address:	535 Bandera Road				
City:	San Antonio	State:	Texas	Zip Code:	78228
Telephone #:	210-431-6466	Fax #:	None		
Email:	tp@familyendeavors.org				
Date and Type of Service(s) Provided:	N/A				