SS/mgc
04/30/09
Item #31

AN ORDINANCE 2009-04-30-0335

AUTHORIZING A FORTY-YEAR AGREEMENT WITH HAVEN FOR HOPE OF BEXAR COUNTY TO OPERATE A HUMAN SERVICES CAMPUS FOR THE HOMELESS, WITH TWO (2) TEN (10) YEAR RENEWAL OPTIONS.

* * * * *

WHEREAS, development of the Haven for Hope Campus (Campus) is a key component of the City's 10 Year Plan to End Chronic Homelessness, which recommended the development of a homeless campus to replace two city-owned shelters; and

WHEREAS, toward this end, the City has already invested and committed almost $20 million for land acquisition and construction; and

WHEREAS, additionally, over $1.8 million in General Fund and grant support will be redirected to service providers operating on the campus; and

WHEREAS, on, March 6, 2008, City Council authorized a lease agreement with Haven for Hope for a period of forty (40) years with two 10-year renewal options; and

WHEREAS, it is now necessary to authorize an operating agreement with Haven for Hope of Bexar County for a term of forty (40) years with two 10-year renewal options for the management of the Campus and coordination of service providers providing a wide array of transformational services; **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee, or the Director of the Department of Community Initiatives (DCI) or his designee is authorized to execute a forty-year agreement with Haven For Hope of Bexar County to operate a human services campus for the homeless, with two (2) ten (10) year renewal options. A copy of the agreement is attached hereto and incorporated herein for all purposes as **Attachment I**.

SECTION 2. Annual funding for the agreement during the term and any renewal periods is contingent upon approval and adoption of the budget for the applicable fiscal year.

SECTION 3. If approved by City Council, payment not to exceed the annual budgeted amount is authorized to and should be encumbered with a purchase order.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers,

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SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance shall become effective immediately upon passage by eight (8) affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND APPROVED this 30th day of April, 2009.

M A Y O R

ATTEST: _____
City Clerk

APPROVED AS TO FORM: _____
for City Attorney

Agenda Item:	**31**
Date:	04/30/2009
Time:	04:45:09 PM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing a forty-year agreement with Haven For Hope of Bexar County, Inc. to operate a human services campus for the homeless, with two (2) ten (10) year renewal options. [Frances A. Gonzalez, Assistant City Manager; Dennis J. Campa, Director, Community Initiatives]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4	x					
Lourdes Galvan	District 5		x			x	
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10	x					

Attachment I

OPERATING AGREEMENT

BETWEEN

THE CITY OF SAN ANTONIO, A TEXAS MUNICIPAL CORPORATION

AND

THE HAVEN FOR HOPE OF BEXAR COUNTY, A TEXAS NON-PROFIT CORPORATION

This agreement ("**Agreement**") is entered into this 30th day of April, 2009, between The Haven for Hope of Bexar County, a Texas non-profit corporation, located at 1 Haven for Hope Way, San Antonio, Texas 78207 ("**Operator**") acting by and through its Executive Director, and the City of San Antonio, a Texas municipal corporation and a home rule municipality (the "**City**") acting by and through its City Manager or authorized designee pursuant to City of San Antonio Ordinance No. _____, passed and approved on ___, 2009 and effective on _____, 2009 relating to activities to be performed, responsibilities to be accepted and authority to be exercised with regard to the operation of a human services campus for the homeless (the "**Campus**") known as Haven for Hope.

WHEREAS, the City issued Certificates of Obligation, Series 2007 and Tax Notes, Series 2007 pursuant to the Constitution and general laws of the State of Texas, the City Charter, and City ordinances for the purpose of acquiring land, construction of improvements and other expenditures related to the development of the Campus; and

WHEREAS, to date, the City has invested and committed fifteen million dollars ($15,000,000) towards the acquisition of land and development of the Campus; and

WHEREAS, the City entered into a long-term lease with Operator for the purposes of development of new improvements, modification of existing improvements on the City's property, and management and operation of the Campus (the "**Lease**"); and

WHEREAS, the Lease is for a forty-year term, with two (2) ten-year renewal options, for an annual rent of one dollar ($1.00); and

WHEREAS, the City Council of the City deems it desirable to enter into this Agreement for the day-to-day operation of the Campus that will provide a wide range of transformational services to meet the needs of San Antonio's homeless community in a "one-stop" setting to be located at the Campus; and

WHEREAS, it is proposed that the operations of the Campus be conducted on a collaborative basis with the Providers under the management and leadership of Operator; and

WHEREAS, it is proposed that certain services will be provided by the City; and

WHEREAS, Operator, subject to the terms and conditions hereof, desires to enter into this Agreement to operate the Campus; and

NOW, THEREFORE, in consideration of the premises and of the terms, conditions and covenants set forth in this Agreement, the City and Operator mutually agree as follows:

ARTICLE 1
PURPOSE; COOPERATION; CONSTITUTIONAL REQUIREMENTS

Section 1.1 Purpose. The purpose of this Agreement is to facilitate the provision of services to improve the lives of homeless people in the San Antonio area by providing a wide array of necessary transformational services to foster the development of homeless people with the knowledge, resources, skills, assistance and ability necessary to become self-sufficient in a manner that is efficient and cost-effective.

Section 1.2 Cooperation. In recognition of the importance of nurturing a close spirit of cooperation between the parties to this Agreement, the complexities of the issues and obligations arising hereunder in effecting the Project (as defined below), and the enormity of the tasks being undertaken by the Operator pursuant to this unique contract between public and private interests, the parties shall endeavor to develop a relationship of trust and cooperation that will yield mutual assistance and facilitate the resolution of problems and the implementation of the Project. To that end, the parties shall engage in frequent telephone and personal conferences regarding issues arising under the Agreement and in connection with the effecting of the provisions of this Agreement, mutual participation in and shared notice of important meetings, the nurturing of singleness of purpose and meetings between the respective financial officers of the parties.

Section 1.3 Constitutional Requirements. Notwithstanding anything else provided in this Agreement, the parties hereto acknowledge and agree that any stated or implied funding obligations of the City are subject to the requirements of the Constitution of the State of Texas, more particularly Article 11, Section 5 thereof.

ARTICLE 2
DEFINITIONS

As used in this Agreement, the terms below shall have the following definitions unless context otherwise requires:

Section 2.1 "**Campus**" shall mean the land, improvements, buildings, appurtenances and equipment thereon described above located at the Premises subject to the Lease.

Section 2.2 "**Graduates**" shall mean participants who have fulfilled the Operator's program requirement under the Project and who have moved, or are in the process of moving, off the Campus.

Section 2.3 "**Graduate Needs**" shall include but are not limited to the following: housing, first month's rent and security deposit, payment of utilities, food, out placement, medical services, job training and moving costs.

Section 2.4 "**Invitee**" shall mean homeless individuals and one or more individuals at risk of becoming homeless invited into the Campus for the purpose of receiving services.

Section 2.5 "**Lease**" shall mean that certain Lease between the City and Operator, dated March 6, 2008 and authorized pursuant to Ordinance 2008-03-06-0164, together with all attachments, appendices and exhibits.

Section 2.6 "**Participants**" shall mean homeless individuals or individuals at risk of becoming homeless who are provided services at the Campus and who are identified by the Operator as "Members" or "Prospects."

Section 2.7 ["**Premises**" shall mean 11.372 acres out of NCB 197, NCB 198, NCB 210, NCB 220, NCB 221, NCB 250 and NCB 252 also known as 601 North Frio Street, 717 North Frio Street, 524 Leal Street, 1301 West Martin Street, 1323 West Martin Street, 519 North Medina, 720-722 Morales, 801 Morales, 825 Morales, 903 Morales, 523 Perez Street, 615 Perez Street, 701 North Salado Street, 727 North Salado Street and 626 North San Marcos Street.]

Section 2.8 "**Project**" shall mean the programs and services offered by the Operator on the Campus to be operated, except and to the extent modified by mutual agreement of Operator and the City, as provided herein.

Section 2.9 "**Provider**" shall refer to one or more separate agencies providing specific services to homeless individuals on the Campus. The Providers will be selected by Operator in keeping with the mission, goals and objectives of the Project.

ARTICLE 3
TERM

Section 3.1 Except as otherwise provided for pursuant to the provisions hereof, this Agreement shall commence immediately upon its execution and shall terminate on March 5, 2048.

Section 3.2 The Operator may request renewal of this Agreement for two (2) successive renewal terms ("**Renewal Terms**") of ten (10) years each, each Renewal Term being subject to the approval of the City Council of City. Operator shall provide City written notice of its request to renew no later than six (6) months prior to the end of a given term. If such notice is not timely provided, Operator shall be deemed to have waived its right to all Renewal Terms then remaining. Such notice shall include a copy of this Agreement, together with any amendments thereto.

ARTICLE 4
RESPONSIBILITIES

Section 4.1 Operator's Executive Director shall be Operator's designated representative responsible for the management of all contractual matters pertaining to this Agreement.

Section 4.2 City's Department of Community Initiatives Director or his designee shall be City's representative responsible for the administration of this Agreement.

Section 4.3 Communications between City and Operator shall be directed to the designated representatives of each as set forth in paragraphs numbered 4.1 and 4.2 hereinabove.

ARTICLE 5
CONTRIBUTIONS OF OPERATOR; SERVICES OF OPERATOR; PROVIDER SERVICES

Section 5.1 Schedule "A1" Services. Operator shall undertake the performance of all services described in Schedule "A1" (attached hereto and incorporated as a part hereof by reference). Operator and the City acknowledge that at the time of this Agreement, the construction of the Campus has not been completed. Except as otherwise provided herein, it shall be Operator's sole responsibility to obtain the funds necessary to (i) hire the architects, builders, engineers and other professionals necessary to complete construction of the Campus; (ii) complete construction and renovations as provided in the Lease; and (iii) perform the services described in Schedule "A1."

Section 5.2 Additional Responsibilities. In addition to the services described in Schedule "A1," Operator shall be responsible for:

(i) development and establishment of such policies and procedures as are necessary to carry out Operator's responsibilities under this Agreement for the effective and efficient operation of the Project;

(ii) establishment of bookkeeping and accounting systems sufficient to document operational income and expenses of the Project covered by this Agreement;

(iii) management of the Campus, including maintenance, preventive maintenance and general repair of the buildings and all mechanical and electrical systems, and provision of certain custodial and housekeeping services for all Providers in the Campus;

(iv) keeping, and requiring the Providers to keep, the sidewalks, curbs, entrances, passageways, parking lots and areas adjoining the Premises in a clean and orderly condition, free from hazardous materials, garbage, snow, ice, rubbish and obstructions.

(v) management of (a) the Campus, (b) the Project, (c) the outreach and intake workers, including front desk, floor supervisors and volunteers, and (d) the relationships with Providers and cooperating agencies;

(vi) coordination of the operations of all Providers operating in the Campus, pursuant to letters of understanding or agreements between such Providers and Operator, which shall include the obligation to provide services in full accordance and compliance with the standards set by any regulatory agencies having jurisdiction, with all applicable legal requirements and

with any applicable accreditation, notification, licensing, permit and certification requirements pertaining to the services provided;

(vii) obtaining evidence of all necessary insurance coverage from the Providers based upon the services offered;

(viii) development and management of a cooperative referral network (which may include other programs of Operator) into which Participants and Invitees can be referred for appropriate services;

(ix) development, in coordination with Providers and the City, of outcome measures and monitoring the programs of the Providers and Operator against such measures, reporting to the City no less than annually;

(x) cooperation and coordination with the City in communications regarding the Project;

(xi) provision of security reasonable and necessary for the protection of the Premises and of Operator's improvements, fixtures, inventory and equipment located therein against theft, burglary, graffiti and vandalism;

(xii) development, in collaboration with the City, of emergency protocols that include the following:

(1) an immediate call to 911 requesting the assistance of appropriate authorities, followed by immediate notice to the City's contact for emergencies as set forth herein; and

(2) an agreement as to what requires a call to 911, for purposes of this subsection; and

(3) quarterly reporting of emergency incidents, the measures taken by Operator to address or resolve the incident and Operator's plans to reduce the risk of recurrence of such emergency incidents.

(xiii) maintenance of strict confidentiality of all information and records relating to Participants such that such information is not disclosed, except as required to perform services to the Participants or as may be required by law, including the Public Information Act, Government Code Section 552.021; and

(xiv) cooperation with City to satisfy, to the extent required by law, any and all requests for information received by City under the Texas Public Information Act or related laws pertaining to this Agreement. If Operator receives inquiries regarding documents within its possession pursuant to this Agreement, Operator shall within five (5) business days of receiving the requests forward such requests to City for disposition. If the requested information is confidential pursuant to state or Federal law, the Operator

shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days of Operator's receipt of such request.

Section 5.3 Provider Services. Operator and City agree that the plan for the Project includes the Provider–provided services listed on Schedule "A2." In the event one or more of the Providers stops providing the Schedule "A2" services, Operator and City agree to work together to use reasonable efforts to identify and to enter into a letter of understanding with a permanent replacement Provider as soon as reasonably practicable.

ARTICLE 6
CONTRIBUTIONS OF THE CITY

Section 6.1 In addition to the City's investment in the acquisition and development of the Premises, the City shall provide the services, subject to City Council approval and an annual budget appropriation for said services, described in Schedule "B1," "B2," "B3," "B4," and "B5" (both attached hereto and incorporated as a part hereof by reference), as the same may be amended and supplemented by mutual agreement from time to time.

Section 6.2 The City agrees to continue seeking local, state and federal financial assistance for homeless services. Additionally, the City shall continue to allocate grant and General Fund financial support to those agencies and organizations providing homeless and other Campus related services in accordance with the City's established budget priorities, procurement procedures and policies, and subject to City Council approval and an annual budget appropriation for that purpose.

ARTICLE 7
ANNUAL FUNDING SUBJECT TO CONDITIONS; ASSOCIATED OBLIGATIONS

Section 7.1 For the City's 2009-2010 fiscal year, the City shall fund Operator in the amount of $880,000 (the "**Initial Year Funding**"), subject to City Council approval of such funding and a budget appropriation for this Agreement. For each subsequent fiscal year of the Agreement, the City shall fund the Operator in the amount of $1,000,000 (the "**Annual Funding**"), subject to annual City Council approval and a budget appropriation for this Agreement. For each year of the Agreement, Operator shall develop an annual Budget and submit such Budget for the City's review by no later than July 1st of each year for the services to be performed in the upcoming fiscal year.

Section 7.2 In addition to any other reports referenced in this Agreement, no later than the 5th business day of each month, Operator shall submit to the Department of Community Initiatives such performance reports as the City and Operator may mutually agree. The Operator ensures that all information contained in all required reports submitted to City is accurate.

Section 7.3 Operator agrees that all information required to be submitted under Section 7 shall be submitted and shall be accompanied by documentation reasonably required by the Director of the Department of Community Initiatives. Operator agrees that the City's

payments of either the Initial Year Funding or Annual Funding may be made in equal monthly payments, as determined by the Director of the Department of Community Initiatives according to standard procedures followed by the City's Finance Department.

Section 7.4 The City shall also provide grant fund monies and credits for services to each Graduate for his or her various Graduate Needs (the per Capita "**Graduate Start Funding**"), subject to (i) the Graduate's qualified eligibility for the applicable assistance or grant, (ii) the availability of City funds in the applicable assistance program or grant, (iii) the City's continued provision of the applicable assistance program or services, and (iv) City Council annual approval and annual budget appropriation of the funds for the applicable grant or assistance program.

ARTICLE 8
COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

Section 8.1 Operator agrees to comply with all city, state and federal laws, regulations, ordinances and codes affecting construction and operations pursuant to this Agreement, including, but not limited to, as applicable, the Fair Labor Standards Act, the Equal Pay Act and the Equal Employment Opportunity Act, all as amended. Operator also agrees to require by written agreement that its consultants, contractors, subcontractors and their respective officers, agents, employees, directors, and representatives shall comply with all city, state and federal laws, regulations, ordinances and codes affecting construction and operations pursuant to this Agreement, including, but not limited to, as applicable, the Fair Labor Standards Act, the Equal Pay Act and the Equal Employment Opportunity Act, all as amended.

Section 8.2 Operator is hereby advised that it is the policy, known as the Small Business Economic Development Advocacy Policy ("**SBEDA Policy**"), of the City of San Antonio that Small, Minority or Woman-Owned Business Enterprises (SMWBE) shall have the maximum practical opportunity to participate in the performance of public contracts. Operator therefore agrees that, if funds are appropriated and committed to Operator under this Agreement, or any amendments thereto, Operator shall abide by all applicable terms and provisions of the City's SBEDA Ordinance #2007-04-12-0396 and Policy, as amended, which is available in the City's Department of Economic Development. In accordance with Ordinance #69403, Operator agrees that Operator will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices that have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. Operator further agrees that Operator will abide by all applicable terms and provisions of the City's Non-Discrimination Policy and the City's Equal Opportunity Affirmative Action policy, these policies being available in the City's Department of Economic Development and the City Clerk's Office.

Section 8.3 Insofar as practical, in carrying out the terms of this Agreement, Operator shall use a good faith effort to use the City's employment and training programs.

ARTICLE 9
MEETING WITH THE CITY AND OPERATOR; RESOLUTION OF DISPUTES; MEDIATION

The parties agree to cause an officer or a supervisory employee to attend meetings between Operator and the City when requested by the other party during the term of this Agreement on a regular and continuous basis. The party calling the meeting agrees to provide an agenda for said meetings, if requested by the other party. In the event of a dispute between the parties regarding this Agreement, the parties agree to, within ten (10) business days after a dispute arises, arrange a meeting between (a) the Operator's Executive Director, or a comparable-level decision maker of Operator, and (b) a representative of the City empowered to resolve such dispute on behalf of the City. The parties further agree that these decisionmakers shall negotiate in good faith to resolve the dispute in a timely manner.

If a dispute has not been resolved within thirty (30) days of the meeting of the party's representatives as described above, or if the representatives fail to meet within ten (10) business days of the disputing party's notice, and the parties do not otherwise agree to extend the time for negotiations, either party may initiate mediation of the dispute by giving the other party written notice setting forth such party's request to submit the dispute to mediation. The parties will have thirty (30) days from the date on which the mediation notice is received by the other party to agree upon a mediator. If the parties are unable to agree, the mediator will be selected by the American Arbitration Association on motion by either party. The mediation will be conducted in San Antonio, Texas.

ARTICLE 10
PERSONNEL OF OPERATOR

Section 10.1 Operator shall investigate, hire, pay, supervise and discharge all personnel necessary for the full and efficient performance of Operator's duties under this Agreement. All personnel shall in every instance be in Operator's and not in the City's employ. Such employees shall be physically present at the Campus. No less than one (1) responsible person shall be physically present at the Campus twenty-four (24) hours per day, seven (7) days per week. Compensation for the services of all employees shall be included as operating expenses of the Project.

Section 10.2 Operator shall develop a staffing plan that is based on resident occupancy and the level of service to be provided. Operator will be responsible for developing and implementing orientation and training for all its on-site employees.

ARTICLE 11
INDEMNIFICATION; LIMITATION ON LIABILITY

Section 11.1 **OPERATOR 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 OPERATOR'S activities under this Agreement, including any acts or omissions of OPERATOR, any agent, officer, director, representative, employee, consultant or subcontractor of OPERATOR, 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.

Section 11.2 **IN THE EVENT OPERATOR 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 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. OPERATOR shall promptly advise the CITY in writing of any claim or demand against the CITY or OPERATOR known to OPERATOR related to or arising out of OPERATOR's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at OPERATOR's cost. The CITY shall promptly advise Operator of any claim or demand for which the CITY is seeking indemnification under this provision, after the CITY reviews the claims and makes a determination to seek indemnification. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving OPERATOR of any of its obligations under this paragraph.

Section 11.3 Limitation on Liability. **NO PARTY OR ITS AFFILIATES SHALL SEEK OR BE LIABLE FOR ANY EXEMPLARY, SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR INCOME; provided, however, THIS LIMITATION SHALL NOT APPLY TO ANY AMOUNTS OWING DUE TO THIRD PARTY CLAIMS UNDER SECTION 11.1 AND SECTION 11.2.**

ARTICLE 12
RECORDS, REPORTS AND AUDIT RIGHTS

Section 12.1 Operator shall retain, for the period of time and under the conditions specified by City, all records, documents, reports and written accounting policies and procedures pertaining to the Project, and make available to the City at all reasonable times such records, documents, reports and written accounting policies and procedures. Operator agrees to provide City with any data determined by City to be necessary to be received in connection with the Campus, the Project or this Agreement.

Section 12.2 Operator shall submit to the City an annual report and operating budget regarding the Campus operations and Operator' performance under this Agreement.

Section 12.3 Operator shall maintain all books and financial records in accordance with generally accepted accounting principles and as may be reasonably prescribed by the City's Director of Finance or Director of the Department of Community Initiatives. Such books and financial records, together with any other documentation necessary for verification of Operator's compliance with the terms of this Agreement, shall be made available to the City on request, through the Director of the Department of Community Initiatives or the City Auditor or their representatives. The City shall have the authority to audit, examine and make excerpts or transcripts from said books, records and documentation regarding all expenditures related to this Agreement. The City's Auditor or his or her designee may review and approve Operator's system of internal accounting and administrative controls at any time during the term of this Agreement to assure compliance by Operator.

Section 12.4 Operator shall submit to the City, on a quarterly basis, the Consolidated Balance Sheet, Statement of Support and Revenue and Statement of Changes in Financial Position of Operator.

Section 12.5 Operator shall submit to the City, on an annual basis, a reviewed financial statement in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants (or then applicable standard) within ninety (90) days of Operator's fiscal year end. The reviewed financial statement shall include a detailed schedule of receipts and expenditures by budgeted cost category. Operator shall submit the reviewed financial statement and any management letter prepared by the independent CPA to both the Department of Community Initiatives, P. O. Box 839966, San Antonio, Texas 78238-3966, and to the Office of The City Auditor, 111 Soledad, Suite 600, San Antonio, Texas, 78205.

Section 12.6 During the term of this Agreement, Operator shall cause to be delivered to the City copies of all notices of meetings of its Board, setting forth the time and place thereof. Such notice shall be delivered to the City in a timely manner to give adequate notice, and shall include an agenda and a brief description of the matters to be discussed.

ARTICLE 13
INSURANCE

Section 13.1 Prior to the commencement of any work under this Agreement, Operator shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Department of Community Initiatives that shall be clearly labeled "*Haven for Hope Operating Agreement*" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed,

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

Section 13.2 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.

Section 13.3 Operator's financial integrity is of interest to the City; therefore, subject to Operator's right to maintain reasonable deductibles in such amounts as are approved by the City, Operator shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Operator's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

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

Section 13.4 The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy

terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Operator 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. Operator shall pay any costs incurred resulting from said changes.

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

Section 13.5 Operator 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 insured 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.

Section 13.6 Within five (5) business days of a suspension, cancellation or non-renewal of coverage, Operator shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Operator'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.

Section 13.7 In addition to any other remedies the City may have upon Operator'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 Operator to stop work hereunder, and/or withhold any payment(s) that become due to Operator hereunder until Operator demonstrates compliance with the requirements hereof.

Section 13.8 Nothing herein contained shall be construed as limiting in any way the extent to which Operator may be held responsible for payments of damages to persons or property resulting from Operator's or its contractors' performance of the work covered under this Agreement.

Section 13.9 It is agreed that Operator'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.

Section 13.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

Operator and any Providers are responsible for all damage to their own equipment and/or property.

ARTICLE 14
TERMINATION

Section 14.1 In the event that Operator shall materially breach any of its duties to observe any of the material terms hereunder or to comply with any of the material provisions of this Agreement, the City shall deliver to Operator written notice to remedy such default. If such default is not remedied, to the reasonable satisfaction of the City, within thirty (30) days from the date of notice to Operator, the City may terminate this Agreement upon expiration of the cure period.

Section 14.2 City may immediately terminate this Agreement in the event that City terminates its Lease with Operator in accordance with the provisions of the Lease. Operator shall have no opportunity to cure under this Section in this Agreement given that an opportunity to cure a default, if any, under the Lease, shall be afforded prior to termination of the Lease.

Section 14.3 Termination of this Agreement at any time for any reason by either party automatically terminates the Lease, effective the same date of termination of this Agreement. Operator shall execute any and all necessary instruments required by City to evidence termination of the Lease, but no refusal of Operator to cooperate prevents automatic termination of the Lease. Operator shall peaceably transition operations of the Campus to a substitute operator, to be selected by the City within its sole discretion, and, if necessary, cooperate in the transition beyond the effective date given in a notice of termination, it being of primary importance to the parties to minimize disruption of services to homeless people. To the extent the provisions of this subparagraph are inconsistent with the Lease, this subparagraph is a pro tanto amendment of the Lease.

Section 14.4 Within thirty (30) calendar days after the expiration or termination of this Agreement, Operator shall return to the City all unexpended funds advanced to Operator, if any, and reimburse all expended funds which the City finds, within its sole discretion, to be a disallowable expenditure under this Agreement. Within thirty (30) calendar days after the expiration or termination of this Agreement, Operator shall also turn over to the City all records, documents, files and other instruments in its possession pertaining to the Operator's Campus operations and performance under this Agreement.

Section 14.5 Operator, at the expiration or earlier termination of this Agreement as herein provided, shall peaceably yield up the Premises, and other fixtures and all additions, improvements and alterations made thereupon in the same condition and repair as the same were in at the commencement of the term hereof, or may have been put in thereafter pursuant to this

Agreement, reasonable wear and use excepted. City, upon or at any time after such expiration or termination, may, without further notice, enter upon and re-enter the Premises and possess or repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess Operator and remove Operator and all other persons and property from the Premises. Operator agrees that ownership of all improvements, including buildings, shall immediately vest in the City at the expiration or earlier termination of this Agreement, notwithstanding Operator's funding of, purchase of, or payment for the improvements. If necessary, Operator shall execute any and all documents to effectuate transfer of buildings and other improvements to the City.

ARTICLE 15
MISCELLANEOUS

Section 15.1 Funding. The City and Operator recognize that funding for the construction, development, operation, and management of the Campus and the Project may be derived all or in part from the issuance of tax-exempt obligations by the City. The Operator shall not take any action to adversely affect the tax-exempt status of the debt issued by the City to construct or improve the Campus or to fund the City's or the Operator's obligations under this Agreement.

Section 15.2 Non-Profit Status. Operator agrees that it shall continue to maintain its 501(c)(3) non-profit status during the term of this Agreement.

Section 15.3 Assignment. This Agreement shall inure to the benefit of and constitute a binding obligation upon the City and Operator, and their respective successors and assigns, provided that neither party to this Agreement can assign this Agreement or any of its duties hereunder without the prior written consent of the other party.

Section 15.4 Amendment. This Agreement constitutes the entire agreement between the City and Operator, and no amendment or modification thereto shall be valid and enforceable except by supplemental agreement executed in writing and approved by the City and Operator and evidenced by passage of a subsequent City ordinance, as to City's approval.

Section 15.5 Execution of Counterparts. For the convenience of the parties, this Agreement has been executed in counterpart copies, which together shall constitute one and the same instrument, and counterparts of the signature pages separately executed by each of the parties may be collated and attached to one counterpart hereof to collectively constitute one fully executed instrument.

Section 15.6 Texas Law to Apply. This Agreement shall be construed and enforced under and in accordance with the laws of the State of Texas. The parties hereto submit to the exclusive personal jurisdiction of the courts of the State of Texas and the Federal courts of the United States sitting in Bexar County, Texas.

Section 15.7 Construction. Wherever used in this Agreement, the singular number shall include the plural, and the plural shall include the singular; and the use of any gender shall apply

to all genders. The captions and the headings of the sections of this Agreement are for convenience only and are not to be used to interpret or define the provisions hereof.

Section 15.8 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed and enforced as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 15.9 Waiver. No waiver by either party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall 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.

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

Section 15.10 Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the parties hereto. It is expressly understood and agreed that Operator 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 therefor.

Section 15.11 Prohibited Financial Interest. Operator acknowledges that it is informed that the Charter of the City of San Antonio (for purposes of this paragraph, the "City") and the City's Ethics Code prohibit a City officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with the City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or services, 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.

Section 15.12 Operator Certification. Pursuant to the paragraph above, Operator warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of City; provided, however, that the parties acknowledge and agrees that "officers" and "employees" of City shall not include service

on boards or committees of City or its agencies. Operator further warrants and certifies that it has tendered to City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

Section 15.13 Notices. All notices, consents, approvals or demand of any kind required or permitted by the terms of this Agreement to be given shall be in writing and sent in the United States mail, by registered or certified mail, return receipt requested, postage prepaid, or by hand delivery, addressed as follows:

To the City:	City of San Antonio Director, Department of Community Initiatives 115 Plaza de Armas, Suite 210 San Antonio, Texas 78205
With a copy to:	City Clerk of San Antonio P.O. Box 839966 San Antonio, Texas 78283-3966
To Operator:	The Haven for Hope of Bexar County 1 Haven for Hope Way San Antonio, Texas 78207 Attention: Executive Director

or to such other address or addresses as the parties have agreed to in writing. Notice shall be deemed to have been duly served when it is hand-delivered or if mailed, two (2) days after it is so mailed. Each party shall apprise the other party immediately of any change in address, telephone number, or personnel or representatives with responsibilities under this Agreement.

Section 15.14 Notices During Emergencies. In the event of an emergency, natural disaster, terrorist attack, or declaration of war, affecting the operating of the Campus, the following representatives of the City and Operator shall be immediately notified by the other party using the most expeditious means of communicating such information:

To the City:	City of San Antonio Director, Department of Community Initiatives 115 Plaza de Armas, Suite 210 San Antonio, Texas 78205
To Operator:	The Haven for Hope of Bexar County 1 Haven for Hope Way San Antonio, Texas 78207 Attention: Executive Director

Section 15.15 Entire Agreement. This Agreement embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, have been merged into this Agreement.

Section 15.16 Authority. The parties hereto represent and assure that they possess the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement and to perform the responsibilities herein required. The signers of this Agreement represent and assure that they have full legal authority to execute this Agreement and to bind the party for whom they are signing to all terms, performances and provisions herein contained.

Section 15.17 Remedies Cumulative. All rights, options and remedies of the parties contained in this Agreement shall be cumulative of the other, and either party shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Agreement.

Section 15.18 Time of the Essence. Time is of the essence in this Agreement. The parties will comply with any timing requirements stated in this Agreement, subject only to Force Majeure and use any and all reasonable efforts to cure any delay caused by Force Majeure. If the date specified in this Agreement for giving any notice or taking any action is not a business day (or if the period during which any notice is required to be given or any action taken expires on a date that is not a business day), then the date for giving such notice or taking such action shall be the next day that is a business day.

Section 15.19 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and its successors, and nothing in this Agreement, express or implied, is intended to or shall confer upon any person or entity any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 15.20 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 15.21 Force Majeure. Both parties shall be excused from performance (except for payment obligations), and shall incur no liability for any loss or damage due to any delay or failure to perform its obligations under this Agreement when caused by occurrences beyond the reasonable control of the affected party ("**Force Majeure**"), including, but not limited to, riots, wars or hostilities between any nations, acts of God, fires, storms, floods, earthquakes, labor disputes or strikes, shortages or curtailments of raw materials, and power or other utility services. Performance shall be excused hereunder only if the affected party delivers written notice of the occurrence, including a full description thereof, to the other party and endeavors to remedy such non-performance with all reasonable dispatch.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto set their hands this **30th** day of April, 2009.

THE HAVEN FOR HOPE OF BEXAR COUNTY, A TEXAS NON-PROFIT CORPORATION

By: _____
Robert G. Marbut, Jr.,
Executive Director

THE CITY OF SAN ANTONIO, TEXAS

Dennis J. Campa
Dennis J. Campa,
Director- Department of Community Initiatives

Schedule A1
Operator Services

This is a schedule to that certain operating agreement entered into between the City of San Antonio and The Haven for Hope of Bexar County as of April 30, 2009 (the "**Agreement**"). The terms of the Agreement are incorporated herein. Capitalized terms used in this Schedule A1 will have the meanings given to them in the Agreement (unless otherwise defined in this schedule).

Services Description: During the term of the Agreement, the Operator will provide the following services at the Campus:

- case management;
- security;
- maintenance; and
- coordination of the activities that occur at the Campus.

Schedule A2
Provider Services

This is a schedule to that certain operating agreement entered into between the City of San Antonio and The Haven for Hope of Bexar County as of April 30, 2009 (the "**Agreement**"). The terms of the Agreement are incorporated herein. Capitalized terms used in this Schedule A2 will have the meanings given to them in the Agreement (unless otherwise defined in this schedule).

- Emergency and non-emergency food, medical, vision and dental services;
- Residential services for single members and families;
- Child care services for children and adults;
- Informational and referral services for dependent care, housing, emergency services, transportation, employment and education;
- Specialized mental health and substance abuse services/counseling;
- Legal services and governmental benefit assistance

Schedule B1
Animal Care Services

This is a schedule to that certain operating agreement entered into between the City of San Antonio and The Haven for Hope of Bexar County as of April 30, 2009 (the "**Agreement**"). The terms of the Agreement are incorporated herein. Capitalized terms used in this Schedule B1 will have the meanings given to them in the Agreement (unless otherwise defined in this schedule).

1. **Services Description:** Through its animal care services department ("**Animal Care Services**") or otherwise, the City shall provide General Fund support for and provide the following services and resources for Operator's on-site kennel (the "**Kennel**"), subject to annual City Council approval and an annual budget appropriation for said services:

    a. Veterinary technician training (the "**Training Program**") for Operator-designated Invitees, Participants and volunteers ("**Kennel Participants**") at a site designated by Animal Care Services;

    b. Vaccinations for the animals served at the Kennel;

    c. Spay/neuter services for the animals served at the Kennel;

    d. Consultation/transportation of animals served at the Kennel to an Animal Care Services shelter, as necessary; and

    e. Introduction to Animal Care Services' pet food contractor so that Operator may independently contract for pet food.

2. **Training Program:** In addition, City will engage in discussions with Alamo Community College or another institution to facilitate an Alamo Community College or other program pursuant to which Kennel Participants may receive credit for their work at the Kennel toward certification as Certified Veterinary Assistants or Registered Veterinary Technicians or comparable requirements.

Schedule B2
Parks and Recreation

This is a schedule to that certain operating agreement entered into between the City of San Antonio and The Haven for Hope of Bexar County as of April 30, 2009 (the "**Agreement**"). The terms of the Agreement are incorporated herein. Capitalized terms used in this Schedule B2 will have the meanings given to them in the Agreement (unless otherwise defined in this schedule).

Services Description: Through the City's Parks and Recreation Department, any successor department or otherwise, the City shall provide General Fund support for and provide the following services, subject to annual City Council approval and an annual budget appropriation for said services:

a. **Training Program.** Training for the Operator designated Invitees, Participants and volunteers (the "**Grounds Maintenance Participants**") on proper care and maintenance for the Campus grounds (the "Grounds"), covering topics related to lawn care, planting, landscaping, watering and the collection of trash. In addition, City will engage in discussions with Alamo Community College or another institution to facilitate an Alamo Community College or other program pursuant to which Grounds Maintenance Participants may receive credit for their work on the Grounds toward professional certification as Parks and Recreation professionals.

b. **City Parks and Recreation Job Placement:** City, in compliance with the City's policies and procedures for employment, will facilitate placement of Grounds Maintenance Participants in City Parks and Recreation positions as the same may be available.

c. **Community Garden:** City shall use best efforts to partner with Master Gardens in the development of a therapeutic community garden on the Grounds.

d. **Tree Challenge Program:** City shall facilitate Operator's participation in the City's Tree Challenge Program.

e. **Transportation:** City shall provide transportation for Participants from the City Parks and Recreation Volunteer Coordination Center on Los Moras (the "Parks Volunteer Center") to City Parks and Recreation locations around San Antonio (and back to the Parks Volunteer Center) so that Participants can participate in training, and provide grounds maintenance services in the course of that training, at those sites, if Haven can get Participants to and from the Parks Volunteer Center.

Schedule B3
San Antonio Police Department

This is a schedule to that certain operating agreement entered into between the City of San Antonio and The Haven for Hope of Bexar County as of April 30, 2009 (the "**Agreement**"). The terms of the Agreement are incorporated herein. Capitalized terms used in this Schedule B3 will have the meanings given to them in the Agreement (unless otherwise defined in this schedule).

Services / Personnel Description: Through the City's Police Department, the City shall provide General Fund support for and provide the following services and personnel, subject to annual City Council approval and an annual budget appropriation for said services and personnel:

a. Two police officers trained in homeless relationships and de-escalation strategies to police the area surrounding the Campus.

b. In addition to the officers delegated in Item a., each shift at two separate times both bike and street duty, will patrol the campus.

c. The enforcement of existing City ordinances regarding loitering and the clearing of areas where the homeless population congregates in San Antonio;

d. Training for all police officers serving the downtown San Antonio area in homeless issues and orientation on the Campus's services; and

e. The San Antonio Police Department shall designate a "Homeless Liaison," who will be trained in homeless issues and provided with orientation to the Campus's services.

Schedule B4
Metropolitan Health District

This is a schedule to that certain operating agreement entered into between the City of San Antonio and The Haven for Hope of Bexar County as of April 30, 2009 (the "**Agreement**"). The terms of the Agreement are incorporated herein. Capitalized terms used in this Schedule B4 will have the meanings given to them in the Agreement (unless otherwise defined in this schedule).

Services Description: Through the San Antonio Metropolitan Health District or any successor agency, the City shall provide General Fund support for and provide the following services, subject to annual City Council approval and an annual budget appropriation for said services:

a. Assistance and advice on disease outbreak prevention.

Schedule B5
Providers; Department of Community Initiatives

This is a schedule to that certain operating agreement entered into between the City of San Antonio and The Haven for Hope of Bexar County as of April 30, 2009 (the "**Agreement**"). The terms of the Agreement are incorporated herein. Capitalized terms used in this Schedule B5 will have the meanings given to them in the Agreement (unless otherwise defined in this schedule).

Through the City's Department of Community Initiatives, the City shall provide support for and provide the following, subject to annual City Council approval and an annual budget appropriation:

a. Financial support to the following agencies providing homeless and other Campus related services:

i. residential services; and

ii. safe sleeping and service areas for chronic homeless; and

iii. food and culinary arts services.

b. Housing First services to Participants through the San Antonio Housing Authority (SAHA) voucher program, so long as the Participant is eligible for the program, the City continues to participate in the SAHA voucher program and vouchers are available

c. Basic needs assistance such as for utilities, rent, food and multi-benefit enrollment services to Participants, to include enrollment for benefits such as food stamps, Medicaid enrollment and Social Security Disability, so long as the Participant is eligible and the City continues to provide the applicable assistance through its grant funded and credit programs.

d. Support of Homeless Management Information Systems (HMIS) activities by providing technical assistance, training and programming services, and appropriate access to licenses for Operator and Providers subject to availability of funding.