

AN ORDINANCE 2014 - 02 - 06 - 0075

AUTHORIZING AN AGREEMENT WITH THE BEXAR COUNTY HOSPITAL DISTRICT D/B/A UNIVERSITY HEALTH SYSTEM FOR ADOLESCENT HEALTH SERVICES RELATED TO THE MEDICAID 1115 WAIVER PROGRAM FOR AN AMOUNT UP TO \$851,928.00 COMMENCING FEBRUARY 1, 2014 AND TERMINATING ON SEPTEMBER 30, 2016.

* * * * *

WHEREAS, on January 31, 2013, City Council authorized the submission of six project proposals by the San Antonio Metropolitan Health District (Metro Health) through the Regional Healthcare Partnership Anchor entity, University Health System (UHS) for consideration and funding in the amount of \$43,392,942.00 through the new Delivery System Reform Incentive Payment arm of the “Texas Healthcare Transformation and Quality Improvement Program” or “Transformation Waiver”; and

WHEREAS, Metro Health carefully selected projects in the following areas: diabetes prevention, children’s oral health services, HIV and Syphilis prevention, breastfeeding promotion, teen pregnancy prevention and neighborhood health promotion; and

WHEREAS, all six project proposals are in alignment with Metro Health’s strategic plan and many community goals set forth by SA2020 and have the overall goal of improving health outcomes; and

WHEREAS, in 2012, Metro Health reported 2,755 teen births and of those, 610 were repeat teen births; and

WHEREAS, San Antonio’s birth rate for females ages 15-19 was 42.8 per 1,000 and was 46% higher than the national rate; and

WHEREAS, in 2012, the City of San Antonio conducted a Community Survey of residents from all ten City Council Districts that ranked teen pregnancy as the most important issue for the City to address over the next two years; and

WHEREAS, authorization of this agreement will allow Metro Health to provide funding to UHS for the implementation of an adolescent health services project for the prevention of teen pregnancy in San Antonio; **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 San Antonio Metropolitan Health District or his designee is authorized to execute an agreement with

the Bexar County Hospital District d/b/a University Health System for adolescent health services related to the Medicaid 1115 Waiver Program for an amount up to \$851,928.00 commencing February 1, 2014 and terminating on September 30, 2016. A copy of the agreement is attached hereto and incorporated herein for all purposes as **Attachment I**.

SECTION 2. Funding in the amount of \$283,976.00 for this ordinance is available for Fund 29836000, Internal Order 836000000007 and General Ledger 5201040, as part of the Fiscal Year 2014 Budget.

SECTION 3. Funding in the amount of \$567,952.00 for this ordinance as part of Fiscal Years 2015 and 2016 Budgets is contingent upon City Council approval of the City's operating budget and the availability of funds.

SECTION 4. Payment not to exceed the budgeted amount is authorized to University Health System and should be encumbered with a purchase order.

SECTION 5. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 6. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 6th day of February, 2014.

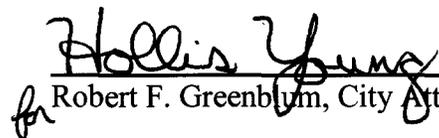

M A Y O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



for Robert F. Greenblum, City Attorney

Agenda Item:	13
Date:	02/06/2014
Time:	10:37:48 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing an agreement with the Bexar County Hospital District d/b/a University Health System for adolescent health services related to the Medicaid 1115 Waiver Program for an amount up to \$851,928.00 commencing February 1, 2014 and terminating on September 30, 2016. [Gloria Hurtado, Assistant City Manager; Dr. Thomas Schlenker, Director, Public Health]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2	x					
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				x
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10			x			

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS § CITY OF SAN ANTONIO
COUNTY OF BEXAR § PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City"), on behalf of the San Antonio Metropolitan Health District (hereafter referred to as "Metro Health"), acting by and through its City Manager, pursuant to Ordinance No. 2014-__-__-__, passed and approved on _____ 2014, and the Bexar County Hospital District d/b/a University Health System (hereinafter referred to as "Contractor"), 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.

"Contractor" is defined in the preamble of this Agreement and includes its successors.

"Director" shall mean the director of City's San Antonio Metropolitan Health District.

"Medicaid 1115 Waiver Program" shall mean the program which funds this agreement.

"Project or Program" shall mean the general scope of services of this Agreement as well as the overall objectives and goal of the City's Medicaid 1115 Waiver Program.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence February 1, 2014 and shall terminate on September 30, 2016.

2.2 CONTRACTOR further agrees and understands that the City expects to pay all obligations of this Agreement from Medicaid 1115 Waiver funding. Accordingly, if funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor CONTRACTOR will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement. City will communicate lack of funding to CONTRACTOR immediately upon notification.

III.
SCOPE OF SERVICES

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

3.2 CONTRACTOR will be responsible for the planning and implementation of an adolescent health services project to prevent teen pregnancy.

3.3 CONTRACTOR will provide the following services according to the schedule set out below:

3.3.1 CONTRACTOR agrees to perform the following specific services throughout the term:

- a) CONTRACTOR shall provide services to a minimum of 200 uninsured, Medicaid eligible adolescent females ages 13 to 19 per project year. Shortfalls in Year 1 will be carried forward to the following year and may only be prorated upon written agreement of the parties.
- b) CONTRACTOR shall provide parents/guardians with a permission form in English and Spanish. Clients under the age of 18 will only receive services with parent/guardian permission.
- c) CONTRACTOR shall provide adolescent pregnancy prevention health services listed in the Receipt for Services form (Attachment I) meeting the following deliverables per project year:
 - i. Provide one hundred seventy-five Nexplanon contraceptive implant insertions as medically directed to 175 clients who have provided the appropriate consent;
 - ii. Provide up to one hundred Depo Provera contraceptive injections as medically directed to 25 clients who have provided the appropriate consent.
- d) CONTRACTOR shall have qualified and trained medical staff to provide the adolescent pregnancy prevention health services under the direction of CONTRACTOR's medical director.

- e) CONTRACTOR shall provide services per Project year, as identified below:
- i. Year 1: February 1, 2014 to September 30, 2014;
 - ii. Year 2: October 1, 2014 to September 30, 2015; and
 - iii. Year 3: October 1, 2015 to September 30, 2016.
- f) CONTRACTOR shall complete and provide a Receipt For Services form to City for each client seen for this project. All Receipt For Services forms are due monthly to City by the 5th of each month. City will provide a staff person to conduct follow up calls with clients and will provide CONTRACTOR with an informational card for clients. The card will provide a brief overview of the project and follow up.

IV.
COMPENSATION TO CONTRACTOR

4.1 In consideration of CONTRACTOR’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 CONTRACTOR an amount not to exceed EIGHT HUNDRED FIFTY ONE THOUSAND, NINE HUNDRED TWENTY-EIGHT AND NO/100THS (\$851,928.00) as total compensation to be paid to CONTRACTOR in the manner set forth in Section 4.2.

4.2 City agrees to pay CONTRACTOR upon receipt of quarterly invoices submitted in accordance with this Section 4.2. CONTRACTOR shall submit invoices throughout the term of this Agreement, as listed below in Schedule for Invoices. Each invoice shall outline the work completed during the previous period in accordance with the stated scope of work for the contract term described in Article III above and the amount due and owing. City shall pay any invoice from CONTRACTOR within 30 days of submission to the City. The total payments hereunder shall not exceed the amount set forth in Section 4.1 above, without prior approval and agreement of all parties, evidenced in writing.

Schedule for Invoices	Due Dates
Year 1: <ul style="list-style-type: none"> • 1st Quarter: NA • 2nd Quarter Invoices • 3rd Quarter Invoices • 4th Quarter Invoices 	NA April 5, 2014 July 5, 2014 October 5, 2014
Year 2: <ul style="list-style-type: none"> • 1st Quarter Invoices 	January 5 , 2015

<ul style="list-style-type: none"> • 2nd Quarter Invoices • 3rd Quarter Invoices • 4th Quarter Invoices 	<p>April 5, 2015</p> <p>July 5, 2015</p> <p>October 5, 2015</p>
<p>Year 3:</p> <ul style="list-style-type: none"> • 1st Quarter Invoices • 2nd Quarter Invoices • 3rd Quarter Invoices • 4th Quarter Invoices 	<p>January 5 , 2016</p> <p>April 5, 2016</p> <p>July 5, 2016</p> <p>October 5, 2016</p>

4.3 Invoices shall be submitted to: City of San Antonio, San Antonio Metropolitan Health District P.O. Box 839966, San Antonio, TX 78283-3966.

4.4 No additional fees or expenses of CONTRACTOR shall be charged by CONTRACTOR nor be payable by City. The parties hereby agree that all compensable expenses of CONTRACTOR have been provided for in the total payment to CONTRACTOR as specified in Section 4.1 above. Total payments to CONTRACTOR 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.

4.5 Final acceptance of work products and services require written approval by City, as determined by the Director as the City's approval official. Payment will be made to CONTRACTOR following written approval of the final work products and services by Director. Approval shall not be unreasonably withheld. City shall not be obligated or liable under this Agreement to any party, other than CONTRACTOR, for the payment of any monies or the provision of any goods or services.

4.6 The CONTRACTOR agrees to submit statements showing itemized costs to the City associated with this Agreement as set forth in the deliverables-based invoice schedule outlined in Attachment I. Reimbursement of eligible expenses, as determined by the City, will be made according to standard procedures followed by City, as requested upon receipt of billing from the CONTRACTOR.

4.7 CONTRACTOR agrees to provide any and all documentation required for inclusion in any report concerning the Medicaid 1115 Waiver Program. All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City, as determined by the Director as the City's approval official.

V.
OWNERSHIP OF DOCUMENTS

5.1 Ownership of Intellectual Property. CONTRACTOR and City agree that any and all writings, documents, maps or information in whatsoever form and character produced by CONTRACTOR pursuant to the provisions of this Agreement (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. As owner of the tangible and intangible intellectual property, City shall have the right to reproduce, publish, authorize others to reproduce or publish, or otherwise use such material. 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.

5.2 In the event that CONTRACTOR desires to copyright material or to permit any third-party to do so, CONTRACTOR must obtain City’s prior written approval to do so and must appropriately acknowledge City’s support in any such materials.

5.3 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 termination of this Contract. 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, unless required to do so by a court of competent jurisdiction. Metro Health shall be notified of such request as set forth in Article VIII, Section 8.14 of this Contract.

VI.

REQUESTS FOR and RETENTION of RECORDS

6.1 CONTRACTOR 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 CONTRACTOR 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, CONTRACTOR shall retain the records until the resolution of such litigation or other such questions. CONTRACTOR 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 CONTRACTOR to return said documents to City prior to or at the conclusion of said retention.

6.3 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 collected, assembled or maintained under a law or ordinance or in connection with the transaction of official business: 1) by a governmental body; or 2) for a governmental body and the governmental body owns the information or has a right of access to it. Therefore, if 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. For the purposes of communicating and coordinating with regard to public information requests, all communications shall be made to the designated public information liaison for each Party. Each Party shall designate in writing to the other Party the public information liaison for its organization and notice of a change in the designated liaison shall be made promptly to the other Party.

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 30 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.

7.4 Defaults With Opportunity for Cure. Should CONTRACTOR 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. CONTRACTOR shall have ten (10) business days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If CONTRACTOR fails to cure the default within such ten-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 contractor 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 contractor against CONTRACTOR'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 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting;

7.4.2 Bankruptcy or selling substantially all of company's assets;

7.4.3 Failing to perform or failing to comply with any covenant herein required;

7.4.4 Performing unsatisfactorily;

7.4.5 The failure to meet reporting requirements of the Medicaid 1115 Program, as set out and determined by City;

7.4.6 Notification of any investigation, claim or charge by a local, state or federal agency involving fraud, theft or the commission of a felony.

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, CONTRACTOR 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 CONTRACTOR, or provided to CONTRACTOR, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by CONTRACTOR 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 CONTRACTOR's sole cost and expense. Payment of compensation due or to become due to CONTRACTOR is conditioned upon delivery of all such documents, if requested.

7.7 Within thirty (30) calendar days of the effective date of completion, or termination or expiration of this Agreement, CONTRACTOR 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 CONTRACTOR to submit its claims within said thirty (30) calendar days shall negate any liability on the part of City and constitute a **Waiver** by CONTRACTOR of any and all right or claims to collect moneys that CONTRACTOR 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, CONTRACTOR shall cease all operations of work being performed by CONTRACTOR 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 CONTRACTOR 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 Clerk	AND	City of San Antonio
City of San Antonio		Director, San Antonio Metropolitan Health District
P.O. Box 839966		332 W. Commerce, Suite 307
San Antonio, Texas 78283-3966		San Antonio, Texas 78205

If intended for CONTRACTOR, to:

George Hernandez, Jr.
President/Chief Executive Officer
University Health System
4502 Medical Drive
San Antonio, Texas 78229-4493

With copy to:

Roberto Villarreal, MD, MPH
Senior Vice President,
Research and Information Management
4502 Medical Dr, MS 45-2
San Antonio, Texas 78229-4493

IX.
RESERVED

X.
AUDIT

10.1 If the CONTRACTOR expends \$500,000.00 or more of funds provided under this Agreement, or cumulative funds provided by or through City, then during the term of this Agreement, the CONTRACTOR shall have completed an independent audit of its financial statements performed within a period not to exceed one hundred twenty (120) days immediately succeeding the end of CONTRACTOR's fiscal year, expiration or early termination of this Agreement, whichever is earlier. CONTRACTOR understands and agrees to furnish Metro Health a copy of the audit report within a period not to exceed twenty (20) days upon receipt of the report. In addition to the report, a copy of the corrective action plan, summary schedule of prior audit findings, management letter and/or conduct of audit letter are to be submitted to Metro Health by CONTRACTOR within twenty (20) days upon receipt of said report or upon submission of said corrective action plan to the auditor.

10.2 The 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 20 calendar days of written notification regarding the need for reimbursement.

10.3 The 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 Metro Health within a period of ten (10) business days upon the CONTRACTOR's receipt of the report.

10.4 If CONTRACTOR expends less than \$500,000.00 of funds provided by or through the City, then during the term of this Agreement, the Contractor shall complete and submit an unaudited financial statement(s) within a period not to exceed ninety (90) days immediately succeeding the end of CONTRACTOR's fiscal year or termination of this Agreement, 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.

10.5 All financial statement(s) must include a schedule of receipts and disbursements by budgeted cost category for each program funded by or through the City.

10.6 The City reserves the right to conduct, or cause to be conducted an audit or review of all funds received under this Agreement at any and all times deemed necessary by City, not to exceed two times per 12 month period. 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 acknowledges that this provision shall not limit the City from additional follow-up to audits or reviews, as necessary, or from investigating items of concern that may be brought to the City's attention which are other than routine.

10.7 CONTRACTOR shall during normal business hours, and not to exceed two times per twelve month period by City and/or the applicable state or federal governing agency or any other auditing entity, make available the books, records, documents, reports, and evidence with respect to all matters covered by this Agreement 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 Agreement. Said records shall be maintained for the required period beginning immediately after Agreement termination, save and except there is litigation or if the audit report covering such agreement 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 Agreement, all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Agreement.

10.8 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 Agreement, and the CONTRACTOR shall abide by such requirements.

10.9 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.

10.10 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 immediately refund such amount to the City no later than twenty (20) business days from the date of notification of such disapproval or disallowance by the City. At its sole option, Metro Health 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 twenty (20) business 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 check, cashiers 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.

10.11 CONTRACTOR agrees and understands that all expenses, fees, fines and penalties 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 Agreement. Delinquent debts that would otherwise be identified as allowable costs may be paid with Project funds with approval of Metro Health.

10.12 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.

XI.
ADMINISTRATION OF AGREEMENT
and RESTRICTIONS ON USE OF FUNDS

11.1 The CONTRACTOR agrees to comply with all the terms and conditions that the City must comply with in its participation in the Medicaid 1115 Waiver Program.

11.2 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 Agreement or its governing rules, regulations, laws, codes or ordinances, the City Manager or the Director of Metro Health,

as representatives of the City and the parties ultimately responsible for all matters of compliance with the Medicaid 1115 Waiver Program and City rules and regulations, shall have the final authority to render or secure an interpretation.

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

11.4 Within a period not to exceed sixty (60) calendar days after the expiration, or early termination, date of the Agreement, CONTRACTOR shall submit 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.

11.5 CONTRACTOR shall maintain financial records, supporting documents, statistical records, and all other books, documents, papers or other records pertinent to this Agreement or the grant in accordance with the official records retention schedules established within the Local Government Records Act of 1989 and any amendments thereto, or for such period as may be specifically required by 45 C.F.R §74.53 or 45 C.F.R. §92.42, as applicable, whichever is longer. Notwithstanding the foregoing, CONTRACTOR shall maintain all Agreement and grant related documents for no less than four (4) years from the date of City's submission of the annual financial report covering the funds awarded hereunder. If an audit, litigation, or other action involving the records has been initiated before the end of the four (4) year period, CONTRACTOR agrees to maintain the records until the end of the four (4) year period or until the audit, litigation, or other action is completed, whichever is later.

11.6 CONTRACTOR shall make available to City, the State, or any of their duly authorized representatives, upon appropriate notice, such books, records, reports, documents, papers, policies and procedures as may be necessary for audit, examination, excerpt, transcription, and copy purposes, for as long as such records, reports, books, documents, and papers are retained. This right also includes timely and reasonable access to CONTRACTOR's facility and to CONTRACTOR's personnel for the purpose of interview and discussion related to such documents. CONTRACTOR shall, upon request, transfer certain records to the custody of City or the State, when City or State determines that the records possess long-term retention value.

11.7 Metro Health is assigned monitoring, fiscal control, and evaluation of certain projects funded by the City with general or grant funds, including the Project covered by this Agreement. Therefore, CONTRACTOR agrees to permit City and/or State to evaluate, through monitoring, reviews, inspection or other means, the quality, appropriateness, and timeliness of services delivered under this Agreement and to assess CONTRACTOR's compliance with applicable legal and programmatic requirements. At such times and in such form as may be required by Metro Health, the CONTRACTOR shall furnish to Metro Health and the Grantor of the Funds, if applicable, such statements, reports, records, data, all policies and procedures and information as may be requested by Metro Health and shall permit the City and Grantor of the Funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement. CONTRACTOR agrees that

the failure of the City to monitor, evaluate, or provide guidance and direction shall not relieve the Contractor of any liability to the City for failure to comply with the Terms of the Project or the terms of this Agreement.

11.8 City may, at its discretion, conduct periodic, announced monitoring visits to ensure program and administrative compliance with this Agreement and Project goals and objectives. City reserves the right to make unannounced visits to CONTRACTOR, or CONTRACTOR subcontractor, sites when it is determined that such unannounced visits are in the interest of effective program management and service delivery.

11.9 City agrees that it will present the findings of any such review to the CONTRACTOR in a timely manner and will attempt to convey information of Program strengths and weaknesses and assist with Program improvement.

11.10 Unless otherwise provided herein, all reports, statements, records, data, policies and procedures or other information requested by Metro Health shall be submitted by CONTRACTOR to City within five (5) working days of the request. The parties agree that a shorter time frame may be necessary for response in the case of the single audit and shall cooperate to meet deadlines necessary to comply with the single audit requirements. In the event that CONTRACTOR fails to deliver the required reports or information or delivers incomplete information within the prescribed time period, the City may, upon reasonable notice, suspend reimbursements to CONTRACTOR until such reports are delivered to City. Furthermore, the CONTRACTOR ensures that all information contained in all required reports or information submitted to City is accurate.

11.11 Unless disclosure is authorized by the City, 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, other related information (collectively, the "Confidential Information") and to use the Confidential Information for the sole purpose of performing its obligations pursuant to this Agreement. 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 Metro Health 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, 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 shall not be construed to limit the State's or the City's or its authorized representatives' right to obtain copies, review and audit records or other information, confidential or otherwise, under this Agreement. Upon termination or expiration of this Agreement, CONTRACTOR shall return to City all copies of materials related to the Project, including the Confidential Information. All confidential obligations contained herein (including those pertaining to information transmitted orally) shall survive the termination of this Agreement. The Parties shall ensure that their respective employees, agents, and contractors are

aware of and shall comply with the aforementioned obligations.

11.12 Prohibited Political Activity. 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 Agreement be assigned to work for or on behalf of any partisan or non-partisan political activity.

11.13 CONTRACTOR agrees that no funds provided under this Agreement 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.

11.14 The prohibitions set forth in Sections 11.13 and 11.14 above 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.

11.15 To ensure that the above policies are complied with, CONTRACTOR shall provide every member of its personnel paid out of Agreement funds with a statement provided by CONTRACTOR 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 Metro Health. CONTRACTOR shall list the name and number of a contact person from Metro Health on the statement that CONTRACTOR's personnel can call to report said violations.

11.16 CONTRACTOR agrees that in any instance where an investigation of the above is ongoing or has been confirmed, salaries paid to the CONTRACTOR under this Agreement may, at the City's discretion, be withheld until the situation is resolved, or the appropriate member of

the CONTRACTOR's personnel is terminated.

11.17 Sections 11.13 through 11.17 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 Agreement funds.

11.18 Adversarial proceedings. Except in circumstances where the following is in conflict with federal law or regulations pertaining to this grant, the CONTRACTOR agrees to comply with the following special provisions,

(A) Under no circumstances will the funds received under this Agreement 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) The CONTRACTOR, at the City's option, could be ineligible for consideration to receive any future funding while any adversarial proceeding against the City remains unresolved.

XII. INSURANCE

12.1 CONTRACTOR and City each maintain a self-insurance fund for general liability and worker's compensation claims and causes of action to meet the statutory obligations of each Party's employees.

XIII. INDEMNIFICATION

13.1 CONTRACTOR and City acknowledge they are subject to, and comply with, the applicable provisions of the Texas Tort Claims Act, as set out in the 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.

XIV. SMALL, MINORITY OR WOMAN OWNED BUSINESS ADVOCACY POLICY

14.1 CONTRACTOR is hereby advised that it is the policy of the City of San Antonio that Small, Minority or Woman-owned Business Enterprises shall have the maximum practical opportunity to participate in the performance of public contracts. CONTRACTOR agrees that it will adhere to its established policies regarding small, minority, or women-owned business policy regarding procurement, construction and professional service contracts.

In the event that the CONTRACTOR utilizes subcontractors to perform any part of this agreement the CONTRACTOR will ensure that each subcontractor is aware that they must comply with the City of San Antonio's Small Business Economic Development Advocacy

Ordinance (the “SBEDA Program”), which is posted on the City’s Economic Development Department website and is also available in hard copy form upon request to the City.

XV.

ASSIGNMENT AND SUBCONTRACTING

15.1 CONTRACTOR 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 CONTRACTOR. CONTRACTOR, its employees or its subcontractors shall perform all necessary work.

15.2 It is City’s understanding that this Agreement is made in reliance thereon that CONTRACTOR intends to use subcontractors in the performance of this Agreement which shall be approved by City prior to the provision of any services by said subcontractor.

15.3 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 CONTRACTOR. City shall in no event be obligated to any third party, including any subcontractor of CONTRACTOR, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

15.4 Except as otherwise stated herein, CONTRACTOR 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, CONTRACTOR shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor CONTRACTOR, assignee, transferee or subcontractor.

15.5 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR shall in no event release CONTRACTOR from any obligation under the terms of this Agreement, nor shall it relieve or release CONTRACTOR from the payment of any damages to City, which City sustains as a result of such violation.

XVI.

INDEPENDENT CONTRACTOR

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

XVII. **NONDISCRIMINATION POLICY**

17.1 CONTRACTOR hereby acknowledges that it is the policy of the City of San Antonio to assist in increasing the competitiveness and qualifications of small, women, African American, and minority-owned business enterprises in order to afford greater opportunities for obtaining and participating in contracts, related subcontracts, and leases and concessions awarded by the City. CONTRACTOR agrees that CONTRACTOR shall not discriminate against any individual or group 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 and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability.

17.2 The CONTRACTOR shall comply with all federal, State, or local laws, rules, and orders prohibiting discrimination, and shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation. Consistent with the foregoing, CONTRACTOR agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented by regulations at 41 C.F.R. Part 60. CONTRACTOR further agrees to abide by all applicable provisions of San Antonio City ordinance number 69403 on file in the City Clerk's Office. 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.

XVIII.
CONFLICT OF INTEREST

18.1 CONTRACTOR acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in 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 collaborator or a parent or subsidiary business entity.

18.2 Pursuant to the subsection above, CONTRACTOR 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. CONTRACTOR further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City’s Ethics Code.

XIX.
AMENDMENTS

19.1 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 CONTRACTOR. The Director of Metro Health may execute contract amendments on behalf of City in the following circumstances a) no cost extensions up to two years, b) budget adjustments authorized by the funding agency so long as the total dollar amount of the budget remains unchanged, c) modifications to the performance measures listed in the contract so long as the terms of the amendment stay within the parameters set forth in the statement of work of said contract and d) changes in state or federal regulations mandated by the funding agency.

XX.
SEVERABILITY

20.1 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.

XXI.
LICENSES/CERTIFICATIONS

21.1 CONTRACTOR warrants and certifies that CONTRACTOR 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.

XXII.
COMPLIANCE

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

XXIII.
NONWAIVER OF PERFORMANCE

23.1 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 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.

XXIV.
LAW APPLICABLE

24.1 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.

24.2 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.

XXV.
LEGAL AUTHORITY

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

XXVI.
PARTIES BOUND

26.1 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.

XXVII.
CAPTIONS

27.1 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.

XXVIII.
DEBARMENT

28.1 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.

28.2 CONTRACTOR shall provide immediate written notice to City, in accordance with Article VIII. Notice, 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.

XXIX.
ENTIRE AGREEMENT

29.1 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 XIX. Amendments.

EXECUTED and **AGREED** to this the _____ day of _____, 2014.

CITY OF SAN ANTONIO

_____		_____	
Printed Name:	Thomas Schlenker M.D., M.P.H.	Printed Name:	George Hernandez, JD
Title:	Director of Health, San Antonio Metro Health	Title:	President/CEO, University Health System
Date:	_____	Date:	_____

Approved as to Form:

City Attorney

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement is entered into by and between the City of San Antonio ("Covered Entity"), and the Bexar County Hospital District d/b/a University Health System, a Business Associate ("BA").

WHEREAS, Covered Entity and BA may need to use, disclose and/or make available certain information pursuant to the terms of a Professional Services Agreement, some of which may constitute Protected Health Information ("PHI"); and

WHEREAS, Covered Entity and BA intend to protect the privacy and provide for the security of PHI disclosed to each other pursuant to the Service 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; and

WHEREAS, the purpose of this Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Section 164.504(e) of the Code of Federal Regulations ("C.F.R."), as the same may be amended from time to time;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

A. Definitions. For the purposes of this Agreement, the following terms have the meanings ascribed to them:

- (1) "Disclosure" with respect to PHI, shall mean the release, transfer, provision of access to or divulging in any other manner of PHI outside the entity holding the PHI.
- (2) "Individual" shall have the same meaning as the term "Individual" in 45 C.F.R. 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. 164.502(g).
- (3) "Parties" shall mean Covered Entity and BA.
- (4) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and Part 164, subparts A and E.
- (5) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. 164.501, limited to the information created or received by BA from or on behalf of Covered Entity.
- (6) "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.
- (7) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(8) "PHI Breach" shall mean an acquisition, access, use, or disclosure of PHI in a manner not permitted by the Privacy Rules and such action compromises the security or privacy of the PHI.

B. BA Obligations and Activities. BA agrees that it shall:

(1) Not use or disclose the PHI other than as permitted or required by this Agreement or as Required by Law;

(2) Establish and maintain appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect, consistent with the services provided under this Agreement, the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of covered entity;

(3) Mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA in violation of the requirements of this Agreement;

(4) Report to Covered Entity any use or disclosure of PHI of which BA is aware or becomes aware that is not provided for or allowed by this Agreement as well as any security incident that BA becomes aware of;

(5) Ensure that any of its agents or subcontractors with which BA does business and to whom it provides PHI received from, created or received by BA on behalf of Covered Entity are aware of and agree to the same restrictions and conditions that apply through this Agreement to BA with respect to such information, and further agree to implement reasonable and appropriate administrative, physical and technical safeguards to protect such information;

(6) Provide access, at the request of Covered Entity, and in a reasonable time and manner as agreed by the Parties, to PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements 45 C.F.R. §164.524;

(7) Make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of the Covered Entity or an Individual, and in a reasonable time and manner agreed to by the Parties;

(8) Make available to the Covered Entity or to the Secretary of the U.S. Department of Health and Human Services all internal practices, books and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by the BA on behalf of the Covered Entity, for purposes of the Secretary of the U.S. Department of Health and Human Services in determining Covered Entity's compliance with the Privacy Rule;

(9) Document such disclosures of PHI, and information related to such disclosures, as would be required for Covered Entity to respond to a request from an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528;

(10) Provide Covered Entity or an Individual, in a reasonable time and manner as agreed to by the Parties, information collected in accordance with Section B(9) of this

Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528.

(11) Will immediately, and in no event later than 14 days of discovery, notify Covered Entity of any breach of PHI and will coordinate with Covered Entity to identify, record, investigate, and report to an affected individual and US Department of Health and Human Services, as required, any covered PHI breach.

C. Permitted Uses and Disclosures by BA

- (1) Except as otherwise limited in this Agreement, BA may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Service Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- (2) Except as otherwise limited in this Agreement, BA may disclose PHI for the proper management and administration of the BA, provided that disclosures are Required By Law, or BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the BA of any instances of which it is aware in which the confidentiality of the information has been breached.
- (3) Except as otherwise limited in this Agreement, BA may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. 164.504(e)(2)(i)(B).
- (4) BA may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. 502(j)(1).

D. Obligations of Covered Entity. Covered Entity shall inform BA of its privacy practices and restrictions as follows. Covered Entity shall:

- (1) notify BA of any limitations in its notice of privacy practices in accordance with 45 C.F.R. 164.520, to the extent that such limitation may affect BA's use or disclosure of PHI;
- (2) notify BA of any changes in, or revocation of, permission by any Individual to use or disclose PHI, to the extent that such changes may affect BA's use or disclosure of PHI;
- (3) notify BA of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522 to the extent that such changes may affect BA's use or disclosure of PHI.
- (4) coordinate with BA regarding any PHI breach and make timely notification to affected individuals within 60 days of discovery.

E. Permissible Requests by Covered Entity.

Covered Entity shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that the Business Associate may use or disclose PHI for data aggregation or management and administrative activities of the BA.

F. Term and Termination.

(1) The term of this Agreement shall commence on the date on which it is fully executed or contract start date of October 1, 2013, whichever is later. This Agreement shall terminate when all PHI encompassed by this Agreement is destroyed or returned to Covered Entity or, if it is infeasible to return or destroy the PHI, protections are extended to such information in accordance with the termination provisions in this Section.

(2) Termination for Cause. Upon Covered Entity's knowledge of a material breach by BA, Covered Entity shall either (a) provide an opportunity for BA to cure the breach in accordance with the terms of the Service Contract or, if the BA does not cure the breach or end the violation within the time for cure specified in the Service Contract, end the violation and terminate this Agreement and the Contract; or (b) immediately terminate this Agreement and the Service Contract if BA has breached a material term of this Agreement and cure is not possible. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

(3) Effect of Termination.

(a) Except as provided below in paragraph (b) of this Section F(3), upon termination of this Agreement for any reason, BA shall return or destroy all PHI received from the Covered Entity, or created or received by BA on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of BA or its subcontractors or agents. BA shall not retain any copies of PHI.

(b) In the event that BA determines that returning or destroying PHI is infeasible, BA shall provide to Covered Entity written notification of the condition that makes the return or destruction of PHI infeasible. Upon BA's conveyance of such written notification, BA shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make its return or destruction infeasible, for so long as BA maintains such PHI.

(4) Notwithstanding any other provision under this Agreement, the Parties agree that the Service Contract may be terminated by either Party without penalty should the other Party violate a material obligation under this Agreement.

G. Amendment to Comply with Law. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.

- H. **Survival.** The respective rights and obligations of the BA under Sections B, C(2) and (4), and F(3) shall survive the termination of this Agreement.
- I. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit Covered Entity to comply with the Privacy Rule.
- J. **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule means the section as in effect or amended.
- K. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer upon any person other than Covered Entity, BA, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- L. **INDEMNIFICATION.** *BA acknowledges that it is subject to, and complies with, the applicable provisions of the Texas Tort Claims Act, as set out in the 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.*
- M. **Reimbursement.** BA will reimburse Covered Entity for reasonable costs incurred responding to a PHI breach by BA or any of BA's subcontractors.
- N. **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.
- O. **Assignment.** Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Covered Entity shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Covered Entity, without the prior approval of Business Associate.
- P. **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Covered Entity relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Service Contracts or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Service Contract comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.
- Q. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.

EXECUTED to be effective February 1, 2014, as signed by the parties' representatives below.

COVERED ENTITY:
City of San Antonio

BUSINESS ASSOCIATE:
University Health System

By: _____

By: _____

Print Name: Thomas Schlenker, M.D., M.P.H. Print Name:

Print Title: Director,
 San Antonio Metropolitan Health
 District

Print Title:

APPROVED AS TO FORM:

City Attorney

ATTACHMENT I



FY14 - ADOLESCENT HEALTH PROJECT - RECEIPT FOR SERVICES
PLEASE PRINT

Patient Name: _____ Date of Birth (mm/dd/yy): ____/____/____
 Address: _____ City: _____
 State: ____ Zip: _____ Patient Social Security #: ____ - ____ - ____
 Home Phone Number: (____) ____ - ____ Mobile Phone Number: (____) ____ - ____
 Email: _____
 Best method to reach Patient for follow up? Phone: ____ Text: ____ Email: ____
 How did you hear about this service? _____
 Patient Marital Status: Single: ____ Married: ____ Patient, number of children: ____
 Patient currently enrolled in school? Yes ____ No ____ Patient's primary doctor: _____
 Patient Insurance status:
 Medicaid: Yes ____ No ____ No Insurance: Yes ____ No ____ Other: _____
 CHIP: Yes ____ No ____ Private Insurance: Yes ____ No ____

For Clinic/Hospital Staff Only			
Date of Visit (mm/dd/yy)			
Date of next visit (mm/dd/yy)			
Clinic / Hospital			
Performed	Service Provided	Fee(\$)	Charges
<input type="checkbox"/>	Office Visit /Hospital Facility Fee	\$100.00	
<input type="checkbox"/>	Nexplanon Device	\$911.00	
<input type="checkbox"/>	Nexplanon Insertion	\$195.00	
<input type="checkbox"/>	Nexplanon Removal	\$207.00	
<input type="checkbox"/>	Depo Injections (each)	\$144.00	
<input type="checkbox"/>	Counseling/Pregnancy Test	\$48.00	
<input type="checkbox"/>	Admin Fee	\$102.00	
		Total Charges For This Visit:	
		Total Due:	

The information I have given to the clinic/hospital staff is true and correct to the best of my knowledge. I also give permission for University Health System to share this information with the San Antonio Metropolitan Health District.

Patient Signature: _____

Parent/Guardian (print name): _____

(Only if patient is age 17 or younger)

Parent/Guardian Signature: _____

Authorized Clinic/Hospital Staff (print name): _____

Authorized Clinic/Hospital Staff Signature: _____

Please fax all Receipt for Services by the 5th of every month to Kori Eberle, 210-207-4731
Phone (210-207-8850)



FY15 - ADOLESCENT HEALTH PROJECT - RECEIPT FOR SERVICES
PLEASE PRINT

Patient Name: _____ Date of Birth (mm/dd/yy): ____/____/____
 Address: _____ City: _____
 State: ____ Zip: _____ Patient Social Security #: _____ - _____ - _____
 Home Phone Number: () _____ - _____ Mobile Phone Number: () _____ - _____
 Email: _____
 Best method to reach Patient for follow up? Phone: ____ Text: ____ Email: ____
 How did you hear about this service? _____
 Patient Marital Status: Single: ____ Married: ____ Patient, number of children: ____
 Patient currently enrolled in school? Yes ____ No ____ Patient's primary doctor: _____
 Patient Insurance status:
 Medicaid: Yes ____ No ____ No Insurance: Yes ____ No ____ Other: _____
 CHIP: Yes ____ No ____ Private Insurance: Yes ____ No ____

For Clinic/Hospital Staff Only			
Date of Visit (mm/dd/yy)			
Date of next visit (mm/dd/yy)			
Clinic / Hospital			
Performed	Service Provided	Fee(\$)	Charges
<input type="checkbox"/>	Office Visit /Hospital Facility Fee	\$100.00	
<input type="checkbox"/>	Nexplanon Device	\$911.00	
<input type="checkbox"/>	Nexplanon Insertion	\$195.00	
<input type="checkbox"/>	Nexplanon Removal	\$207.00	
<input type="checkbox"/>	Depo Injections (each)	\$144.00	
<input type="checkbox"/>	Counseling/Pregnancy Test	\$48.00	
<input type="checkbox"/>	Admin Fee	\$104.00	
		Total Charges For This Visit:	
		Total Due:	

The information I have given to the clinic/hospital staff is true and correct to the best of my knowledge. I also give permission for University Health System to share this information with the San Antonio Metropolitan Health District.

Patient Signature: _____
 Parent/Guardian (print name): _____
 (Only if patient is age 17 or younger)
 Parent/Guardian Signature: _____

Authorized Clinic/Hospital Staff (print name): _____
 Authorized Clinic/Hospital Staff Signature: _____

Please fax all Receipt for Services by the 5th of every month to Kori Eberle, 210-207-4731
 Phone (210-207-8850)



FY16 - ADOLESCENT HEALTH PROJECT - RECEIPT FOR SERVICES
PLEASE PRINT

Patient Name: _____ Date of Birth (mm/dd/yy): ____/____/____

Address: _____ City: _____

State: _____ Zip: _____ Patient Social Security #: _____-_____-_____

Home Phone Number: () _____-_____ Mobile Phone Number: () _____-_____

Email: _____

Best method to reach Patient for follow up? Phone: _____ Text: _____ Email: _____

How did you hear about this service? _____

Patient Marital Status: Single: _____ Married: _____ Patient, number of children: _____

Patient currently enrolled in school? Yes _____ No _____ Patient's primary doctor: _____

Patient Insurance status:

Medicaid: Yes _____ No _____ No Insurance: Yes _____ No _____ Other: _____

CHIP: Yes _____ No _____ Private Insurance: Yes _____ No _____

For Clinic/Hospital Staff Only			
Date of Visit (mm/dd/yy)			
Date of next visit (mm/dd/yy)			
Clinic / Hospital			
Performed	Service Provided	Fee(\$)	Charges
<input type="checkbox"/>	Office Visit /Hospital Facility Fee	\$100.00	
<input type="checkbox"/>	Nexplanon Device	\$911.00	
<input type="checkbox"/>	Nexplanon Insertion	\$195.00	
<input type="checkbox"/>	Nexplanon Removal	\$207.00	
<input type="checkbox"/>	Depo Injections (each)	\$144.00	
<input type="checkbox"/>	Counseling/Pregnancy Test	\$48.00	
<input type="checkbox"/>	Admin Fee	\$106.00	
		Total Charges For This Visit:	
		Total Due:	

The information I have given to the clinic/hospital staff is true and correct to the best of my knowledge. I also give permission for University Health System to share this information with the San Antonio Metropolitan Health District.

Patient Signature: _____

Parent/Guardian (print name): _____

(Only if patient is age 17 or younger)

Parent/Guardian Signature: _____

Authorized Clinic/Hospital Staff (print name): _____

Authorized Clinic/Hospital Staff Signature: _____

Please fax all Receipt for Services by the 5th of every month to Kori Eberle, 210-207-4731
 Phone (210-207-8850)