

AN ORDINANCE 2010-06-17-0552

AUTHORIZING AGREEMENTS WITH THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT HOUSTON SCHOOL OF PUBLIC HEALTH IN THE AMOUNT OF \$325,000.00; INTERLEX COMMUNICATIONS INC. IN THE AMOUNT OF \$964,174.00; MACRO INTERNATIONAL, INC. IN THE AMOUNT OF \$100,000.00; AND WITH THE SAN ANTONIO/BEXAR COUNTY METROPOLITAN PLANNING ORGANIZATION IN THE AMOUNT OF \$175,000.00, FOR SERVICES FOR THE PERIOD BEGINNING ON JUNE 17, 2010 AND ENDING ON MARCH 18, 2012 IN SUPPORT OF THE COMMUNITIES PUTTING PREVENTION TO WORK - OBESITY PREVENTION PROGRAM FUNDED THROUGH AMERICAN RECOVERY AND REINVESTMENT ACT GRANT FUNDS FROM THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

* * * * *

WHEREAS, The San Antonio Metropolitan Health District (Metro Health), was awarded \$15,612,353.00 in American Recovery and Reinvestment Act (ARRA) grant funding to support a two-year initiative entitled the San Antonio–Communities Putting Prevention to Work (SA-CPPW) Obesity Project; and,

WHEREAS, the SA-CPPW Obesity Project addresses obesity prevention through a comprehensive set of initiatives that support specific, measurable health outcomes to increase opportunities for physical activity and access to healthy foods for children and families of San Antonio to reduce chronic disease rates, specifically associated with obesity; and,

WHEREAS, Metro Health, as the lead agency for the SA-CPPW Obesity Project, is coordinating efforts to secure partners and contractors to satisfy project components, and in that effort has engaged the San Antonio/Bexar County Metropolitan Planning Organization to develop a Pedestrian Safety Action Plan, and Macro International Inc. to administer a standard Youth Risk Behavioral Surveillance Survey; and,

WHEREAS, Metro Health issued Requests for Proposals for the Social Marketing and Program Evaluation components of the project, and after a review of responses and interviews selected Interlex Communications, Inc. and the University of Texas Health Science Center at Houston – School of Public Health for the respective components; and

WHEREAS, overall, the initiative is expected to yield community assessment and evaluation data, a built environment more conducive to walking and cycling, an increase in the availability of no-cost spaces for physical activity, healthier options on restaurant menus, approved changes to related municipal and organizational policies, and a multidisciplinary collaborative invested in community health; **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 hereby authorized to execute agreements for professional services with the University of Texas Health Science Center at Houston – School of Public Health in the amount of \$325,000.00, Interlex Communications Inc. in the amount of \$964,174.00, Macro International Inc. in the amount of \$100,000.00, and with the San Antonio/Bexar County Metropolitan Planning Organization in the amount of \$175,000.00 for services for the period beginning on June 17, 2010 and ending on March 18, 2012 in support of the Communities Putting Prevention to Work – Obesity Prevention Program. A copy of each respective agreement in substantially final form is attached hereto and incorporated herein for all purposes as **Attachments I, II, III, and IV.**

SECTION 2. Fund 2601636046 entitled “ARRA 09 Communities Putting Prev to Work” and Internal Order 136000000457, are hereby designated for use in the accounting for the fiscal transaction in the acceptance of these cooperative contracts.

SECTION 3. The sum of \$1,564,174.00 is hereby appropriated in the above designated fund and will be disbursed from GL 5201040 “Fees to Professional Contractors”. Payment is authorized as follows upon issuance of a Purchase Order:

- \$325,000.00 The University of Texas Health Science Center at Houston – School of Public Health
- \$964,174.00 Interlex Communications, Inc.
- \$100,000.00 Macro International Inc.
- \$175,000.00 San Antonio/Bexar County Metropolitan Planning Organization (MPO)

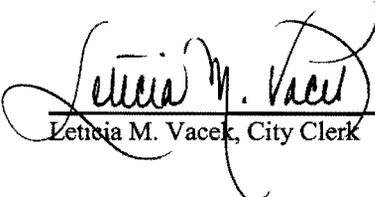
SECTION 4. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager’s designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

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

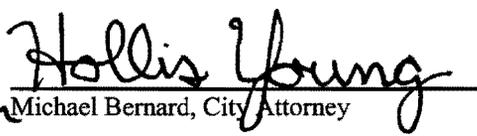
PASSED AND APPROVED this 17th day of June, 2010.


M A Y O R
Julián Castro

ATTEST:

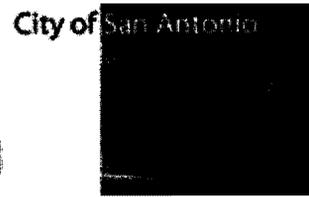

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:


Michael Bernard, City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 22

Name:	6, 7, 8, 11, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26A, 26B, 26C, 26D, 26E, 27, 29, 30, 32A, 32B, 32D, 32E, 33, 35, 36, 37, 39, 40, 41, 42						
Date:	06/17/2010						
Time:	02:23:40 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing agreements and authorizes payment with the University of Texas Health Science Center at Houston School of Public Health in the amount of \$325,000.00; Interlex Communications Inc. in the amount of \$964,174.00; Macro International, Inc. in the amount of \$100,000.00; and the San Antonio/Bexar County Metropolitan Planning Organization in the amount of \$175,000.00, for services supporting the Communities Putting Prevention to Work-Obesity Prevention Program funded through American Recovery and Reinvestment Act grant funds from the Centers for Disease Control and Prevention. [Sharon De La Garza, Assistant City Manager; Dr. Fernando A. Guerra, Director, Health]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				x
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	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 “SAMHD”), acting by and through its City Manager, pursuant to Ordinance No. 2010-06-17-____, passed and approved on June 17, 2010, and The University of Texas Health Science Center at Houston, on behalf of the School of Public Health (hereinafter referred to as “Contractor”), a member institution of The University of Texas System (“System”), 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.

“ARRA-CPPW” shall mean the 2009 American Recovery and Reinvestment Act – Communities Putting Prevention to Work grant which funds this agreement.

“Project” shall mean the general scope of services of this Agreement as well as the overall objectives and goal of the ARRA-CPPW grant.

II.
TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on June 17, 2010 and terminate on March 18, 2012.

2.2 CONTRACTOR further agrees and understands that the City expects to pay all obligations of this Agreement from 2009 American Recovery and Reinvestment Act (ARRA), U.S. Department of Health and Human Services (HHS) and Centers for Disease Control and Prevention (CDC) 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.

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 The CONTRACTOR will be responsible for developing and implementing a comprehensive process and outcome evaluation of the SA-CPPW program that reflects the goals and objectives of the SA-CPPW Community Action Plan (attachment I). To achieve this end the contractor will:

3.2.1 Develop a comprehensive process and outcome evaluation plan that addresses each of the objectives, activities and outputs of the SA-CPPW Community Action Plan and includes specific indicators, data collection methods and instruments, analysis plans and reporting products. This plan will be developed under the direction of CPPW staff and CDC project officer and must include the use of the CDC CHANGE tool.

3.2.1.1 Contractor will meet with CPPW team no later than July 1, 2010 to discuss the evaluation plan development.

3.2.1.2 A draft plan will be submitted by the Contractor to the CPPW team no later than July 6, 2010.

3.2.1.3 The final evaluation plan and data collection instruments will be submitted by the Contractor to the CPPW Program Manager no later than July 15, 2010.

3.2.2 Develop a database as a platform for collection of data as specified in the evaluation plan from SA-CPPW partners, contractors and workgroups no later than July 25, 2010.

3.2.3 Assure the timely and accurate reporting of program data by SA-CPPW partners, contractors and workgroups to include:

3.2.3.1 Sending out data submission reminders to SA-CPPW partners, contractors and workgroups at least one week in advance of the submission deadlines.

3.2.3.2 Monitor submission and completeness of data submitted and request additional information or changes as necessary to assure the timely submission of reports to SA-CPPW as specified in the evaluation plan and this scope of work.

3.2.3.3 Notifying the SA-CPPW Evaluation Liaison promptly of any failures to submit data by SA-CPPW partners, contractors and workgroups.

3.2.4 Provide training to all SA-CPPW partners, contractors and workgroups that will provide data to the Contractor through the database and associated data collection instruments, to include:

3.2.4.1 Development of a detailed data collection training manual to address questions about the content and format of the reporting instrument(s) to be provided to SA-CPPW partners, contractors and workgroups no later than July 30, 2010.

3.2.4.2 As arranged by CPPW staff, conduct a minimum of three (3) data submission training sessions with SA-CPPW partners, contractors and workgroups to provide hands-on experience in the use of the data collection instruments and the associated database no later than August 20, 2010.

3.2.4.3 Provide ongoing technical assistance for all SA-CPPW partners, contractors and workgroups regarding data submission processes, instruments and requirements throughout the term of this agreement.

3.2.5 Report data on program activities and outputs on a monthly basis with reports due to the CPPW Program Manager by the third day of each month. The first monthly report covering the month of July 2010 will be due on August 3, 2010.

3.2.6 Provide quarterly data reports summarizing the monthly reports on the following dates in line with CDC programmatic reporting requirements:

Performance Period	Report due to CPPW	Report due to CDC
July 1, 2010 – September 30, 2010	October 3, 2010	October 10, 2010
October 1, 2010 – December 31, 2010	January 3, 2011	January 10, 2011
January 1, 2011 – March 31, 2011	April 3, 2011	April 10, 2011
April 1, 2011 – June 30, 2011	July 3, 2011	July 10, 2011
July 1, 2011 – September 30, 2011	October 3, 2011	October 10, 2011
October 1, 2011 – December 31, 2011	January 3, 2012	January 10, 2012
January 1, 2012 – March 18, 2012	April 3, 2012	April 10, 2012

3.2.7 Collect and analyze primary data as necessary to support the overall evaluation plan and incorporate analysis of secondary data sources, to include but not limited to, Behavior Risk Factor Surveillance System (BRFSS) and the Youth Risk Behavior Surveillance System (YRBSS), the CDC CHANGE tool and a key leaders survey.

3.2.7.1 Analyze 2010 and 2011 BRFSS and YRBSS data for Bexar County, including descriptive statistics, trend analysis, and cross-tabulations of indicators requested by SA-CPPW, and comparisons to peer communities, Texas, and U.S. and prepare a report for SA-CPPW within 30 days of receiving cleaned and transformed datasets in electronic form from SA-CPPW.

3.2.7.2 Administer the CDC CHANGE tool by September 15, 2010, or upon receipt of final tool from CDC, whichever is later, to collect baseline data to assess current policy, systems and environmental change strategies that will be beneficial in setting priorities and allocating resources. Complete analysis of CHANGE data, develop a report and present findings to SA-CPPW staff and leadership team by September 30, 2010.

3.2.7.3 Administer the CDC CHANGE tool by February 15, 2012 to assess changes in policy, systems, and environmental change over project period. Complete analysis of CHANGE data, develop a report and present findings to SA-CPPW staff and leadership team by March 1, 2012 to included recommend priorities for projects beyond the end of the SA-CPPW funding.

3.2.7.4 Adapt the Key Leader Survey and partner list from the Steps to a Healthier San Antonio Project to assess active leader support around policy and environmental change to reduce obesity and administer the Key Leader survey to a minimum of 30 key leaders by September 30, 2011. Complete analysis of Key Leader survey data, develop a report and present findings to SA-CPPW staff and leadership team by October 15, 2011.

3.2.7.5 Collect, analyze, interpret, and develop appropriate reports on additional data as specified by the evaluation plan.

3.2.8 Provide comprehensive evaluation reports addressing all indicators included in the evaluation plan including those data sources specified in 3.2.5 and 3.2.7. These written reports will be accompanied by a formal presentation to SA-CPPW staff, leadership team, and other key stakeholders and should include recommendations for adjustment to the SA-CPPW Community Action Plan (CAP) as necessary. Provide evaluation reports on the following dates:

Performance Period	Report due to CPPW	Report due to CDC
March 18, 2010 – March 18, 2011	April 1, 2011	Not required
March 19, 2011 – March 18, 2012	April 1, 2012	Not required
March 18, 2010 – March 18, 2012	March 15, 2012	April 1, 2012

3.2.9 Attend meetings related to SA-CPPW program in regards to program evaluation and performance monitoring as requested by the SA-CPPW program manager.

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

IV. 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 \$325,000.00 as total compensation, which is budgeted for such payment, as set forth and incorporated herein in the budget which is attached hereto as Attachment I.

4.2 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.

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

4.4 The CONTRACTOR agrees to submit statements showing monthly itemized costs to the City associated with this Agreement. Reimbursement of eligible expenses, as determined by the City, will be made monthly according to standard procedures followed by City, as requested upon receipt of billing from the CONTRACTOR. Invoices will be due seven (7) days after the end of the monthly report period. The CONTRACTOR will submit to the City a monthly billing invoice to request payment of expenses incurred on or before the 7th day of each month. An invoice documenting final expenses associated with the Agreement will be submitted to the City forty-five (45) days following March 18, 2012.

4.5 CONTRACTOR agrees to provide any and all documentation required for inclusion in any report concerning the ARRA-CPPW grant. 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.

V.

OWNERSHIP OF DOCUMENTS

5.1 City reserves the non-exclusive right, including each and every copyright, to use and reproduce all reports, data and materials delivered pursuant to this Agreement (the PROJECT) and reserves the right to authorize others to use or reproduce such materials. City understands that under Texas law, copyright ownership in any works authored by CONTRACTOR's faculty belongs to that author and not CONTRACTOR. Therefore, CONTRACTOR has no authority to bind its faculty to any copyright use or transfer agreement. City also acknowledges that local governmental records are public records and as such, CONTRACTOR cannot transfer or otherwise confer any right to City any rights in these materials. Nothing herein is intended nor shall it be construed to prohibit CONTRACTOR or its faculty access to the database, or to transfer any ownership in CONTRACTOR's best practice and benchmarking information to the City.

In the event that CONTRACTOR or its faculty contributors publishes the results of this study or uses any of the study materials for educational activities, or permits any third party to do so, CONTRACTOR or its faculty contributors shall acknowledge City's contribution to the project in any such materials.

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

VII. **TERMINATION**

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

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 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.

7.3.2 The failure to meet CDC reporting requirements as set out and determined by City.

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 fifteen (15) calendar 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 fifteen -day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another 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 Bankruptcy or selling substantially all of company's assets

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

7.4.3 Performing unsatisfactorily

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

7.6 Regardless of how this Agreement is terminated, 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 forty-five (45) 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 forty-five (45) 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
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

AND

City of San Antonio
Director, San Antonio Metropolitan Health District
332 W. Commerce, Suite 307
San Antonio, Texas 78205

If intended for CONTRACTOR, to:

-Jodi S. Ogden, MBA, CRA
Contracts Director, Office of Sponsored Projects
The University of Texas Health Science Center at Houston
7000 Fannin, UCT 1006
Houston, Texas 77030

IX.

TERMS AND CONDITIONS RELATED TO ARRA (STIMULUS) FUNDS

9.1 The CONTRACTOR acknowledges that funds for this Agreement come from the 2009 American Recovery and Reinvestment Act. As such, the CONTRACTOR agrees to comply with all terms and conditions associated with said funds as directed by the City or as required in this Agreement, including but not limited to:

- a) The American Recovery and Reinvestment Act (ARRA);
- b) 2 C.F.R. 176.210 *et seq.*;
- c) The terms and conditions of ARRA/PPPW Grant Number 1U58DP002453-01 as set out in an award letter to CITY (attached hereto, and incorporated herein, as Attachment II), as well as relevant ARRA information memorandum and publications issued by the federal government;
- d) The following Department of Management and Budget (OMB) Circulars, as applicable to the funds received by the DEPARTMENT hereunder:
 - i. OMB Circular A-102, entitled, "Grants and Cooperative Agreements with State and Local Governments";
 - ii. OMB Circular A-110, entitled, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations";
 - iii. OMB Circular A-133, entitled, "Audits of States, Local Governments, and Not for Profit Organizations".

9.2 The CONTRACTOR further agrees to comply with all applicable terms and conditions attached hereto as Attachment III – Special Provisions.

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 the CONTRACTOR shall have completed an independent audit of its financial statements. CONTRACTOR is included in the State of Texas Single Audit and will provide an electronic link to the Single Audit Report once the report has been published for the relevant fiscal year. 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 the SAMHD by CONTRACTOR upon submission of said corrective action plan to the auditor.

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.

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 the SAMHD within a period of ten (10) days upon the CONTRACTOR's receipt of the report.

10.2 CONTRACTOR agrees that if CONTRACTOR receives or expends more than \$500,000.00 in federal funds from the City, the audit shall be made in accordance with the Single Audit Act Amendments of 1996, the State of Texas Single Audit Circular, and U.S. Office of Management and Budget Circular (OMB-133 revision) and CONTRACTOR shall also be required to submit the electronic link to the Single Audit Report.

10.3 If CONTRACTOR expends less than \$500,000.00 of funds provided by or through the City, then during the term of this Agreement, the Contactor shall submit the electronic link to the State of Texas Single Audit Report.

10.4 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.

10.5 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.

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.

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

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

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 the SAMHD.

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

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 award document from CDC/HHS. A copy of said award document is attached hereto and incorporated herein for all purposes as Attachment II. From time to time, the award document may be amended or supplemented, and these shall be incorporated into the Agreement collectively as Attachment I.

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 the SAMHD, as representatives of the City and the parties ultimately responsible for all matters of compliance with CDC/HHS/ARRA 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 SAMHD.

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, CDC, HHS, 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,

CDC or HHS when City, CDC or HHS determines that the records possess long-term retention value.

11.7 The SAMHD 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 HHS 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 the SAMHD, the CONTRACTOR shall furnish to the SAMHD and the Grantor of the Grant Funds, if applicable, such statements, reports, records, data, all policies and procedures and information as may be requested by the SAMHD and shall permit the City and Grantor of the Grant Funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement. CONTRACTOR agrees that the failure of the City to monitor, evaluate, or provide guidance and direction shall not relieve the Contactor of any liability to the City for failure to comply with the Terms of the Grant 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 the SAMHD 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, provided that CONTRACTOR's obligation shall not apply to information that: is not disclosed in writing or reduced to writing and so marked with an appropriate confidentiality legend within thirty (30) days of disclosure; is already in the recipient CONTRACTOR's possession at the time of disclosure thereof; is or later becomes part of the public domain through no fault of the CONTRACTOR; is received from a third party having no obligations of confidentiality to City; or is independently developed by CONTRACTOR. If disclosure is required (i) by law or (ii) by order of a governmental agency or court of competent jurisdiction, CONTRACTOR shall give the Director of the SAMHD 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.. This Article shall not be construed to limit HHS's, the CDC'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, nor shall it be construed to limit CONTRACTOR's right to publish. 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 CONTRACTOR will maintain a system for tracking, on an ongoing basis, inventory of equipment and supplies purchased with ARRA-CPPW grant funds that either (i) has an purchase price of \$5,000.00 or greater; or (ii) meets such other criteria as City may prescribe, and consistent with those requirements set out in Attachment III. Upon request, CONTRACTOR will provide City a status report of the current inventory of equipment and supplies meeting these requirements. City shall have the right to review and approve CONTRACTOR's inventory tracking system.

11.13 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.

11.14 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.

11.15 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.

11.16 To ensure that the above policies are complied with, CONTRACTOR shall have the Principal Investigator read this Agreement and acknowledge that she has read and understands all of the terms and conditions. The Principal Investigator will ensure that all personnel who are paid out of Agreement funds comply with all terms and conditions.

11.17 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.

11.18 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.

11.19 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, as a member institution of The University of Texas System, is an agency of the State of Texas and provides professional liability insurance for its faculty physicians pursuant to The University of Texas System Professional Medical Malpractice Self-Insurance

Plan, under the authority of Section 59.01, Texas Education Code. CONTRACTOR shall insure The Principal Investigator has and will maintain in force, during the term of this Agreement, adequate professional liability insurance to cover his/her obligations hereunder.

CONTRACTOR, an agency of the State of Texas, is subject to the provisions of Title 5, Chapter 101 of the Texas Civil Practice and Remedies Code, and the CONTRACTOR's Personnel or employees are subject to Title 5, Chapter 104 of the Texas Civil Practice and Remedies Code, also known as the Texas Tort Claims Act. Certificates evidencing such insurance will be made available for examination upon request by City. Employees of CONTRACTOR are provided Worker's Compensation coverage under a self-insuring, self-managed program as authorized by Vernon's Annotated Civil Stat, Article 8309d.

XIII. INDEMNIFICATION

13.1 CONTRACTOR and the City acknowledge they are political subdivisions of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the 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. CONTRACTOR and City shall each promptly notify the other in writing of any claim or demands that become known against them in relation to or arising out of activities under this Agreement.

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 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.

15.3 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 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 which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or

disability. CONTRACTOR further agrees that CONTRACTOR will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

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 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 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 authorized representatives of both City and CONTRACTOR. The Director of the SAMHD 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 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 authorized representative of 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.**

XXV.
LEGAL AUTHORITY

25.1 The signer of this Agreement for CONTRACTOR represents, certifies , 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 _____, 2010.

CITY OF SAN ANTONIO

**SAN ANTONIO-BEXAR COUNTY
METROPOLITAN PLANNING
ORGANIZATION**

Printed Name: Fernando A. Guerra
 M.D., M.P.H.
Title: Director of Health
Date: _____

Printed Name: Isidro Martinez
Title: Executive Director
Date: _____

Approved as to Form:

Michael D. Bernard, City Attorney

ATTACHMENTS

- Attachment I – Program Budget
- Attachment II – Award Letter
- Attachment III – Special Provisions



THIS AWARD IS ISSUED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND IS SUBJECT TO SPECIAL HHS TERMS AND CONDITIONS AS REFERENCED IN SECTION III

Grant Number: 1U58DP002453-01

Principal Investigator(s):
Jennifer Herriott

Project Title: CATEGORY A: COMMUNITIES PUTTING PREVENTION TO WORK

FERNANDO GUERRA
SAN ANTONIO METROPOLITAN HEALTH
332 WEST COMMERCE STREET
SAN ANTONIO,, TX 78205

Budget Period: 03/19/2010 – 03/18/2012
Project Period: 03/19/2010 – 03/18/2012

Dear Business Official:

The Centers for Disease Control and Prevention hereby awards a grant in the amount of \$15,612,353 (see "Award Calculation" in Section I and "Terms and Conditions" in Section III) to SAN ANTONIO METROPOLITAN HEALTH DISTRICT in support of the above referenced project. This award is pursuant to the authority of 301A,311BC,317K2(42USC241A,243BC247BK2) and is subject to the requirements of this statute and regulation and of other referenced, incorporated or attached terms and conditions.

Acceptance of this award including the "Terms and Conditions" is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

If you have any questions about this award, please contact the individual(s) referenced in Section IV.

Sincerely yours,

Tracey M Sims
Grants Management Officer
Centers for Disease Control and Prevention

Additional information follows

SECTION I – AWARD DATA – 1U58DP002453-01**Award Calculation (U.S. Dollars)**

Salaries and Wages	\$669,329
Fringe Benefits	\$229,864
Personnel Costs (Subtotal)	\$899,193
Equipment	\$7,595
Supplies	\$912,372
Travel Costs	\$29,424
Other Costs	\$8,220,950
Consortium/Contractual Cost	\$5,383,662

Federal Direct Costs	\$15,453,196
Federal F&A Costs	\$159,157
Approved Budget	\$15,612,353
Federal Share	\$15,612,353
TOTAL FEDERAL AWARD AMOUNT	\$15,612,353

AMOUNT OF THIS ACTION (FEDERAL SHARE) \$15,612,353

Fiscal Information:

CFDA Number: 93.724
EIN: 1746002070A2
Document Number: UDP002453A

IC	CAN	2010
DP	9391055	\$15,612,353

SUMMARY TOTALS FOR ALL YEARS		
YR	THIS AWARD	CUMULATIVE TOTALS
1	\$15,612,353	\$15,612,353

CDC Administrative Data:
PCC: / OC: 4151

SECTION II – PAYMENT/HOTLINE INFORMATION – 1U58DP002453-01

For payment information see Payment Information section in Additional Terms and Conditions.

INSPECTOR GENERAL: The HHS Office Inspector General (OIG) maintains a toll-free number (1-800-HHS-TIPS [1-800-447-8477]) for receiving information concerning fraud, waste or abuse under grants and cooperative agreements. Information also may be submitted by e-mail to hhtips@oig.hhs.gov or by mail to Office of the Inspector General, Department of Health and Human Services, Attn: HOTLINE, 330 Independence Ave., SW, Washington DC 20201. Such reports are treated as sensitive material and submitters may decline to give their names if they choose to remain anonymous. This note replaces the Inspector General contact information cited in previous notice of award.

SECTION III – TERMS AND CONDITIONS – 1U58DP002453-01

This award is based on the application submitted to, and as approved by, CDC on the above-titled project and is subject to the terms and conditions incorporated either directly or by reference in the following:

- The grant program legislation and program regulation cited in this Notice of Award.
- The restrictions on the expenditure of federal funds in appropriations acts to the extent those restrictions are pertinent to the award.
- 45 CFR Part 74 or 45 CFR Part 92 as applicable.
- The HS Grants Policy Statement, including addenda in effect as of the beginning date of the budget period.

e. This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

Treatment of Program Income:
Additional Costs

SECTION IV – DP Special Terms and Conditions – 1U58DP002453-01

Notice of Cooperative Agreement

Cooperative Agreement Number: 1 U58 DP002453-01

ARRA AWARD - Category A: \$15,612,353.

Grantee: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

Note 1. INCORPORATION. Funding Opportunity Announcement Number CDC-RFA-DP09-912ARRA titled, U.S Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), American Recovery and Reinvestment Act of 2009, Communities Putting Prevention to Work; the Category A (Obesity, Physical Activity and Nutrition) application dated 11/30/2009; and budget discussions held 2/12/2010.

Note 2. RESPONSE TO SUMMARY STATEMENT: Attached to this Notice of Award is a Summary Statement providing the strengths, weaknesses and recommendations of the application. A response to the Recommendations and Weaknesses within the summary statement must be submitted to the Grants Management Specialist no later than 30 days from the issue date of the Notice of Grant Award. Failure to respond could result in enforcement actions, including withholding of funds or termination.

Note 3. APPROVED FUNDING: Funding in the amount of \$15,612,353. is approved for the budget period, which is March 19, 2010, through March 18, 2012.

Grantee must submit a revised budget, budget narrative and a statement identifying any initially proposed activities that will no longer be pursued as a result of available funding as stated in the Notice of Award. Grantee shall submit a revised 424a, budget narrative and the statement identifying any initially proposed activities that will no longer be pursued to the Grants Management Specialist identified at Note 19 within 30 days from the effective date of this Notice of Award.

Note 4. INDIRECT COSTS.

Indirect costs are approved based on the Indirect Cost Rate Agreement dated June 12, 2009 which calculates indirect costs as follows, a provisional rate is approved at a rate of 17.70% of the base, which includes, total salaries and fringe benefits. The effective dates of this indirect cost rate are from June 12, 2009 until amended.

Note 5. REPORTING REQUIREMENTS.

Final performance and Financial Status reports are due no more than 90 days after the end of the project period. These reports must be submitted to the grants management specialist identified at Note 19.

Note 6. ADDITIONAL REQUIREMENTS:

Grantees are required to participate in the meetings and trainings described in the funding opportunity announcement.

Grantees must ensure that three members of the Leadership Team: the Program Director, the Program Coordinator or equivalent, and one additional leader outside the health department attend a kick-off meeting in Atlanta Georgia April 13 ? 15, 2010.

Grantees must ensure that 8-10 members of the Leadership team participate in one Regional Action Institute currently scheduled as follows:

May 25-28: San Diego Marriott Hotel and Marina

June 1-4: Hyatt Regency Capitol Hill

June 8-11: St. Louis Union Station Marriott

Note 7. CORRESPONDENCE. ALL correspondence (including emails and faxes) regarding this award must be dated and, identified with the AWARD NUMBER.

Note 8. PRIOR APPROVAL: All requests which require the prior approval of the Grants Management Officer as noted in 45 CFR 92 or 45 CFR 74 must bear the signature of an authorized official of the business office of the grantee organization as well as the principal investigator or program or project director. Any requests received, which reflect only one signature, will be returned to the grantee unprocessed. Additionally, any requests involving funding issues must include a new proposed budget, and a narrative justification of the requested changes.

Note 9. INVENTIONS. Acceptance of grant funds obligates recipients to comply with the standard patent rights clause in 37 CFR 401.14.

Note 10. PUBLICATIONS. Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgment and disclaimer, as appropriate, such as,

This publication (journal article, etc.) was supported by the Cooperative Agreement Number above from The Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.

Note 11. CONFERENCE DISCLAIMER AND USE OF LOGOS.

Disclaimer. Where a conference is funded by a grant or cooperative agreement, a subgrant or a contract the recipient must include the following statement on conference materials, including promotional materials, agenda, and Internet sites,

Funding for this conference was made possible (in part) by the cooperative agreement award number above from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services, nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government

Logos. Neither the HHS nor the CDC logo may be displayed if such display would cause confusion as to the source of the conference or give the false appearance of Government endorsement. A non-federal entity unauthorized use of the HHS name or logo is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communication. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the Office of the Inspector General has authority to impose civil monetary penalties for violations (42 C.F.R. Part 1003). Neither the HHS nor the CDC logo can be used on conference materials, under a grant, cooperative agreement, contract or co-sponsorship agreement without the expressed, written consent of either the Project Officer or the Grants Management Officer. It is the responsibility of the grantee (or recipient of funds under a cooperative agreement) to request consent for the use of the logo in sufficient detail to assure a complete depiction and disclosure of all uses of the Government logos, and to assure that in all cases of the use of Government logos, the written consent of either the Project Officer or the Grants Management Officer has been received.

Note 12. EQUIPMENT AND PRODUCTS. To the greatest extent practicable, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as Tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000 or more per unit. However, consistent with recipient policy, a lower threshold may be established. Please provide the information to the Grants Management Officer to establish a lower equipment threshold to reflect your organization policy.

The grantee may use its own property management standards and procedures provided it observes the provisions of the following sections in the Office of Management and Budget (OMB) Circular A-110 and 45 CFR Part 92:

Office of Management and Budget (OMB) Circular A-110, Sections 31 through 37 provides the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations
<http://www.whitehouse.gov/omb/circulars/a110/a110.html>

45 CFR Parts 92.31 and 92.32 provides the uniform administrative requirements for grants and cooperative agreements to state, local and tribal governments.

Note 13. **TRAFFICKING IN PERSONS.** This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term and condition, go to http://www.cdc.gov/od/pgo/funding/grants/Award_Term_and_Condition_for_Trafficking_in_Persons.shtm

Note 14. **ACKNOWLEDGMENT OF FEDERAL SUPPORT.** When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Note 15. **PAYMENT INFORMATION:**

PAYMENT INFORMATION: Payment under this award will be made available through the Department of Health and Human Services (HHS) Payment Management System (PMS). The Division of Payment Management; Program Support Center, administers PMS, HHS administers PMS. PMS will forward instructions for obtaining payments.

A. PMS correspondence, mailed through the U.S. Postal Service, should be addressed as follows:

Director, Division of Payment Management, OS/ASAM/PSC/FMS/DPM
P.O. Box 6021
Rockville, MD 20852
Phone Number: (877) 614-5533
Fax Numbers:
University and Non-Profit Payment Branch (301) 443-2672
Governmental and Tribal Payment Branch (301) 443-2569
Cross Servicing Payment Branch: (301) 443-0377
General Fax: (301) 443-8362

Email PMSSupport@psc.gov

Website: http://www.dpm.psc.gov/grant_recipient/shortcuts/shortcuts.aspx?explorer.event=true

B. If a carrier other than the U.S. Postal Service is used, such as United Parcel Service, Federal Express, or other commercial service, the correspondence should be addressed as follows:

Division of Payment Management
FMS/PSC/HHS
Rockwall Building #1, Suite 700
11400 Rockville Pike
Rockville, MD 20852

To expedite your first payment from this award, attach a copy of the Notice of Grant/Cooperative Agreement to your payment request form.

Note 16. **LOBBYING STATEMENT:** We want to remind you that federal law prohibits award recipients and their sub- contractors from using Federal funds for lobbying congress or a Federal agency, or to influence legislation or appropriations pending before the Congress or any State or local legislature.

This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Any activity designed to influence action in regard to a particular piece of pending legislation would be considered lobbying. That is lobbying for or against pending legislation, as well as indirect or grass roots lobbying efforts by award recipients that are directed at inducing members of the public

to contact their elected representatives at the Federal , State or local levels to urge support of, or opposition to, pending legislative proposals is prohibited.

Recipients of CDC grants and cooperative agreements need to be careful to prevent CDC funds from being used to influence or promote pending legislation. With respect to conferences, public events, publications, and grassroots activities that relate to specific legislation, recipients of CDC funds should give close attention to isolating and separating the appropriate use of CDC funds from non-CDC funds.

CDC also cautions recipients of CDC funds to be careful not to give the appearance that CDC funds are being used to carry out activities in a manner that is prohibited under Federal law.

All reported activity under the CPPW Communities Initiative, including Recovery Act reporting, must be activity that is consistent with federal law.

For additional guidance, please refer to the FOA, Additional Requirement # 12 on lobbying restrictions and 31 U.S.C. Section 1352; 18 U.S.C. Section 1913.

Note 17. CERTIFICATION STATEMENT: By drawing down funds, awardee certifies that proper financial management controls and accounting systems to include personnel policies and procedures have been established to adequately administer Federal awards and funds drawn down are being used in accordance with applicable Federal cost principles, regulations, and the President's Budget and Congressional intent.

Note 18. AUDIT REQUIREMENT: An organization that expends \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, Audit of States, Local Governments, and Non-Profit Organizations. The audit must be completed along with a data collection form, and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditors report(s), or nine months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Should you have questions regarding the submission or processing of your Single Audit Package, contact the Federal Audit Clearinghouse at: (301) 763-1551, (800) 253-0696 or email: govs.fac@census.gov

The grantee is to ensure that the sub-recipients receiving CDC funds also meet these requirements (if total Federal grant or grant funds received exceed \$500,000). The grantee must also ensure that appropriate corrective action is taken within six months after receipt of the sub-recipient audit report in instances of non-compliance with Federal law and regulations. The grantee is to consider whether sub-recipient audits necessitate adjustment of the grantees own accounting records. If a sub-recipient is not required to have a program-specific audit, the Grantee is still required to perform adequate monitoring of sub-recipient activities. The grantee is to require each sub-recipient to permit independent auditors to have access to the sub-recipients records and financial statements. The grantee should include this requirement in all sub-recipient contracts.

Note 19. CDC CONTACT NAMES

Business and Grants Policy Contact

Tracey Sims, Grants Management Specialist
Centers for Disease Control, PGO, Branch III
2920 Brandywine Road, Mail Stop E-09
Atlanta, GA 30341-4146
Telephone: 770-488-2739
Fax: 770-488-2778
Email: atu9@cdc.gov

Programmatic and Technical Contact

Rebecca Payne, MPH

Community Interventions Team Lead
ARRA/CPPW
Division of Adult and Community Health, NCCDPHP
CDC-Atlanta
Office: 770-488-5167
Fax: 770-488-5964
Email: Rco0@cdc.gov

Note 20: RECIPIENT REPORTING REGISTRATION

Recipients and reviewers must be registered with www.federalreporting.gov
Recipients need the following to register:
DUNS ? <http://fedgov.dnb.com/webform>
CCR ? www.ccr.gov/GAQ.aspx
FRPIN ? www.federalreporting.gov

Note 21: CDC CODES FOR ARRA AWARDS

Awarding Code - 7523
Funding Code ? 7523
CFDA - 93.724
Program TAS - 75-0942
http://cdc.gov/fmo/topic/Recovery_Act/index.html

Standard Terms and Conditions for American Recovery and Reinvestment Act of 2009

1. Other Standard Terms and Conditions

All other grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements apply unless they conflict or are superseded by the following terms and conditions implementing the American Recovery and Reinvestment Act of 2009 (ARRA) requirements below. Recipients are responsible for contacting their HHS grant/program managers for any needed clarifications.

2. Recipient Reporting

Recipients of Federal awards from funds authorized under Division A of the ARRA must comply with all requirements specified in Division A of the ARRA (Public Law 111-5), including reporting requirements outlined in Section 1512 of the Act. For purposes of reporting, ARRA recipients must report on ARRA sub-recipient (sub-grantee and sub-contractor) activities as specified below.

Not later than 10 days after the end of each calendar quarter, starting with the quarter ending March 31, 2010 and reporting by April 10, 2010, the recipient must submit quarterly reports to HHS that will be posted to Recovery.gov, containing the following information:

- a. The total amount of ARRA funds under this award;
- b. The amount of ARRA funds received under this award that were obligated and expended to projects or activities;
- c. The amount of unobligated award balances;
- d. A detailed list of all projects or activities for which ARRA funds under this award were obligated and expended, including
 - The name of the project or activity;
 - A description of the project or activity;
 - An evaluation of the completion status of the project or activity;
 - An estimate of the number of jobs created and the number of jobs retained by the project or activity;
 - and
 - For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.
- e. Detailed information on any sub-awards (sub-contracts or sub-grants) made by the grant recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).

For any sub-award equal to or larger than \$25,000, the following information:

The name of the entity receiving the sub-award;
The amount of the sub-award;

The transaction type;
The North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number;
Program source;
An award title descriptive of the purpose of each funding action;
The location of the entity receiving the award;
The primary location of performance under the award, including the city, State, congressional district, and country; and
A unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity.

f. All sub-awards less than \$25,000 or to individuals may be reported in the aggregate, as prescribed by HHS.

g. Recipients must account for each ARRA award and sub-award (sub-grant and sub-contract) separately. Recipients will draw down ARRA funds on an award-specific basis. Pooling of ARRA award funds with other funds for drawdown or other purposes is not permitted.

h. Recipients must account for each ARRA award separately by referencing the assigned CFDA number for each award.

The definition of terms and data elements, as well as any specific instructions for reporting, including required formats, will be provided in subsequent guidance issued by HHS.

3. Buy American - Use of American Iron, Steel, and Manufactured Goods

Recipients may not use any funds obligated under this award for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless HHS waives the application of this provision. (ARRA Sec. 1605)

4. Wage Rate Requirements

[This term and condition shall not apply to tribal contracts entered into by the Indian Health Service funded with this appropriation. (ARRA Title VII?Interior, Environment, and Related Agencies, Department of Health and Human Services, Indian Health Facilities)]

Subject to further clarification issued by the Office of Management and Budget, and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this award shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code. (ARRA Sec. 1606)

5. Preference for Quick Start Activities (ARRA)

In using funds for this award for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

6. Limit on Funds (ARRA)

None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

7. Disclosure of Fraud or Misconduct

Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

8. ARRA: One-Time Funding

Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

9. Schedule of Expenditures of Federal Awards

Recipients agree to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512(c). (2 CFR 215.26, 45 CFR 74.26, and 45 CFR 92.26)

10. Responsibilities for Informing Sub-recipients

Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds. (2 CFR 215.26, 45 CFR 74.26, and 45 CFR 92.26)

STAFF CONTACTS

Grants Management Specialist: Tracey M Sims
Centers for Disease Control and Prevention
Procurement and Grants Office
Koger Center, Colgate Building
2920 Brandywine Road, Mail Stop E-09
Atlanta, GA 30341
Email: tsims3@cdc.gov **Phone:** 770-488-2739 **Fax:** 770-488-2777

Grants Management Officer: Tracey M Sims
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SPREADSHEET SUMMARY

GRANT NUMBER: 1U58DP002453-01

INSTITUTION: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

<i>Budget</i>	<i>Year 1</i>
Salaries and Wages	\$669,329
Fringe Benefits	\$229,864
Personnel Costs (Subtotal)	\$899,193
Equipment	\$7,595
Supplies	\$912,372
Travel Costs	\$29,424
Other Costs	\$8,220,950
Consortium/Contractual Cost	\$5,383,662
TOTAL FEDERAL DC	\$15,453,196
TOTAL FEDERAL F&A	\$159,157
TOTAL COST	\$15,612,353

**Centers for Disease Control and Prevention
Funding Opportunity Announcement DP09-912ARRA09
*Communities Putting Prevention to Work (CPPW)***

**Objective Review
Summary Statement**

Date Reviewed: January 11-14, 2010

Applicant Organization: City of San Antonio Metropolitan Health District

Application Number: 90015865

Application Title: Communities Putting Prevention to Work (CPPW)

Funds Requested: \$18,023,416

Recommendation: Recommended

Final Average Score: 82.42

Human Subjects Issues: None

Summary of the Project

The San Antonio Metropolitan Health District (Metro Health) proposes to address obesity prevention through a comprehensive set of initiatives to increase opportunities for physical activity and access to healthy foods for children and families of San Antonio, Texas. Metro Health will serve as the lead agency for the San Antonio-Communities Putting Prevention to Work Obesity Project (SA-CPPW). Oversight of the SA-CPPW will be carried out by Jennifer Herriott, MPH, Population-based Services Area Administrator and the Leadership Team consisting of community leaders and the SA-CPPW program director. Metro Health will coordinate efforts with City of San Antonio government departments, the transportation planning organization, the transit system, the restaurant association and established public health collaboration networks to leverage the resources and expertise necessary to implement the proposed initiative. Together, SA-CPPW partners will work to implement population-based policy, systems and environmental changes across five evidence-based MAPPS strategies that address physical activity, nutrition and active living.

The SA-CPPW proposes five goals to make progress toward a reduction in chronic disease and obesity: 1) An increase in physical activity as a result of community-wide and school-based policy, systems and environmental changes; 2) An improvement in nutrition as a result of community-wide and school-based policy, systems and environmental changes; 3) Improve aspects of San Antonio's Built Environment through policy, systems, and environmental changes; 4) Elicit behavior change regarding physical activity and nutrition through a successful social marketing campaign; and 5) Establish infrastructure and processes for planning, implementation and evaluation of San Antonio-CPPW Project activities.

The SA-CPPW interventions will include a multi-disciplinary physical activity event, expansion of the use facilities, such as schools, for after-hours use for physical activity, city development projects to improve protection for 'vulnerable users', such as complete streets, implementation of healthy food and beverage guidelines by local restaurants, and trainings for schools to improve physical activity and the availability of healthy food. Overall, the initiative is expected to yield community assessment and evaluation data, a built environment more conducive to walking and cycling, an increase in the availability of no-cost spaces for physical activity, healthier options on restaurant menus, approved changes to related municipal and organizational policies, and a multidisciplinary collaborative invested in community health.

Summary of Strengths

The *program infrastructure and fiscal management* are relatively well-addressed. The lead / fiduciary agency is clearly identified. Metro Health is a well-established organization with extensive community outreach. It appears to have appropriate fiduciary procedures in place to manage additional funding. The agency received a STEPS grant that has laid groundwork for the proposed project. A financial management system has been executed by the CoSA Departmental Fiscal Division of Metro Health. In accordance with OMB A-102 OMB Circular A-133, CoSA is responsible for establishing and maintaining acceptable internal controls for financial reporting. Building upon established school policies and other previous successful initiatives such as menu labeling with a specific restaurant, it appears that strategies are ready to expand. The applicant identifies the need for 12 positions (e.g., program manager, 11 full time

and / or contract staff with capacity in media planning, administrative and fiscal management for 6 small teams. Each team lead will be responsible for the coordination of one of the critical operational areas of the project (e.g., physical activity, nutrition, media, leadership team and coalitions, contracts and budget, and evaluation and monitoring). In addition to Metro Health's staffing, five contracted positions are included to support other partner departments within the City of San Antonio. Three CVs are provided for the Health Director, Assistant Director, and Population-Based Service Area Administrator who is the only staff person currently hired with project responsibilities. Concrete letters of support are provided from the Mayor plus a variety of organizations (e.g., 8 school districts, health care, coalitions, media, city / public agencies, professional associations, business, and a university). Position descriptions are provided, roles are defined, and positions are full time. With regard to demonstrating staff experience with policy making and briefing political leaders and policy makers, there is one filled staff position with an individual who administered the STEPS to a Healthier San Antonio project and addressed policy and environmental change.

The *leadership team and community coalitions* are clearly described, and appear to be well-established. The Leadership Team has 14 members from a variety of organizations. There is an emphasis on involvement of the medical community to institute a systems change to include the calculation of body mass index (BMI) at every medical office visit and to emphasize monitoring prenatal weight gain. Members have been selected based upon their decision-making authority in their respective organizations. Members of the leadership team demonstrate a high-level commitment to the CPPW Initiative, including a commitment of time and other resources. Letters of support are provided from 10 of the 14 members. Membership of three coalitions is documented. The capacity of the existing coalition are described in terms of leadership, expertise, community representation, collaborative experience / abilities, and agency representation. Members of the existing coalitions appear to have successfully worked together and in collaboration with community leaders to implement broad-based policy, systems, and environmental change initiatives. Examples of past successes are provided. Evidence is offered to substantiate that the applicant will encourage linkages with other community-based efforts and the Office of the Regional Health Administrator, with special attention to leveraging other federally funded and foundation activities. The applicant is building upon the success of Steps-SA with partnerships that continue to support policy, environmental, and systems change to increase active living and healthy eating for children and families. The applicant notes the Steps-SA partners provided in-kind contributions during 2004-2009 that equaled \$1,845,000 and that partners have committed in-kind resources estimated at \$181,812 over the next four years. The San Antonio Restaurant Association (SARA) joined with Metro Health to develop the San Antonio Healthy Restaurants Coalition (HRC), which was established to support healthy food choices in community restaurants. The applicant notes three Recovery Act Programs in San Antonio with which they will collaborate.

The *intervention area, CAP, and intervention strategies* are clearly addressed and described for the most part. The plan is sufficiently robust to impact the entire jurisdiction and to achieve the short- and long-term goals of the initiative, and includes the creation of grassroots coalitions and partnerships. The proposed intervention area encompasses the entire jurisdiction of the health department, including a thorough description of the exact size and location of the populations to be served. Data are provided that substantiate the existing burden and / or disparities of chronic diseases, conditions, existing health behaviors, and risk factors in the jurisdiction and populations to be served. Assets and barriers to successful program implementation are

identified, including an understanding of the policy, systems, and environmental policies in the community. The applicant clearly articulates which risk factors they will address, and has selected from the prescribed set of MAPPS evidence-based strategies and the appropriate mix of interventions. The MAPPS strategies relate to the goals to create an environment in which physical activity is the norm, to establish policy and systematic changes that provide more nutritious and affordable food options for residents in need, and to develop a social marketing program that helps realize the necessary transformation in the risk population. The community action plan describes an overall integrated strategy. Realistic plans are outlined to coordinate proposed activities with state- and community-level programs to prevent and control chronic disease. An overview of the work to be done is described. The proposed strategies appear to build upon activities from the Steps-SA. The applicant provides evidence of leveraging resources from partners. Cultural and linguistic diversity are clearly addressed.

Plans for project monitoring and evaluation are well-developed and are clearly articulated to some extent. The applicant references use of the CHANGE tool as its basis for evaluation. However, there is no mention of the quarterly reports or benchmarks. Plans are described to collaborate fully in external, independently coordinated evaluation activities to evaluate the overall impact of the initiative, especially the national evaluation activities. The applicant notes participation in CDC evaluation activities. With regard to the overall plan to evaluate the initiative at the community level, and applicant references experience in engaging research experts as outside evaluators. Metro Health needs to use a competitive bid process, and plans to include surveys of key leaders to measure changes in perceptions and attitudes regarding policy and environmental interventions, and an Inter-Organizational Network Survey that was conducted in 2008. YRBSS data will be collected and analyzed, and the YRBSS lead will attend the August 2010 training. Letters are provided from the 12 independent school districts, 7 of which indicate commitment to collaborating in administering the YRBSS during the specified timeframe. The applicant notes that Bexar also has more than 50 parochial schools and over 100 private schools.

Programmatic support needs are clearly addressed. Opportunities, supports, and barriers to achieving intended outcomes are discussed. Barriers to achieving broad reach and impact are realistically discussed. Specific topic areas for which support will be needed are identified. The applicant notes a general willingness to seek support from CDC, TDSHS, and the evaluation contractor. The applicant is building upon the recent success of the STEPS program.

Summary of Weaknesses / Concerns

While *program infrastructure and fiscal management* are relatively well-addressed, a number of concerns were articulated by panelists. In terms of how well the applicant evidences the ability to implement funding for this program in the timeframe required, both full time and contract staff will have to be hired for services (p.1-2). However, there is no indication of how long this is expected to take. There is inconsistency between the narrative and the budget in terms of the number of staff positions, fulltime and / or contractual, that are being created for the proposed program. The narrative states 12, while the budget shows 7 staff for Metro Health and 10 contract staff. Only one staff member is currently working in Metro Health who is assigned to manage the proposed program, and the applicant will need to recruit and hire the remaining 11 to 16 proposed staff positions. The staffing plan provides for the hiring of policy experts, but does not demonstrate sufficient existing expertise in this area (e.g., one relevant filled staff

position).

While the *intervention area, CAP, and intervention strategies* are clearly addressed and described for the most part, some concerns were raised. The proposed strategies appear to build upon activities from the Steps-SA; however, it is not clear whether they are unique to this funding. There appear to be multiple funding resources available to this area for childhood obesity and physical activity (p.5-6). While the applicant provides evidence of leveraging resources from partners (p.4), there is no indication of how the newly created staff / contract positions will be continued when this funding ends.

Plans for project monitoring and evaluation are well-developed and are clearly articulated to some extent; however, some panelists raised issues of concern. While the applicant references the use of the CHANGE tool as its basis for evaluation (p.26-27), there is no mention of the quarterly reports or benchmarks.

Budget

The budget is reasonable, clearly justified, and appears to be consistent with the proposed activities and intent of the initiative for the most part. However, some issues of concern were noted. There appear to be multiple funding resources, but the applicant does not clarify who is responsible for carrying out specific tasks. Some panelists thought the budget seemed excessive in some cases with proposed costs that may not be appropriate. The following items were cited in particular:

- Personnel requests 7 full time positions (\$669,329) and 10 contractual positions (\$988,607), all of which are vacant. However, the narrative only identifies 12 fulltime positions and / or contractual positions.
- Equipment includes T-3 scooters (\$49,750), radio communication systems (\$7,595), computer equipment (\$38,746), physical activity equipment (\$981,900), and salad bar equipment (\$759,078), but the narrative does not specify how this will be distributed and used. Materials budgeted at \$5,625,000 include items such as curb ramp installation, sidewalk improvements, pedestrian signal improvements, cross walk marking, and speed bumps.
- The narrative references the Shared User Agreement on page 17, and notes that partners would supply equipment of exercise classes and special events and capitalize on shared use agreements with schools and faith-based organizations. On page 24, Strategy 5 is a systems change creating formal partnerships allowing the public to use the facilities. The budget includes a contract budget for Shared User Agreement for \$1,422,655 which includes \$270,000 salary plus \$20,655 fringe, administrative support \$30,000, marketing \$30,000, and incentives \$1,072,000. It is not clear why this amount of funds is necessary for this strategy or why full time staff are needed.
- The budget justification provides a detailed plan for how resources will be implemented in the time required; however, a narrative explaining the ability of the applicant to implement funding quickly is not provided.

- There is a \$1 discrepancy in personnel costs on budget form and budget narrative.

Reductions were recommended during the budget mark up process due to limited programmatic funding.

Human Subjects

Not applicable.

Recommendation(s)

If considered for funding, the applicant should address any issues of concern noted in the Weaknesses / Concerns, Budget, and Human Subjects Sections and / or as follows:

- Provide assurances that hiring of new staff can be put in place 30-days post-award.
- Ensure that Individuals identified for key staff positions have extensive experience with policy making and / or environmental change.
- Engage with Project Officer to (1) clearly identify activities funded specifically by this FOA and (2) develop and finalize a sustainability plan encompassing all program components.
- Secure commitment of support for the administration of YRBS from remaining five school districts.

Special Provisions

The University of Texas Health Science Center at Houston on behalf of the School of Public Health, (the CONTRACTOR) agrees and understands that funds for this project come in whole or in part from a grant made available through the American Recovery and Reinvestment Act of 2009 (ARRA, or the “Recovery Act”). The CONTRACTOR understands that the San Antonio Metropolitan Health District (SAMHD) is the direct grantee of funds and must adhere to grant requirements imposed by the U.S. Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC) and standard terms and conditions under ARRA (Public Law 111-5). The CONTRACTOR understands that as a subrecipient of these funds it must comply with timelines and requirements in coordination with SAMHD in order to meet grant requirements.

As such, the CONTRACTOR agrees that it will comply with all applicable requirements and provisions of ARRA, as well as terms and conditions from HHS and the CDC, including but not limited to those articulated below:

**I.
Standard Terms and Conditions for the
American Recovery and Reinvestment Act of 2009
and
U.S. Department of Health and Human Services /
Centers for Disease Control and Prevention**

1.1 Generally: SAMHD as an HHS grantee must comply with all terms and conditions outlined in its grant award, including grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements, and requirements imposed by program statutes and regulations and HHS grant administration regulations, as applicable, unless they conflict or are superseded by terms and conditions implementing the American Recovery and Reinvestment Act of 2009 (ARRA) requirements. The CONTRACTOR, as subrecipient, must comply with all requirements for subrecipients and provide reporting and documentation to support SAMHD’s requirements under the grant award. In addition to the standard terms and conditions of award, recipients and subrecipients receiving funds under Division A of ARRA must abide by the general terms and conditions set out below.

1.2 Preference for Quick Start Activities: In using funds for this award for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

1.3 Limit on Funds: None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

1.4 One-time Funding: Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

1.5 Civil Rights Obligations: Recipients and subrecipients of ARRA funds or other Federal financial assistance must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), and the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services). For further information and technical assistance, please contact the HHS Office for Civil Rights at (202) 619-0403, OCRmail@hhs.gov, or <http://www.hhs.gov/ocr/civilrights/>.

1.6 Disclosure of Fraud or Misconduct: Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

1.7 Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards:

(a) To maximize the transparency and accountability of funds authorized under the Recovery Act as required by Congress and in accordance with 45 CFR 74.21 and 92.20 "Uniform Administrative Requirements for Grants and Agreements", as applicable, and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Subrecipients are required to include on their SEFA information specific identification of Recovery Act funding similar to the requirements for the recipient SEFA described above. This

information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

1.8 Wage Rate Requirements:

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

1.9 Inventions: Acceptance of grant funds obligates recipients to comply with the standard patents rights clause in 37 CFR 401.14.

1.10 Publications: Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgment and disclaimer as appropriate, such as:

“This publication (journal article, etc.) was supported by the Cooperative Agreement Number above from the Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.”

1.11 Conference Disclaimer and Use of Logos:

(a) Conferences: Where a conference is funded by a grant or cooperative agreement, a subgrant or a contract, the recipient must include the following statement on conference materials, including promotional materials, agenda and Internet sites:

“Funding for this conference was made possible (in part) by the cooperative agreement award number above from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily represent the official policies of the Department of Health and Human Services, nor does mention of trade

names, commercial practices, or organizations imply endorsement by the U.S. Government.”

(b) Logos: Neither the HHS nor the CDC logo may be displayed if such display would cause confusion as to the source of the conference or give the false appearance of Government endorsement. Unauthorized use of the HHS name and logo by a non-federal entity is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communication. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the Office of the Inspector General has authority to impose civil monetary penalties for violations (42 CFR Part 1003). Neither the HHS nor the CDC logo can be used for conference materials under a grant, cooperative agreement, contract or co-sponsorship agreement without the expressed, written consent of either the Project Officer or Grants Management Officer. It is the responsibility of the grantee (or recipient of funds under a cooperative agreement) to request consent for the use of the logo in sufficient detail to assure a complete depiction and disclosure of all uses of the Government logos, and to assure that in all cases of the use of Government logos, the written consent of either the Project Officer or the Grants Management Officer has been received.

1.12 Equipment and Products: To the greatest extent practicable, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000.00 or more per unit. However, consistent with recipient policy, a lower threshold may be established upon submission to the Grant Management Officer to reflect recipient organization policy.

The grantee may use its own property management standards and procedures provided it observes the provisions of the following sections in the Office of Management and Budget (OMB) Circular A-110, and 45 CFR Part 92:

OMB Circular A-110, sections 31 and 37 provides the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other non-profit organizations. <http://www.whitehouse.gov/omb/circulars/a110/a110.html>

45 CFR Part 92.31 and 92.32 provides uniform administrative requirements for grants and cooperative agreements to state, local and tribal governments. http://access.gpo.gov/nara/cfr/waisidx_03/45cfr92_03.html

1.13 Trafficking in Persons: This award is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22U.S.C. 7104). For the full text of the award term and condition, go to:

http://www.cdc.gov/od/pgo/funding/grants/Award_Term_and_Condition_for_Trafficking_in_Persons.shtm

1.14 Acknowledgement of Federal Support: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of Federal funds for the project or program, and (3)

percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

1.15 Lobbying: Federal law prohibits award recipients and sub-contractors from using Federal funds for lobbying Congress or a Federal agency, or to influence legislation or appropriations pending before the Congress or any State or local legislature.

This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Any activity designed to influence action in regard to a particular piece of pending legislation would be considered lobbying. That is lobbying for or against pending legislation, as well as indirect or grass roots lobbying efforts by award recipients that are directed at inducing members of the public to contact their elected representatives at the Federal, state, or local levels to urge support of, or oppositions to, pending legislative proposals is prohibited.

Recipients of CDC grants and cooperative agreements need to be careful to prevent CDC funds from being used to influence or promote pending legislation. With respect to conferences, public events, publications, and grass roots activities that relate to specific legislation, recipients of CDC funds should give close attention to isolating and separating the appropriate use of CDC funds from non-CDC funds.

CDC also cautions recipients of CDC funds to be careful not to give the appearance that CDC funds are being used to carry out activities in a manner that is prohibited under Federal law.

All reported activity under the Communities Putting Prevention to Work (CPPW) Communities Initiative, including Recovery Act reporting, must be activity that is consistent with Federal law.

For additional guidance, please refer to the Funding Opportunity Announcement, Additional Requirement #12 on lobbying restrictions and 31 U.S.C. Section 1352; 18 U.S.C. Section 1913.

II.

Requirements for Construction Projects

2.1 Required Use of American Iron, Steel, and Manufactured Goods – Section 1605 of ARRA:

(a) Definitions.

“Manufactured good” means a good brought to the construction site for incorporation into the building or work that has been--

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works

may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

- (1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act)(Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.
- (2) This requirement does not apply to the material listed by the Federal Government as follows: NONE.
- (3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal government determines that:
 - (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
 - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
 - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act.

- (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—
 - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

- (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
 - (iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
- (2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).
- (3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data.

To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON

Description	Unit of Measure	Quantity	Price (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
Item 2:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed.

Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[Include all delivery costs to the construction site.]*

III. Audit Requirements

3.1 An organization that expends \$500,000.00 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, Audit of States, Local Governments, and Non-Profit Organizations. The audit must be completed along with a data collection form, and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

3.2 Subrecipients receiving CDC funds must also meet these requirements (if the total Federal grant or grant funds received exceed \$500,000.00). In instances of noncompliance with Federal law and regulations, the subrecipient must take appropriate corrective action within six months after receipt of the audit.

3.3 If a subrecipient is not required to have a program-specific audit, the grantee (SAMHD) is still required to perform adequate monitoring of subrecipient activities. Subrecipient shall cooperate with all such activities. Additionally, the subrecipient agrees to permit independent auditors to have access to subrecipient records and financial records as necessary.

IV. Reporting Requirements

In addition to those requirements set out in the Interdepartmental Agreement, and above in section 1.7, the following reporting requirements apply to this project:

4.1 Recipients of Federal awards from funds authorized under Division A of the ARRA must comply with all requirements specified in Division A of the ARRA, including reporting requirements outlined in Section 1512 of the Act. For purposes of reporting, recipients must report on ARRA subrecipient (sub-grantee and subcontractor) activities as specified below, and subrecipient agrees to cooperate with SAMHD in providing information as necessary for SAMHD to comply with the following requirements:

Not later than 10 days after the end of each calendar quarter, starting with the quarter ending March 31, 2010, and reporting by April 10, 2010, SAMHD must submit quarterly reports to HHS that will be posted to Recovery.gov, containing the following information:

- (a) the total amount of ARRA funds under this award;

- (b) The total amount of ARRA funds received under this award that were obligated and expended to projects or activities;
- (c) The amount of unobligated award balances;
- (d) A detailed list of all projects or activities from which ARRA funds under this award were obligated and expended, including:
 - (1) the name of the project or activity;
 - (2) a description of the project or activity;
 - (3) an evaluation of the completion status of the project or activity;
 - (4) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and,
 - (5) for infrastructure investments made by State or local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under the Recovery Act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (e) Detailed information on any sub-awards (subcontracts or sub-grants) made by the grant recipient to include data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).
 - (1) For any sub-award equal to or larger than \$25,000.00, the following information:
 - (i) the name of the entity receiving the sub-award;
 - (ii) the amount of the sub-award;
 - (iii) the transaction type (the North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number);
 - (iv) program source;
 - (v) an award title descriptive of the purpose of each funding action;
 - (vi) the location of the entity receiving the award;
 - (vii) the primary location of performance under the award, including the city, State, congressional district, and country; and
 - (viii) a unique identifier of the entity receiving the award, and the parent entity of the recipient, should the entity be owned by another entity.
- (f) All sub-awards less than \$25,000.00, or to individuals, may be reported in the aggregate, as prescribed by HHS.
- (g) Recipients must account for each ARRA award and sub-award (sub-grant and subcontract) separately. Pooling of ARRA award funds with other funds for drawdown or other purposes is not permitted.
- (h) Recipients must account for each ARRA award separately by referencing the assigned CFDA number for each award.

4.2 Subrecipient agrees to provide any and all information necessary for SAMHD to complete required reports by no later than 5 days after the end of each calendar quarter.

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 "SAMHD"), acting by and through its City Manager, pursuant to Ordinance No. 2010-06-17-____, passed and approved on June 17, 2010, and Interlex, a *legal entity*, (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.
- "ARRA-CPPW" shall mean the 2009 American Recovery and Reinvestment Act – Communities Putting Prevention to Work grant which funds this agreement.
- "Project" shall mean the general scope of services of this Agreement as well as the overall objectives and goal of the ARRA-CPPW grant.

II.
TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on June 17, 2010 and terminate on March 18, 2012.

2.2 CONTRACTOR further agrees and understands that the City expects to pay all obligations of this Agreement from 2009 American Recovery and Reinvestment Act (ARRA), U.S. Department of Health and Human Services (HHS) and Centers for Disease Control and Prevention (CDC) 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.

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 The CONTRACTOR will:

3.2.1 Develop and implement a campaign communication and marketing plan – outlining the goals, objectives, strategies, tactics, research approaches, and evaluation indicators to comprehensively target audiences of all ages, cultures, physical abilities, and socio economic backgrounds for both the prevention and reduction of obesity;

3.2.2 Detail the plan to engage the medical and health care community, other community leaders, businesses and policymakers (in addition and/or beyond your existing book of clients) to help create long-term sustainability;

3.2.3 Develop and provide a campaign work plan – describing all tasks in detail (including creative, non-traditional outreach methods) and establish an implementation time schedule;

3.2.4 Develop Campaign Branding/Identity – visual and textual identifier to unify and provide greater visibility to specific messages delivered;

3.2.5 Develop and provide a Campaign Branding/Identity guide – guidelines, examples, and templates to help partners adapt and tag messages featuring the local identity;

3.2.6 Produce seven (7) new and/or adapted advertisements on physical activity in multiple formats – TV, radio, print, outdoor, Web banner – following the schedule below:

July 1, 2010 – Sept. 30, 2010: 2 ads produced
Oct. 1, 2010 – Dec. 31, 2010: 3 ads produced
Jan. 1, 2011 – March 31, 2011: 2 ads produced

3.2.7 Produce seven (7) new and/or adapted advertisements on nutrition in multiple formats – TV, radio, print, outdoor, Web banner – following the schedule below:

July 1, 2010 – Sept. 30, 2010: 2 ads produced
Oct. 1, 2010 – Dec. 31, 2010: 3 ads produced
Jan. 1, 2011 – March 31, 2011: 2 ads produced

3.2.8 Develop and utilize formative evaluation guidelines and protocol – for testing of both nationally produced and locally developed campaign concepts and materials

- 3.2.9 Coordinate and promote with other partner/contractors regarding campaign web site – Propose and develop content and a promotional campaign compatible with program website designed to communicate key messages, media materials and activities to web site users
- 3.2.10 Provide quarterly reporting of campaign output measures, to include, but not limited to: number of ads produced and/or adapted; number of ads with talent rights acquired. Semi-annual reporting of campaign outcome measures: leveraged media buys, news media coverage, aided and unaided campaign awareness, attitudes toward prevention policy, behavior-change intentions. City reserves the right to add additional output measures as determined by the City, or as may be required by the grantor or ARRA requirements.
- 3.2.11 Plan, develop and recommend data collection method(s) for assessing changes in public awareness, attitudes, and intended behaviors related to the media initiative beyond the typical media impressions reporting.
- 3.2.12 Create materials and messages in multiple languages representative of San Antonio including but not limited to Spanish.
- 3.2.13 Develop a strategy for maintaining long-term sustainability of this initiative.
- 3.2.14 Optional Deliverable: Propose additional tasks for campaign innovations.

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

IV. 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 \$1,000,000 (\$1 million dollars & 00/100 cents) as total compensation, which is budgeted for such payment, as set forth and incorporated herein in the budget which is attached hereto as Attachment I.

4.2 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.

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

4.4 The CONTRACTOR agrees to submit statements showing monthly itemized costs to the City associated with this Agreement. Reimbursement of eligible expenses, as determined by the City, will be made monthly according to standard procedures followed by City, as requested upon receipt of billing from the CONTRACTOR. Invoices will be due 3 days after the end of the monthly report period. The CONTRACTOR will submit to the City a monthly billing invoice to request payment of expenses incurred on or before the 3rd day of each month. An invoice documenting final expenses associated with the Agreement will be submitted to the City by March 18, 2012.

4.5 CONTRACTOR agrees to provide any and all documentation required for inclusion in any report concerning the ARRA-CPPW grant. 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.

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. SAMHD 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.

7.3.2 The failure to meet CDC reporting requirements as set out and determined by City.

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) calendar 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 Bankruptcy or selling substantially all of company's assets

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

7.4.3 Performing unsatisfactorily

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

7.6 Regardless of how this Agreement is terminated, 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:

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-
-

IX.
TERMS AND CONDITIONS RELATED TO ARRA (STIMULUS) FUNDS

9.1 The CONTRACTOR acknowledges that funds for this Agreement come from the 2009 American Recovery and Reinvestment Act. As such, the CONTRACTOR agrees to comply with all terms and conditions associated with said funds as directed by the City or as required in this Agreement, including but not limited to:

- a) The American Recovery and Reinvestment Act (ARRA);
- b) 2 C.F.R. 176.210 *et seq.*;
- c) The terms and conditions of ARRA/CPPW Grant Number 1U58DP002453-01 as set out in an award letter to CITY (attached hereto, and incorporated herein, as

Attachment II), as well as relevant ARRA information memorandum and publications issued by the federal government;

- d) The following Department of Management and Budget (OMB) Circulars, as applicable to the funds received by the DEPARTMENT hereunder:
- i. OMB Circular A-102, entitled, "Grants and Cooperative Agreements with State and Local Governments";
 - ii. OMB Circular A-110, entitled, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations";
 - iii. OMB Circular A-133, entitled, "Audits of States, Local Governments, and Not for Profit Organizations".

9.2 The CONTRACTOR further agrees to comply with all applicable terms and conditions attached hereto as Attachment III – Special Provisions.

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 the SAMHD 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 the SAMHD by CONTRACTOR within twenty (20) days upon receipt of said report or upon submission of said corrective action plan to the auditor.

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.

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 the SAMHD within a period of ten (10) days upon the CONTRACTOR's receipt of the report.

10.2 CONTRACTOR agrees that if CONTRACTOR receives or expends more than \$500,000.00 in federal funds from the City, the audit shall be made in accordance with the Single Audit Act Amendments of 1996, the State of Texas Single Audit Circular, and U.S. Office of Management and Budget Circular (OMB-133 revision) and CONTRACTOR shall also be required to submit copies of its annual independent audit report, and all related reports issued by the independent certified public accountant within a period not to exceed one hundred twenty (120) days after the end of CONTRACTOR's fiscal year to the Federal Audit Clearinghouse in Jeffersonville, Indiana. CONTRACTOR may submit reports through the following website: <http://gov.fac@census.gov> and may also contact the Clearinghouse by telephone at (301) 763-1551 (voice) or 1-888-222-9907 (toll free) or 1-800-253-0696.

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

Federal Audit Clearinghouse
1201 E. 10th Street
Jeffersonville, Indiana 47132

10.3 If CONTRACTOR expends less than \$500,000.00 of funds provided by or through the City, then during the term of this Agreement, the Contactor 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.

10.4 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.

10.5 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.

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.

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.

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

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

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 the SAMHD.

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

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 award document from CDC/HHS. A copy of said award document is attached hereto and incorporated herein for all purposes as Attachment II. From time to time, the award document may be amended or supplemented, and these shall be incorporated into the Agreement collectively as Attachment I.

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 the SAMHD, as representatives of the City and the parties ultimately responsible for all matters of compliance with CDC/HHS/ARRA 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 SAMHD.

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, CDC, HHS, 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,

CDC or HHS when City, CDC or HHS determines that the records possess long-term retention value.

11.7 The SAMHD 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 HHS 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 the SAMHD, the CONTRACTOR shall furnish to the SAMHD and the Grantor of the Grant Funds, if applicable, such statements, reports, records, data, all policies and procedures and information as may be requested by the SAMHD and shall permit the City and Grantor of the Grant Funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement. 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 Grant 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.

11.11 Unless otherwise provided herein, all reports, statements, records, data, policies and procedures or other information requested by the SAMHD 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.

11.12 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 the SAMHD 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 HHS's, the CDC'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.

11.13 CONTRACTOR will maintain a system for tracking, on an ongoing basis, inventory of equipment and supplies purchased with ARRA-CPPW grant funds that either (i) has an purchase price of \$5,000.00 or greater; or (ii) meets such other criteria as City may prescribe, and consistent with those requirements set out in Attachment III. Upon request, CONTRACTOR will provide City a status report of the current inventory of equipment and supplies meeting these requirements. City shall have the right to review and approve CONTRACTOR's inventory tracking system.

11.14 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.

11.15 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.

11.16 The prohibitions set forth in Sections 11.14 and 11.15 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.

11.17 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 the SAMHD. CONTRACTOR shall list the name and number of a contact person from the SAMHD on the statement that CONTRACTOR's personnel can call to report said violations.

11.18 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.

11.19 Sections 11.14 through 11.18 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.

11.20 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 Prior to the commencement of any work under this Agreement, CONTRACTOR shall furnish copies of an original completed Certificate(s) of Insurance to the City's Health Department, which shall be clearly labeled "ARRA-CPPW Obesity Grant" 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 Health Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

12.2 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.

12.3 CONTRACTOR's financial integrity is of interest to the City; therefore, subject to CONTRACTOR's right to maintain reasonable deductibles in such amounts as are approved by the City, CONTRACTOR shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at CONTRACTOR'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	AMOUNT
1. Workers' Compensation ** Employers' Liability **	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Broad Form Contractual Liability c. Products/completed operations d. Personal Injury	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
3. 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.
** Alternate Plans Must Be Approved by Risk Management	

12.4 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). CONTRACTOR 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. CONTRACTOR shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: San Antonio Metropolitan Health District
332 West Commerce St
San Antonio, Texas 78205

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

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional 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.

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

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

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

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

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

12.11 CONTRACTOR and any Subcontractors are responsible for all damage to their own equipment and/or property.

XIII. **INDEMNIFICATION**

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

13.2 The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

13.3 CONTRACTOR shall promptly advise the City in writing of any claim or demand against the City or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR's activities under this Agreement.

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

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

13.5 Defense Counsel - CONTRACTOR shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Contract. If CONTRACTOR fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and CONTRACTOR shall reimburse City for all costs related to retaining defense counsel until such time as CONTRACTOR retains Counsel as required by this section.. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

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

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 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 which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. CONTRACTOR further agrees that CONTRACTOR will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

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 the SAMHD 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 _____, 2010.

CITY OF SAN ANTONIO

Interlex

Printed Name: Fernando A. Guerra
 M.D., M.P.H.
Title: Director of Health
Date: _____

Printed Name: _____
Title: _____
Date: _____

Approved as to Form:

Michael D. Bernard, City Attorney

ATTACHMENTS

Attachment I – Program Budget

Attachment II – Award Letter

Attachment III – Special Provisions

Attachment I - Budget and Invoice Schedule

<i>Invoice Schedule</i>	<i>Description of Performance Phase</i>	<i>Itemized Amount</i>
SOCIAL MARKETING		
Monthly	Campaign communication and marketing plan – outlining the goals, objectives, strategies, tactics, research approaches, and evaluation indicators for the media initiative	\$10,625
Monthly	Campaign work plan – describing all tasks in detail and establishing an implementation time schedule	\$11,050
Monthly	Campaign Branding/Identity – visual and textual identifier to unify and provide greater visibility to specific messages delivered	\$10,200
Monthly	Campaign Branding/Identity guide - guidelines, examples, and templates to help partners adapt and tag messages featuring the local identity	\$6,375
July 1, 2010 – Sept 30, 2010: 2 ads produced Oct 1, 2010 – Dec. 31, 2010: 3 ads produced Jan.1, 2011 – March 31, 2011: 2 ads produced	Seven (7) new and/or adapted advertisements on physical activity in multiple formats – TV, radio, print, outdoor, Web banner	\$433,090
July 1, 2010 – Sept 30, 2010: 2 ads produced Oct 1, 2010 – Dec. 31, 2010: 3 ads produced Jan.1, 2011 – March 31, 2011: 2 ads produced	Seven (7) new and/or adapted advertisements on nutrition in multiple formats – TV, radio, print, outdoor, Web banner	\$433,169
Monthly	Formative evaluation guidelines and protocol – for testing of both nationally produced and locally developed campaign concepts and materials	\$18,250
Monthly	Media evaluation plan – plans and recommended data collection method(s) for assessing changes in public awareness, attitudes, and intended behaviors related to media initiative	\$13,450
Monthly	Internet media plan – based on consumer/market research, a description of relevant online efforts to support the campaign, including use of Web-based social/interactive media	\$4,250
Monthly	Quarterly reporting of campaign output measures, to include, but not limited to: number of ads produced and/or adapted; number of ads with talent rights acquired. Semi-annual reporting of campaign outcome measures: leveraged media buys, news media coverage, aided and unaided campaign awareness, attitudes toward prevention policy, behavior-change intentions. City reserves the right to add additional output measures as determined by the City, or as may be required by the grantor or ARRA requirements	\$12,325
Monthly	Optional Deliverable	\$35,825
Monthly	Coordination with other partners/contractors regarding campaign web site, propose and develop content compatible with program website design to communicate key messages, media materials, and activities to web site users	\$11,390
TOTAL BUDGET		\$964,174



THIS AWARD IS ISSUED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND IS SUBJECT TO SPECIAL HHS TERMS AND CONDITIONS AS REFERENCED IN SECTION III

Grant Number: 1U58DP002453-01

Principal Investigator(s):
Jennifer Herriott

Project Title: CATEGORY A: COMMUNITIES PUTTING PREVENTION TO WORK

FERNANDO GUERRA
SAN ANTONIO METROPOLITAN HEALTH
332 WEST COMMERCE STREET
SAN ANTONIO,, TX 78205

Budget Period: 03/19/2010 – 03/18/2012
Project Period: 03/19/2010 – 03/18/2012

Dear Business Official:

The Centers for Disease Control and Prevention hereby awards a grant in the amount of \$15,612,353 (see "Award Calculation" in Section I and "Terms and Conditions" in Section III) to SAN ANTONIO METROPOLITAN HEALTH DISTRICT in support of the above referenced project. This award is pursuant to the authority of 301A,311BC,317K2(42USC241A,243BC247BK2) and is subject to the requirements of this statute and regulation and of other referenced, incorporated or attached terms and conditions.

Acceptance of this award including the "Terms and Conditions" is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

If you have any questions about this award, please contact the individual(s) referenced in Section IV.

Sincerely yours,

Tracey M Sims
Grants Management Officer
Centers for Disease Control and Prevention

Additional information follows

SECTION I – AWARD DATA – 1U58DP002453-01**Award Calculation (U.S. Dollars)**

Salaries and Wages	\$669,329
Fringe Benefits	\$229,864
Personnel Costs (Subtotal)	\$899,193
Equipment	\$7,595
Supplies	\$912,372
Travel Costs	\$29,424
Other Costs	\$8,220,950
Consortium/Contractual Cost	\$5,383,662

Federal Direct Costs	\$15,453,196
Federal F&A Costs	\$159,157
Approved Budget	\$15,612,353
Federal Share	\$15,612,353
TOTAL FEDERAL AWARD AMOUNT	\$15,612,353

AMOUNT OF THIS ACTION (FEDERAL SHARE) \$15,612,353

Fiscal Information:

CFDA Number: 93.724
EIN: 1746002070A2
Document Number: UDP002453A

	IC	CAN	2010
DP		9391055	\$15,612,353

SUMMARY TOTALS FOR ALL YEARS		
YR	THIS AWARD	CUMULATIVE TOTALS
1	\$15,612,353	\$15,612,353

CDC Administrative Data:
PCC: / OC: 4151

SECTION II – PAYMENT/HOTLINE INFORMATION – 1U58DP002453-01

For payment information see Payment Information section in Additional Terms and Conditions.

INSPECTOR GENERAL: The HHS Office Inspector General (OIG) maintains a toll-free number (1-800-HHS-TIPS [1-800-447-8477]) for receiving information concerning fraud, waste or abuse under grants and cooperative agreements. Information also may be submitted by e-mail to hhstips@oig.hhs.gov or by mail to Office of the Inspector General, Department of Health and Human Services, Attn: HOTLINE, 330 Independence Ave., SW, Washington DC 20201. Such reports are treated as sensitive material and submitters may decline to give their names if they choose to remain anonymous. This note replaces the Inspector General contact information cited in previous notice of award.

SECTION III – TERMS AND CONDITIONS – 1U58DP002453-01

This award is based on the application submitted to, and as approved by, CDC on the above-titled project and is subject to the terms and conditions incorporated either directly or by reference in the following:

- The grant program legislation and program regulation cited in this Notice of Award.
- The restrictions on the expenditure of federal funds in appropriations acts to the extent those restrictions are pertinent to the award.
- 45 CFR Part 74 or 45 CFR Part 92 as applicable.
- The HS Grants Policy Statement, including addenda in effect as of the beginning date of the budget period.

e. This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

Treatment of Program Income:
Additional Costs

SECTION IV – DP Special Terms and Conditions – 1U58DP002453-01

Notice of Cooperative Agreement

Cooperative Agreement Number: 1 U58 DP002453-01

ARRA AWARD - Category A: \$15,612,353.

Grantee: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

Note 1. INCORPORATION. Funding Opportunity Announcement Number CDC-RFA-DP09-912ARRA titled, U.S Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), American Recovery and Reinvestment Act of 2009, Communities Putting Prevention to Work; the Category A (Obesity, Physical Activity and Nutrition) application dated 11/30/2009; and budget discussions held 2/12/2010.

Note 2. RESPONSE TO SUMMARY STATEMENT: Attached to this Notice of Award is a Summary Statement providing the strengths, weaknesses and recommendations of the application. A response to the Recommendations and Weaknesses within the summary statement must be submitted to the Grants Management Specialist no later than 30 days from the issue date of the Notice of Grant Award. Failure to respond could result in enforcement actions, including withholding of funds or termination.

Note 3. APPROVED FUNDING: Funding in the amount of \$15,612,353. is approved for the budget period, which is March 19, 2010, through March 18, 2012.

Grantee must submit a revised budget, budget narrative and a statement identifying any initially proposed activities that will no longer be pursued as a result of available funding as stated in the Notice of Award. Grantee shall submit a revised 424a, budget narrative and the statement identifying any initially proposed activities that will no longer be pursued to the Grants Management Specialist identified at Note 19 within 30 days from the effective date of this Notice of Award.

Note 4. INDIRECT COSTS.

Indirect costs are approved based on the Indirect Cost Rate Agreement dated June 12, 2009 which calculates indirect costs as follows, a provisional rate is approved at a rate of 17.70% of the base, which includes, total salaries and fringe benefits. The effective dates of this indirect cost rate are from June 12, 2009 until amended.

Note 5. REPORTING REQUIREMENTS.

Final performance and Financial Status reports are due no more than 90 days after the end of the project period. These reports must be submitted to the grants management specialist identified at Note 19.

Note 6. ADDITIONAL REQUIREMENTS:

Grantees are required to participate in the meetings and trainings described in the funding opportunity announcement.

Grantees must ensure that three members of the Leadership Team: the Program Director, the Program Coordinator or equivalent, and one additional leader outside the health department attend a kick-off meeting in Atlanta Georgia April 13 ? 15, 2010.

Grantees must ensure that 8-10 members of the Leadership team participate in one Regional Action Institute currently scheduled as follows:

May 25-28: San Diego Marriott Hotel and Marina

June 1-4: Hyatt Regency Capitol Hill

June 8-11: St. Louis Union Station Marriott

Note 7. CORRESPONDENCE. ALL correspondence (including emails and faxes) regarding this award must be dated and, identified with the AWARD NUMBER.

Note 8. PRIOR APPROVAL: All requests which require the prior approval of the Grants Management Officer as noted in 45 CFR 92 or 45 CFR 74 must bear the signature of an authorized official of the business office of the grantee organization as well as the principal investigator or program or project director. Any requests received, which reflect only one signature, will be returned to the grantee unprocessed. Additionally, any requests involving funding issues must include a new proposed budget, and a narrative justification of the requested changes.

Note 9. INVENTIONS. Acceptance of grant funds obligates recipients to comply with the standard patent rights clause in 37 CFR 401.14.

Note 10. PUBLICATIONS. Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgment and disclaimer, as appropriate, such as,

This publication (journal article, etc.) was supported by the Cooperative Agreement Number above from The Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.

Note 11. CONFERENCE DISCLAIMER AND USE OF LOGOS.

Disclaimer. Where a conference is funded by a grant or cooperative agreement, a subgrant or a contract the recipient must include the following statement on conference materials, including promotional materials, agenda, and Internet sites,

Funding for this conference was made possible (in part) by the cooperative agreement award number above from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services, nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government

Logos. Neither the HHS nor the CDC logo may be displayed if such display would cause confusion as to the source of the conference or give the false appearance of Government endorsement. A non-federal entity unauthorized use of the HHS name or logo is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communication. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the Office of the Inspector General has authority to impose civil monetary penalties for violations (42 C.F.R. Part 1003). Neither the HHS nor the CDC logo can be used on conference materials, under a grant, cooperative agreement, contract or co-sponsorship agreement without the expressed, written consent of either the Project Officer or the Grants Management Officer. It is the responsibility of the grantee (or recipient of funds under a cooperative agreement) to request consent for the use of the logo in sufficient detail to assure a complete depiction and disclosure of all uses of the Government logos, and to assure that in all cases of the use of Government logos, the written consent of either the Project Officer or the Grants Management Officer has been received.

Note 12. EQUIPMENT AND PRODUCTS. To the greatest extent practicable, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as Tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000 or more per unit. However, consistent with recipient policy, a lower threshold may be established. Please provide the information to the Grants Management Officer to establish a lower equipment threshold to reflect your organization policy.

The grantee may use its own property management standards and procedures provided it observes the provisions of the following sections in the Office of Management and Budget (OMB) Circular A-110 and 45 CFR Part 92:

Office of Management and Budget (OMB) Circular A-110, Sections 31 through 37 provides the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations
<http://www.whitehouse.gov/omb/circulars/a110/a110.html>

45 CFR Parts 92.31 and 92.32 provides the uniform administrative requirements for grants and cooperative agreements to state, local and tribal governments.

Note 13. **TRAFFICKING IN PERSONS.** This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term and condition, go to http://www.cdc.gov/od/pgo/funding/grants/Award_Term_and_Condition_for_Trafficking_in_Persons.shtm

Note 14. **ACKNOWLEDGMENT OF FEDERAL SUPPORT.** When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Note 15. **PAYMENT INFORMATION:**

PAYMENT INFORMATION: Payment under this award will be made available through the Department of Health and Human Services (HHS) Payment Management System (PMS). The Division of Payment Management; Program Support Center, administers PMS, HHS administers PMS. PMS will forward instructions for obtaining payments.

A. PMS correspondence, mailed through the U.S. Postal Service, should be addressed as follows:

Director, Division of Payment Management, OS/ASAM/PSC/FMS/DPM
P.O. Box 6021
Rockville, MD 20852
Phone Number: (877) 614-5533
Fax Numbers:
University and Non-Profit Payment Branch (301) 443-2672
Governmental and Tribal Payment Branch (301) 443-2569
Cross Servicing Payment Branch: (301) 443-0377
General Fax: (301) 443-8362

Email PMSSupport@psc.gov

Website: http://www.dpm.psc.gov/grant_recipient/shortcuts/shortcuts.aspx?explorer.event=true

B. If a carrier other than the U.S. Postal Service is used, such as United Parcel Service, Federal Express, or other commercial service, the correspondence should be addressed as follows:

Division of Payment Management
FMS/PSC/HHS
Rockwall Building #1, Suite 700
11400 Rockville Pike
Rockville, MD 20852

To expedite your first payment from this award, attach a copy of the Notice of Grant/Cooperative Agreement to your payment request form.

Note 16. **LOBBYING STATEMENT:** We want to remind you that federal law prohibits award recipients and their sub- contractors from using Federal funds for lobbying congress or a Federal agency, or to influence legislation or appropriations pending before the Congress or any State or local legislature.

This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Any activity designed to influence action in regard to a particular piece of pending legislation would be considered lobbying. That is lobbying for or against pending legislation, as well as indirect or grass roots lobbying efforts by award recipients that are directed at inducing members of the public

to contact their elected representatives at the Federal , State or local levels to urge support of, or opposition to, pending legislative proposals is prohibited.

Recipients of CDC grants and cooperative agreements need to be careful to prevent CDC funds from being used to influence or promote pending legislation. With respect to conferences, public events, publications, and grassroots activities that relate to specific legislation, recipients of CDC funds should give close attention to isolating and separating the appropriate use of CDC funds from non-CDC funds.

CDC also cautions recipients of CDC funds to be careful not to give the appearance that CDC funds are being used to carry out activities in a manner that is prohibited under Federal law.

All reported activity under the CPPW Communities Initiative, including Recovery Act reporting, must be activity that is consistent with federal law.

For additional guidance, please refer to the FOA, Additional Requirement # 12 on lobbying restrictions and 31 U.S.C. Section 1352; 18 U.S.C. Section 1913.

Note 17. CERTIFICATION STATEMENT: By drawing down funds, awardee certifies that proper financial management controls and accounting systems to include personnel policies and procedures have been established to adequately administer Federal awards and funds drawn down are being used in accordance with applicable Federal cost principles, regulations, and the President's Budget and Congressional intent.

Note 18. AUDIT REQUIREMENT: An organization that expends \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, Audit of States, Local Governments, and Non-Profit Organizations. The audit must be completed along with a data collection form, and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditors report(s), or nine months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Should you have questions regarding the submission or processing of your Single Audit Package, contact the Federal Audit Clearinghouse at: (301) 763-1551, (800) 253-0696 or email: gov.fac@census.gov

The grantee is to ensure that the sub-recipients receiving CDC funds also meet these requirements (if total Federal grant or grant funds received exceed \$500,000). The grantee must also ensure that appropriate corrective action is taken within six months after receipt of the sub-recipient audit report in instances of non-compliance with Federal law and regulations. The grantee is to consider whether sub-recipient audits necessitate adjustment of the grantees own accounting records. If a sub-recipient is not required to have a program-specific audit, the Grantee is still required to perform adequate monitoring of sub-recipient activities. The grantee is to require each sub-recipient to permit independent auditors to have access to the sub-recipients records and financial statements. The grantee should include this requirement in all sub-recipient contracts.

Note 19. CDC CONTACT NAMES

Business and Grants Policy Contact

Tracey Sims, Grants Management Specialist
Centers for Disease Control, PGO, Branch III
2920 Brandywine Road, Mail Stop E-09
Atlanta, GA 30341-4146
Telephone: 770-488-2739
Fax: 770-488-2778
Email: atu9@cdc.gov

Programmatic and Technical Contact

Rebecca Payne, MPH

Community Interventions Team Lead
ARRA/CPPW
Division of Adult and Community Health, NCCDPHP
CDC-Atlanta
Office: 770-488-5167
Fax: 770-488-5964
Email: Rco0@cdc.gov

Note 20: RECIPIENT REPORTING REGISTRATION

Recipients and reviewers must be registered with www.federalreporting.gov
Recipients need the following to register:
DUNS ? <http://fedgov.dnb.com/webform>
CCR ? www.ccr.gov/GAQ.aspx
FRPIN ? www.federalreporting.gov

Note 21: CDC CODES FOR ARRA AWARDS

Awarding Code - 7523
Funding Code ? 7523
CFDA - 93.724
Program TAS - 75-0942
http://cdc.gov/fmo/topic/Recovery_Act/index.html

Standard Terms and Conditions for American Recovery and Reinvestment Act of 2009

1. Other Standard Terms and Conditions

All other grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements apply unless they conflict or are superseded by the following terms and conditions implementing the American Recovery and Reinvestment Act of 2009 (ARRA) requirements below. Recipients are responsible for contacting their HHS grant/program managers for any needed clarifications.

2. Recipient Reporting

Recipients of Federal awards from funds authorized under Division A of the ARRA must comply with all requirements specified in Division A of the ARRA (Public Law 111-5), including reporting requirements outlined in Section 1512 of the Act. For purposes of reporting, ARRA recipients must report on ARRA sub-recipient (sub-grantee and sub-contractor) activities as specified below.

Not later than 10 days after the end of each calendar quarter, starting with the quarter ending March 31, 2010 and reporting by April 10, 2010, the recipient must submit quarterly reports to HHS that will be posted to Recovery.gov, containing the following information:

- a. The total amount of ARRA funds under this award;
- b. The amount of ARRA funds received under this award that were obligated and expended to projects or activities;
- c. The amount of unobligated award balances;
- d. A detailed list of all projects or activities for which ARRA funds under this award were obligated and expended, including
 - The name of the project or activity;
 - A description of the project or activity;
 - An evaluation of the completion status of the project or activity;
 - An estimate of the number of jobs created and the number of jobs retained by the project or activity;and
 - For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.
- e. Detailed information on any sub-awards (sub-contracts or sub-grants) made by the grant recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).

For any sub-award equal to or larger than \$25,000, the following information:
The name of the entity receiving the sub-award;
The amount of the sub-award;

The transaction type;
The North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number;
Program source;
An award title descriptive of the purpose of each funding action;
The location of the entity receiving the award;
The primary location of performance under the award, including the city, State, congressional district, and country; and
A unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity.

f. All sub-awards less than \$25,000 or to individuals may be reported in the aggregate, as prescribed by HHS.

g. Recipients must account for each ARRA award and sub-award (sub-grant and sub-contract) separately. Recipients will draw down ARRA funds on an award-specific basis. Pooling of ARRA award funds with other funds for drawdown or other purposes is not permitted.

h. Recipients must account for each ARRA award separately by referencing the assigned CFDA number for each award.

The definition of terms and data elements, as well as any specific instructions for reporting, including required formats, will be provided in subsequent guidance issued by HHS.

3. Buy American - Use of American Iron, Steel, and Manufactured Goods

Recipients may not use any funds obligated under this award for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless HHS waives the application of this provision. (ARRA Sec. 1605)

4. Wage Rate Requirements

[This term and condition shall not apply to tribal contracts entered into by the Indian Health Service funded with this appropriation. (ARRA Title VII?Interior, Environment, and Related Agencies, Department of Health and Human Services, Indian Health Facilities)]

Subject to further clarification issued by the Office of Management and Budget, and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this award shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code. (ARRA Sec. 1606)

5. Preference for Quick Start Activities (ARRA)

In using funds for this award for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

6. Limit on Funds (ARRA)

None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

7. Disclosure of Fraud or Misconduct

Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

8. ARRA: One-Time Funding

Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

9. Schedule of Expenditures of Federal Awards

Recipients agree to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512(c). (2 CFR 215.26, 45 CFR 74.26, and 45 CFR 92.26)

10. Responsibilities for Informing Sub-recipients

Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds. (2 CFR 215.26, 45 CFR 74.26, and 45 CFR 92.26)

STAFF CONTACTS

Grants Management Specialist: Tracey M Sims
Centers for Disease Control and Prevention
Procurement and Grants Office
Koger Center, Colgate Building
2920 Brandywine Road, Mail Stop E-09
Atlanta, GA 30341
Email: tsims3@cdc.gov **Phone:** 770-488-2739 **Fax:** 770-488-2777

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SPREADSHEET SUMMARY

GRANT NUMBER: 1U58DP002453-01

INSTITUTION: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

<i>Budget</i>	<i>Year 1</i>
Salaries and Wages	\$669,329
Fringe Benefits	\$229,864
Personnel Costs (Subtotal)	\$899,193
Equipment	\$7,595
Supplies	\$912,372
Travel Costs	\$29,424
Other Costs	\$8,220,950
Consortium/Contractual Cost	\$5,383,662
TOTAL FEDERAL DC	\$15,453,196
TOTAL FEDERAL F&A	\$159,157
TOTAL COST	\$15,612,353

**Centers for Disease Control and Prevention
Funding Opportunity Announcement DP09-912ARRA09
*Communities Putting Prevention to Work (CPPW)***

Objective Review Summary Statement

Date Reviewed:	January 11-14, 2010
Applicant Organization:	City of San Antonio Metropolitan Health District
Application Number:	90015865
Application Title:	Communities Putting Prevention to Work (CPPW)
Funds Requested:	\$18,023,416
Recommendation:	Recommended
Final Average Score:	82.42
Human Subjects Issues:	None

Summary of the Project

The San Antonio Metropolitan Health District (Metro Health) proposes to address obesity prevention through a comprehensive set of initiatives to increase opportunities for physical activity and access to healthy foods for children and families of San Antonio, Texas. Metro Health will serve as the lead agency for the San Antonio-Communities Putting Prevention to Work Obesity Project (SA-CPPW). Oversight of the SA-CPPW will be carried out by Jennifer Herriott, MPH, Population-based Services Area Administrator and the Leadership Team consisting of community leaders and the SA-CPPW program director. Metro Health will coordinate efforts with City of San Antonio government departments, the transportation planning organization, the transit system, the restaurant association and established public health collaboration networks to leverage the resources and expertise necessary to implement the proposed initiative. Together, SA-CPPW partners will work to implement population-based policy, systems and environmental changes across five evidence-based MAPPS strategies that address physical activity, nutrition and active living.

The SA-CPPW proposes five goals to make progress toward a reduction in chronic disease and obesity: 1) An increase in physical activity as a result of community-wide and school-based policy, systems and environmental changes; 2) An improvement in nutrition as a result of community-wide and school-based policy, systems and environmental changes; 3) Improve aspects of San Antonio's Built Environment through policy, systems, and environmental changes; 4) Elicit behavior change regarding physical activity and nutrition through a successful social marketing campaign; and 5) Establish infrastructure and processes for planning, implementation and evaluation of San Antonio-CPPW Project activities.

The SA-CPPW interventions will include a multi-disciplinary physical activity event, expansion of the use facilities, such as schools, for after-hours use for physical activity, city development projects to improve protection for 'vulnerable users', such as complete streets, implementation of healthy food and beverage guidelines by local restaurants, and trainings for schools to improve physical activity and the availability of healthy food. Overall, the initiative is expected to yield community assessment and evaluation data, a built environment more conducive to walking and cycling, an increase in the availability of no-cost spaces for physical activity, healthier options on restaurant menus, approved changes to related municipal and organizational policies, and a multidisciplinary collaborative invested in community health.

Summary of Strengths

The *program infrastructure and fiscal management* are relatively well-addressed. The lead / fiduciary agency is clearly identified. Metro Health is a well-established organization with extensive community outreach. It appears to have appropriate fiduciary procedures in place to manage additional funding. The agency received a STEPS grant that has laid groundwork for the proposed project. A financial management system has been executed by the CoSA Departmental Fiscal Division of Metro Health. In accordance with OMB A-102 OMB Circular A-133, CoSA is responsible for establishing and maintaining acceptable internal controls for financial reporting. Building upon established school policies and other previous successful initiatives such as menu labeling with a specific restaurant, it appears that strategies are ready to expand. The applicant identifies the need for 12 positions (e.g., program manager, 11 full time

and / or contract staff with capacity in media planning, administrative and fiscal management for 6 small teams. Each team lead will be responsible for the coordination of one of the critical operational areas of the project (e.g., physical activity, nutrition, media, leadership team and coalitions, contracts and budget, and evaluation and monitoring. In addition to Metro Health's staffing, five contracted positions are included to support other partner departments within the City of San Antonio. Three CVs are provided for the Health Director, Assistant Director, and Population-Based Service Area Administrator who is the only staff person currently hired with project responsibilities. Concrete letters of support are provided from the Mayor plus a variety of organizations (e.g., 8 school districts, health care, coalitions, media, city / public agencies, professional associations, business, and a university). Position descriptions are provided, roles are defined, and positions are full time. With regard to demonstrating staff experience with policy making and briefing political leaders and policy makers, there is one filled staff position with an individual who administered the STEPS to a Healthier San Antonio project and addressed policy and environmental change.

The *leadership team and community coalitions* are clearly described, and appear to be well-established. The Leadership Team has 14 members from a variety of organizations. There is an emphasis on involvement of the medical community to institute a systems change to include the calculation of body mass index (BMI) at every medical office visit and to emphasize monitoring prenatal weight gain. Members have been selected based upon their decision-making authority in their respective organizations. Members of the leadership team demonstrate a high-level commitment to the CPPW Initiative, including a commitment of time and other resources. Letters of support are provided from 10 of the 14 members. Membership of three coalitions is documented. The capacity of the existing coalition are described in terms of leadership, expertise, community representation, collaborative experience / abilities, and agency representation. Members of the existing coalitions appear to have successfully worked together and in collaboration with community leaders to implement broad-based policy, systems, and environmental change initiatives. Examples of past successes are provided. Evidence is offered to substantiate that the applicant will encourage linkages with other community-based efforts and the Office of the Regional Health Administrator, with special attention to leveraging other federally funded and foundation activities. The applicant is building upon the success of Steps-SA with partnerships that continue to support policy, environmental, and systems change to increase active living and healthy eating for children and families. The applicant notes the Steps-SA partners provided in-kind contributions during 2004-2009 that equaled \$1,845,000 and that partners have committed in-kind resources estimated at \$181,812 over the next four years. The San Antonio Restaurant Association (SARA) joined with Metro Health to develop the San Antonio Healthy Restaurants Coalition (HRC), which was established to support healthy food choices in community restaurants. The applicant notes three Recovery Act Programs in San Antonio with which they will collaborate.

The *intervention area, CAP, and intervention strategies* are clearly addressed and described for the most part. The plan is sufficiently robust to impact the entire jurisdiction and to achieve the short- and long-term goals of the initiative, and includes the creation of grassroots coalitions and partnerships. The proposed intervention area encompasses the entire jurisdiction of the health department, including a thorough description of the exact size and location of the populations to be served. Data are provided that substantiate the existing burden and / or disparities of chronic diseases, conditions, existing health behaviors, and risk factors in the jurisdiction and populations to be served. Assets and barriers to successful program implementation are

identified, including an understanding of the policy, systems, and environmental policies in the community. The applicant clearly articulates which risk factors they will address, and has selected from the prescribed set of MAPPS evidence-based strategies and the appropriate mix of interventions. The MAPPS strategies relate to the goals to create an environment in which physical activity is the norm, to establish policy and systematic changes that provide more nutritious and affordable food options for residents in need, and to develop a social marketing program that helps realize the necessary transformation in the risk population. The community action plan describes an overall integrated strategy. Realistic plans are outlined to coordinate proposed activities with state- and community-level programs to prevent and control chronic disease. An overview of the work to be done is described. The proposed strategies appear to build upon activities from the Steps-SA. The applicant provides evidence of leveraging resources from partners. Cultural and linguistic diversity are clearly addressed.

Plans for project monitoring and evaluation are well-developed and are clearly articulated to some extent. The applicant references use of the CHANGE tool as its basis for evaluation. However, there is no mention of the quarterly reports or benchmarks. Plans are described to collaborate fully in external, independently coordinated evaluation activities to evaluate the overall impact of the initiative, especially the national evaluation activities. The applicant notes participation in CDC evaluation activities. With regard to the overall plan to evaluate the initiative at the community level, and applicant references experience in engaging research experts as outside evaluators. Metro Health needs to use a competitive bid process, and plans to include surveys of key leaders to measure changes in perceptions and attitudes regarding policy and environmental interventions, and an Inter-Organizational Network Survey that was conducted in 2008. YRBSS data will be collected and analyzed, and the YRBSS lead will attend the August 2010 training. Letters are provided from the 12 independent school districts, 7 of which indicate commitment to collaborating in administering the YRBSS during the specified timeframe. The applicant notes that Bexar also has more than 50 parochial schools and over 100 private schools.

Programmatic support needs are clearly addressed. Opportunities, supports, and barriers to achieving intended outcomes are discussed. Barriers to achieving broad reach and impact are realistically discussed. Specific topic areas for which support will be needed are identified. The applicant notes a general willingness to seek support from CDC, TDSHS, and the evaluation contractor. The applicant is building upon the recent success of the STEPS program.

Summary of Weaknesses / Concerns

While *program infrastructure and fiscal management* are relatively well-addressed, a number of concerns were articulated by panelists. In terms of how well the applicant evidences the ability to implement funding for this program in the timeframe required, both full time and contract staff will have to be hired for services (p.1-2). However, there is no indication of how long this is expected to take. There is inconsistency between the narrative and the budget in terms of the number of staff positions, fulltime and / or contractual, that are being created for the proposed program. The narrative states 12, while the budget shows 7 staff for Metro Health and 10 contract staff. Only one staff member is currently working in Metro Health who is assigned to manage the proposed program, and the applicant will need to recruit and hire the remaining 11 to 16 proposed staff positions. The staffing plan provides for the hiring of policy experts, but does not demonstrate sufficient existing expertise in this area (e.g., one relevant filled staff

position).

While the *intervention area, CAP, and intervention strategies* are clearly addressed and described for the most part, some concerns were raised. The proposed strategies appear to build upon activities from the Steps-SA; however, it is not clear whether they are unique to this funding. There appear to be multiple funding resources available to this area for childhood obesity and physical activity (p.5-6). While the applicant provides evidence of leveraging resources from partners (p.4), there is no indication of how the newly created staff / contract positions will be continued when this funding ends.

Plans for project monitoring and evaluation are well-developed and are clearly articulated to some extent; however, some panelists raised issues of concern. While the applicant references the use of the CHANGE tool as its basis for evaluation (p.26-27), there is no mention of the quarterly reports or benchmarks.

Budget

The budget is reasonable, clearly justified, and appears to be consistent with the proposed activities and intent of the initiative for the most part. However, some issues of concern were noted. There appear to be multiple funding resources, but the applicant does not clarify who is responsible for carrying out specific tasks. Some panelists thought the budget seemed excessive in some cases with proposed costs that may not be appropriate. The following items were cited in particular:

- Personnel requests 7 full time positions (\$669,329) and 10 contractual positions (\$988,607), all of which are vacant. However, the narrative only identifies 12 fulltime positions and / or contractual positions.
- Equipment includes T-3 scooters (\$49,750), radio communication systems (\$7,595), computer equipment (\$38,746), physical activity equipment (\$981,900), and salad bar equipment (\$759,078), but the narrative does not specify how this will be distributed and used. Materials budgeted at \$5,625,000 include items such as curb ramp installation, sidewalk improvements, pedestrian signal improvements, cross walk marking, and speed bumps.
- The narrative references the Shared User Agreement on page 17, and notes that partners would supply equipment of exercise classes and special events and capitalize on shared use agreements with schools and faith-based organizations. On page 24, Strategy 5 is a systems change creating formal partnerships allowing the public to use the facilities. The budget includes a contract budget for Shared User Agreement for \$1,422,655 which includes \$270,000 salary plus \$20,655 fringe, administrative support \$30,000, marketing \$30,000, and incentives \$1,072,000. It is not clear why this amount of funds is necessary for this strategy or why full time staff are needed.
- The budget justification provides a detailed plan for how resources will be implemented in the time required; however, a narrative explaining the ability of the applicant to implement funding quickly is not provided.

→ There is a \$1 discrepancy in personnel costs on budget form and budget narrative.

Reductions were recommended during the budget mark up process due to limited programmatic funding.

Human Subjects

Not applicable.

Recommendation(s)

If considered for funding, the applicant should address any issues of concern noted in the Weaknesses / Concerns, Budget, and Human Subjects Sections and / or as follows:

- Provide assurances that hiring of new staff can be put in place 30-days post-award.
- Ensure that Individuals identified for key staff positions have extensive experience with policy making and / or environmental change.
- Engage with Project Officer to (1) clearly identify activities funded specifically by this FOA and (2) develop and finalize a sustainability plan encompassing all program components.
- Secure commitment of support for the administration of YRBS from remaining five school districts.

Special Provisions

INTERLEX, (the CONTRACTOR) agrees and understands that funds for this project come in whole or in part from a grant made available through the American Recovery and Reinvestment Act of 2009 (ARRA, or the "Recovery Act"). The CONTRACTOR understands that the San Antonio Metropolitan Health District (SAMHD) is the direct grantee of funds and must adhere to grant requirements imposed by the U.S. Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC) and standard terms and conditions under ARRA (Public Law 111-5). The CONTRACTOR understands that as a subrecipient of these funds it must comply with timelines and requirements in coordination with SAMHD in order to meet grant requirements.

As such, the CONTRACTOR agrees that it will comply with all applicable requirements and provisions of ARRA, as well as terms and conditions from HHS and the CDC, including but not limited to those articulated below:

I.
Standard Terms and Conditions for the
American Recovery and Reinvestment Act of 2009
and
U.S. Department of Health and Human Services /
Centers for Disease Control and Prevention

1.1 **Generally:** SAMHD as an HHS grantee must comply with all terms and conditions outlined in its grant award, including grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements, and requirements imposed by program statutes and regulations and HHS grant administration regulations, as applicable, unless they conflict or are superseded by terms and conditions implementing the American Recovery and Reinvestment Act of 2009 (ARRA) requirements. The CONTRACTOR, as subrecipient, must comply with all requirements for subrecipients and provide reporting and documentation to support SAMHD's requirements under the grant award. In addition to the standard terms and conditions of award, recipients and subrecipients receiving funds under Division A of ARRA must abide by the general terms and conditions set out below.

1.2 **Preference for Quick Start Activities:** In using funds for this award for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

1.3 Limit on Funds: None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

1.4 One-time Funding: Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

1.5 Civil Rights Obligations: Recipients and subrecipients of ARRA funds or other Federal financial assistance must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), and the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services). For further information and technical assistance, please contact the HHS Office for Civil Rights at (202) 619-0403, OCRmail@hhs.gov, or <http://www.hhs.gov/ocr/civilrights/>.

1.6 Disclosure of Fraud or Misconduct: Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

1.7 Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards:

(a) To maximize the transparency and accountability of funds authorized under the Recovery Act as required by Congress and in accordance with 45 CFR 74.21 and 92.20 "Uniform Administrative Requirements for Grants and Agreements", as applicable, and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Subrecipients are required to include on their SEFA information specific identification of Recovery Act funding similar to the requirements for the recipient SEFA described above. This

information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

1.8 Wage Rate Requirements:

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

1.9 Inventions: Acceptance of grant funds obligates recipients to comply with the standard patents rights clause in 37 CFR 401.14.

1.10 Publications: Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgment and disclaimer as appropriate, such as:

“This publication (journal article, etc.) was supported by the Cooperative Agreement Number above from the Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.”

1.11 Conference Disclaimer and Use of Logos:

(a) Conferences: Where a conference is funded by a grant or cooperative agreement, a subgrant or a contract, the recipient must include the following statement on conference materials, including promotional materials, agenda and Internet sites:

“Funding for this conference was made possible (in part) by the cooperative agreement award number above from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily represent the official policies of the Department of Health and Human Services, nor does mention of trade

names, commercial practices, or organizations imply endorsement by the U.S. Government.”

(b) Logos: Neither the HHS nor the CDC logo may be displayed if such display would cause confusion as to the source of the conference or give the false appearance of Government endorsement. Unauthorized use of the HHS name and logo by a non-federal entity is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communication. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the Office of the Inspector General has authority to impose civil monetary penalties for violations (42 CFR Part 1003). Neither the HHS nor the CDC logo can be used for conference materials under a grant, cooperative agreement, contract or co-sponsorship agreement without the expressed, written consent of either the Project Officer or Grants Management Officer. It is the responsibility of the grantee (or recipient of funds under a cooperative agreement) to request consent for the use of the logo in sufficient detail to assure a complete depiction and disclosure of all uses of the Government logos, and to assure that in all cases of the use of Government logos, the written consent of either the Project Officer or the Grants Management Officer has been received.

1.12 Equipment and Products: To the greatest extent practicable, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000.00 or more per unit. However, consistent with recipient policy, a lower threshold may be established upon submission to the Grant Management Officer to reflect recipient organization policy.

The grantee may use its own property management standards and procedures provided it observes the provisions of the following sections in the Office of Management and Budget (OMB) Circular A-110, and 45 CFR Part 92:

OMB Circular A-110, sections 31 and 37 provides the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other non-profit organizations. <http://www.whitehouse.gov/omb/circulars/a110/a110.html>

45 CFR Part 92.31 and 92.32 provides uniform administrative requirements for grants and cooperative agreements to state, local and tribal governments. http://access.gpo.gov/nara/cfr/waisidx_03/45cfr92_03.html

1.13 Trafficking in Persons: This award is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22U.S.C. 7104). For the full text of the award term and condition, go to:

http://www.cdc.gov/od/pgo/funding/grants/Award_Term_and_Condition_for_Trafficking_in_Persons.shtm

1.14 Acknowledgement of Federal Support: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of Federal funds for the project or program, and (3)

percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

1.15 Lobbying: Federal law prohibits award recipients and sub-contractors from using Federal funds for lobbying Congress or a Federal agency, or to influence legislation or appropriations pending before the Congress or any State or local legislature.

This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Any activity designed to influence action in regard to a particular piece of pending legislation would be considered lobbying. That is lobbying for or against pending legislation, as well as indirect or grass roots lobbying efforts by award recipients that are directed at inducing members of the public to contact their elected representatives at the Federal, state, or local levels to urge support of, or oppositions to, pending legislative proposals is prohibited.

Recipients of CDC grants and cooperative agreements need to be careful to prevent CDC funds from being used to influence or promote pending legislation. With respect to conferences, public events, publications, and grass roots activities that relate to specific legislation, recipients of CDC funds should give close attention to isolating and separating the appropriate use of CDC funds from non-CDC funds.

CDC also cautions recipients of CDC funds to be careful not to give the appearance that CDC funds are being used to carry out activities in a manner that is prohibited under Federal law.

All reported activity under the Communities Putting Prevention to Work (CPPW) Communities Initiative, including Recovery Act reporting, must be activity that is consistent with Federal law.

For additional guidance, please refer to the Funding Opportunity Announcement, Additional Requirement #12 on lobbying restrictions and 31 U.S.C. Section 1352; 18 U.S.C. Section 1913.

II.

Requirements for Construction Projects

2.1 Required Use of American Iron, Steel, and Manufactured Goods – Section 1605 of ARRA:

(a) Definitions.

“Manufactured good” means a good brought to the construction site for incorporation into the building or work that has been--

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works

may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

- (1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act)(Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.
- (2) This requirement does not apply to the material listed by the Federal Government as follows: NONE.
- (3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal government determines that:
 - (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
 - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
 - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act.

- (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—
 - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

- (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
 - (iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
- (2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).
 - (3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data.

To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON

Description	Unit of Measure	Quantity	Price (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
Item 2:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed.

Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[Include all delivery costs to the construction site.]*

III. Audit Requirements

3.1 An organization that expends \$500,000.00 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, Audit of States, Local Governments, and Non-Profit Organizations. The audit must be completed along with a data collection form, and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

3.2 Subrecipients receiving CDC funds must also meet these requirements (if the total Federal grant or grant funds received exceed \$500,000.00). In instances of noncompliance with Federal law and regulations, the subrecipient must take appropriate corrective action within six months after receipt of the audit.

3.3 If a subrecipient is not required to have a program-specific audit, the grantee (SAMHD) is still required to perform adequate monitoring of subrecipient activities. Subrecipient shall cooperate with all such activities. Additionally, the subrecipient agrees to permit independent auditors to have access to subrecipient records and financial records as necessary.

IV. Reporting Requirements

In addition to those requirements set out in the Interdepartmental Agreement, and above in section 1.7, the following reporting requirements apply to this project:

4.1 Recipients of Federal awards from funds authorized under Division A of the ARRA must comply with all requirements specified in Division A of the ARRA, including reporting requirements outlined in Section 1512 of the Act. For purposes of reporting, recipients must report on ARRA subrecipient (sub-grantee and subcontractor) activities as specified below, and subrecipient agrees to cooperate with SAMHD in providing information as necessary for SAMHD to comply with the following requirements:

Not later than 10 days after the end of each calendar quarter, starting with the quarter ending March 31, 2010, and reporting by April 10, 2010, SAMHD must submit quarterly reports to HHS that will be posted to Recovery.gov, containing the following information:

- (a) the total amount of ARRA funds under this award;

- (b) The total amount of ARRA funds received under this award that were obligated and expended to projects or activities;
- (c) The amount of unobligated award balances;
- (d) A detailed list of all projects or activities from which ARRA funds under this award were obligated and expended, including:
 - (1) the name of the project or activity;
 - (2) a description of the project or activity;
 - (3) an evaluation of the completion status of the project or activity;
 - (4) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and,
 - (5) for infrastructure investments made by State or local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under the Recovery Act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (e) Detailed information on any sub-awards (subcontracts or sub-grants) made by the grant recipient to include data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).
 - (1) For any sub-award equal to or larger than \$25,000.00, the following information:
 - (i) the name of the entity receiving the sub-award;
 - (ii) the amount of the sub-award;
 - (iii) the transaction type (the North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number);
 - (iv) program source;
 - (v) an award title descriptive of the purpose of each funding action;
 - (vi) the location of the entity receiving the award;
 - (vii) the primary location of performance under the award, including the city, State, congressional district, and country; and
 - (viii) a unique identifier of the entity receiving the award, and the parent entity of the recipient, should the entity be owned by another entity.
- (f) All sub-awards less than \$25,000.00, or to individuals, may be reported in the aggregate, as prescribed by HHS.
- (g) Recipients must account for each ARRA award and sub-award (sub-grant and subcontract) separately. Pooling of ARRA award funds with other funds for drawdown or other purposes is not permitted.
- (h) Recipients must account for each ARRA award separately by referencing the assigned CFDA number for each award.

4.2 Subrecipient agrees to provide any and all information necessary for SAMHD to complete required reports by no later than 5 days after the end of each calendar quarter.

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 The CONTRACTOR will

Conduct the Communities Putting Prevention to Work (CPPW) SAMHD Youth Risk Behavior Survey (YRBS) to yield estimates of youth health protective and risk behaviors. San Antonio Metropolitan Health District will work with the Centers for Disease Control and Prevention (CDC) to provide the CONTRACTOR with a random sample drawn of 25 high schools from the eligible 42 high schools in San Antonio (to yield about 1,500 completed questionnaires).

CONTRACTOR will be responsible for the administration of the YRBS, which consists of district and school recruitment, on-site data collection by specially trained data collectors, and the review and transport of final data to the CDC Vendor.

Year 1 Administration: Fall 2010

By June 18, 2010, SAMHD will provide CONTRACTOR the sample with intervals for selection of classrooms to achieve targeted sample sizes as presented by CDC.

By July 15, 2010, SAMHD will provide CONTRACTOR with their draft of the district/school invitation letter. In turn, CONTRACTOR will provide SAMHD with drafts of the factsheet and parental permission forms (active and passive versions). Within 14 days of receipt, SAMHD and CONTRACTOR will review all documents, make any necessary edits, and SAMHD will return them to CONTRACTOR as approved and finalized.

By August 25, 2010, SAMHD will provide CONTRACTOR with the signed, personalized letters of invitation for the selected districts/schools as well the letters of support from the Texas Department of State Health Services and the Texas Education Agency to be included in the recruitment packets. SAMHD also will provide outreach to district/schools encouraging participation.

By September 10, 2010, CONTRACTOR will in turn send the recruitment packets and initiate the recruitment process with each district/school selected for the San Antonio Metropolitan Health District YRBS. Upon agreement to participate, CONTRACTOR will obtain from schools the class lists to randomly select classes based on the protocol established by the CDC. About 4 to 5 classes per school is projected by SAMHD to be selected.

By October 22, 2010, CONTRACTOR will recruit, hire, and train data collectors. Data collectors will serve as a liaison with the school contact, coordinate the survey administration at each school, and facilitate the conduct of make-ups in those schools agreeing to participate.

CONTRACTOR will work with the school liaison to schedule data administration on the school's preferred date prior to December 31, 2010. CONTRACTOR will conduct all data collection activities in as many of the selected schools as are willing to cooperate, following the protocol for the National YRBS. CONTRACTOR will provide pencils, student questionnaire envelopes, permission forms, and other materials comparable to those provided in the national YRBS.

CONTRACTOR will inform SAMHD of biweekly progress through a tracking report. CONTRACTOR will consult promptly with SAMHD on any district or school refusing to participate to develop conversion strategies. This may include identifying supportive individuals and health advocates to assist with the process.

By September 7, 2010, SAMHD will advise CONTRACTOR whether incentive checks for participating schools will be distributed by CONTRACTOR or SAMHD. If the CONTRACTOR is chosen to distribute the incentives, this agreement will be amended according to City procedures to increase the budget amount to accommodate the incentive costs. Incentive checks will be distributed to participating schools according to the schedule and value determined by SAMHD.

CONTRACTOR will review questionnaire booklets to prepare for optical scanning by the CDC Vendor and then ship or transport all data administration materials by secure and traceable means to the CDC Vendor at the address designated by SAMHD.

Year 2 Administration: Fall 2011

By June 18, 2011, SAMHD will provide CONTRACTOR the sample with intervals for selection of classrooms to achieve targeted sample sizes as presented by CDC.

By July 15, 2011, SAMHD will provide CONTRACTOR with their draft of the district/school invitation letter. In turn, CONTRACTOR will provide SAMHD with drafts of the factsheet and parental permission forms (active and passive versions). Within 14 days of receipt, SAMHD and CONTRACTOR will review all documents, make any necessary edits, and SAMHD will return them to CONTRACTOR as approved and finalized.

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CONTRACTOR will review questionnaire booklets to prepare for optical scanning by the CDC Vendor and then ship or transport all data administration materials by secure and traceable means to the CDC Vendor at the address designated by SAMHD.

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

IV. 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 \$100,000.00 as total compensation, which is budgeted for such payment, as set forth and incorporated herein in the budget which is attached hereto as Attachment I.

4.2 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.

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

4.4 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. Invoices will be due no later than the first day of the month following the dates listed in the invoice schedule in Attachment I. An invoice documenting final expenses associated with the Agreement will be submitted to the City by March 18, 2012.

4.5 CONTRACTOR agrees to provide any and all documentation required for inclusion in any report concerning the ARRA-CPPW grant. 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.

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. SAMHD 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 Bankruptcy or selling substantially all of company's assets
- 7.4.2 Failing to perform or failing to comply with any covenant herein required
- 7.4.3 Performing unsatisfactorily
- 7.4.4 The failure to meet CDC reporting requirements as set out and determined by City.

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:

Macro International Inc.
11785 Beltsville Drive, Ste 300
Calverton, MD 20705
Attn: Jane M. Ketchum

IX.
TERMS AND CONDITIONS RELATED TO ARRA (STIMULUS) FUNDS

9.1 The CONTRACTOR acknowledges that funds for this Agreement come from the 2009 American Recovery and Reinvestment Act. As such, the CONTRACTOR agrees to comply with all terms and conditions associated with said funds as directed by the City or as required in this Agreement, including but not limited to:

- a) The American Recovery and Reinvestment Act (ARRA);
- b) 2 C.F.R. 176.210 *et seq.*;
- c) The terms and conditions of ARRA/CPPW Grant Number 1U58DP002453-01 as set out in an award letter to CITY (attached hereto, and incorporated herein, as

Attachment II), as well as relevant ARRA information memorandum and publications issued by the federal government;

- d) The following Department of Management and Budget (OMB) Circulars, as applicable to the funds received by the DEPARTMENT hereunder:
- i. OMB Circular A-102, entitled, "Grants and Cooperative Agreements with State and Local Governments";
 - ii. OMB Circular A-110, entitled, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations";
 - iii. OMB Circular A-133, entitled, "Audits of States, Local Governments, and Not for Profit Organizations".

9.2 The CONTRACTOR further agrees to comply with all applicable terms and conditions attached hereto as Attachment III – Special Provisions.

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 the SAMHD 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 the SAMHD by CONTRACTOR within twenty (20) days upon receipt of said report or upon submission of said corrective action plan to the auditor.

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.

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 the SAMHD within a period of ten (10) business days upon the CONTRACTOR's receipt of the report.

10.2 CONTRACTOR agrees that if CONTRACTOR receives or expends more than \$500,000.00 in federal funds from the City, the audit shall be made in accordance with the Single Audit Act Amendments of 1996, the State of Texas Single Audit Circular, and U.S. Office of Management and Budget Circular (OMB-133 revision) and CONTRACTOR shall also be required to submit copies of its annual independent audit report, and all related reports issued by the independent certified public accountant within a period not to exceed one hundred twenty (120) days after the end of CONTRACTOR's fiscal year to the Federal Audit Clearinghouse in Jeffersonville, Indiana. CONTRACTOR may submit reports through the following website: <http://gov.fac@census.gov> and may also contact the Clearinghouse by telephone at (301) 763-1551 (voice) or 1-888-222-9907 (toll free) or 1-800-253-0696.

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

Federal Audit Clearinghouse
1201 E. 10th Street
Jeffersonville, Indiana 47132

10.3 If CONTRACTOR expends less than \$500,000.00 of funds provided by or through the City, then during the term of this Agreement, the Contactor 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.

10.4 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.

10.5 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.

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.

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.

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

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

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 the SAMHD.

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

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 award document from CDC/HHS. A copy of said award document is attached hereto and incorporated herein for all purposes as Attachment II. From time to time, the award document may be amended or supplemented, and these shall be incorporated into the Agreement collectively as Attachment I.

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 the SAMHD, as representatives of the City and the parties ultimately responsible for all matters of compliance with CDC/HHS/ARRA 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 SAMHD.

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, CDC, HHS, 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, CDC or HHS when City, CDC or HHS determines that the records possess long-term retention value.

11.7 The SAMHD 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 HHS 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 the SAMHD, the CONTRACTOR shall furnish to the SAMHD and the Grantor of the Grant Funds, if applicable, such statements, reports, records, data, all policies and procedures and information as may be requested by the SAMHD and shall permit the City and Grantor of the Grant Funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement. 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 Grant 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.

11.11 Unless otherwise provided herein, all reports, statements, records, data, policies and procedures or other information requested by the SAMHD 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.

11.12 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 the SAMHD 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 HHS's, the CDC'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.

11.13 CONTRACTOR will maintain a system for tracking, on an ongoing basis, inventory of equipment and supplies purchased with ARRA-CPPW grant funds that either (i) has an purchase price of \$5,000.00 or greater; or (ii) meets such other criteria as City may prescribe, and consistent with those requirements set out in Attachment III. Upon request, CONTRACTOR will provide City a status report of the current inventory of equipment and supplies meeting these requirements. City shall have the right to review and approve CONTRACTOR's inventory tracking system.

11.14 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.

11.15 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.

11.16 The prohibitions set forth in Sections 11.14 and 11.15 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.

11.17 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 the SAMHD. CONTRACTOR shall list the name and number of a contact person from the SAMHD on the statement that CONTRACTOR's personnel can call to report said violations.

11.18 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.

11.19 Sections 11.14 through 11.18 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.

11.20 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**

A) Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Health Department, which shall be clearly labeled "*ARRA-CPPW Obesity Grant*" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature 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 Health Department. No officer or employee, other than the City’s Risk Manager, shall have authority to waive this requirement.

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

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

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation 2. Employers' Liability	Statutory \$500,000/\$500,000/\$500,000
3. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability f. Damage to property rented by you	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage f. \$100,000
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence

D) Contractor agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Contractor herein, and provide a certificate of insurance and endorsement that names the Contractor and the CITY as additional insureds. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may

be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

E) As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Contractor 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. Contractor shall pay any costs incurred resulting from said changes.

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

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

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

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

H) .In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time

herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

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

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

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

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

XIII. **INDEMNIFICATION**

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

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. CONTRACTOR shall advise the CITY in writing within 24 hours of any claim or demand

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

Notwithstanding the above, except for liability for death, bodily injury, damage to tangible or real property or intellectual property infringement caused by the negligence or willful misconduct of the Contractor, the aggregate liability of Contractor under this Agreement shall not exceed the greater of two times the amount payable hereunder or the amount recovered under any applicable insurance coverage specified in this Agreement.

13.5 Defense Counsel - CONTRACTOR shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Contract. If CONTRACTOR fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and CONTRACTOR shall reimburse City for all costs related to retaining defense counsel until such time as CONTRACTOR retains Counsel as required by this section.. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

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

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 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 which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. CONTRACTOR further agrees that CONTRACTOR will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

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 the SAMHD 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 _____, 2010.

CITY OF SAN ANTONIO

MACRO INTERNATIONAL INC.

Printed Name: Fernando A. Guerra
 M.D., M.P.H.
Title: Director of Health

Date: _____

Printed Name: Jane M. Ketchum
Title: Director, Contract
 Admin.

Date: _____

Approved as to Form:

Michael D. Bernard, City Attorney

ATTACHMENTS

- Attachment I – Program Budget
- Attachment II – Award Letter
- Attachment III – Special Provisions

ATTACHMENT I

PROJECT BUDGET

<i>Invoice Schedule</i>	<i>Description of Performance Phase</i>	<i>Itemized Amount</i>
YEAR 1 ADMINISTRATION: FALL 2010		
July 15, 2010	Recruitment materials preparation, developing tracking system	\$5,000
October 29, 2010	School recruitment/classroom sampling for the first 12 schools	\$8,000
November 20, 2010	School recruitment/classroom sampling for the remaining schools	\$8,000
October 22, 2010	Completion of data collector training	\$8,000
November 12, 2010	Completion of data collection in first 12 schools	\$8,000
December 17, 2010	Completion of data collection in remaining schools	\$8,000
December 30, 2010	Data preparation and delivery of answer sheets to CDC Vendor	\$5,000
Year 1 Total		\$50,000.00
YEAR 2 ADMINISTRATION: FALL 2011		
July 15, 2011	Recruitment materials preparation, developing tracking system	\$5,000
October 29, 2011	School recruitment/classroom sampling for the first 12 schools	\$8,000
November 20, 2011	School recruitment/classroom sampling for the remaining schools	\$8,000
October 22, 2011	Completion of data collector training	\$8,000
November 12, 2011	Completion of data collection in first 12 schools	\$8,000
December 17, 2011	Completion of data collection in remaining schools	\$8,000
December 30, 2011	Data preparation and delivery of answer sheets to CDC Vendor	\$5,000
Year 2 Total		\$50,000.00
TOTAL BUDGET		\$100,000.00



THIS AWARD IS ISSUED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND IS SUBJECT TO SPECIAL HHS TERMS AND CONDITIONS AS REFERENCED IN SECTION III

Grant Number: 1U58DP002453-01

Principal Investigator(s):
Jennifer Herriott

Project Title: CATEGORY A: COMMUNITIES PUTTING PREVENTION TO WORK

FERNANDO GUERRA
SAN ANTONIO METROPOLITAN HEALTH
332 WEST COMMERCE STREET
SAN ANTONIO, TX 78205

Budget Period: 03/19/2010 – 03/18/2012
Project Period: 03/19/2010 – 03/18/2012

Dear Business Official:

The Centers for Disease Control and Prevention hereby awards a grant in the amount of \$15,612,353 (see "Award Calculation" in Section I and "Terms and Conditions" in Section III) to SAN ANTONIO METROPOLITAN HEALTH DISTRICT in support of the above referenced project. This award is pursuant to the authority of 301A,311BC,317K2(42USC241A,243BC247BK2) and is subject to the requirements of this statute and regulation and of other referenced, incorporated or attached terms and conditions.

Acceptance of this award including the "Terms and Conditions" is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

If you have any questions about this award, please contact the individual(s) referenced in Section IV.

Sincerely yours,

Tracey M Sims
Grants Management Officer
Centers for Disease Control and Prevention

Additional information follows

SECTION I – AWARD DATA – 1U58DP002453-01**Award Calculation (U.S. Dollars)**

Salaries and Wages	\$669,329
Fringe Benefits	\$229,864
Personnel Costs (Subtotal)	\$899,193
Equipment	\$7,595
Supplies	\$912,372
Travel Costs	\$29,424
Other Costs	\$8,220,950
Consortium/Contractual Cost	\$5,383,662

Federal Direct Costs	\$15,453,196
Federal F&A Costs	\$159,157
Approved Budget	\$15,612,353
Federal Share	\$15,612,353
TOTAL FEDERAL AWARD AMOUNT	\$15,612,353

AMOUNT OF THIS ACTION (FEDERAL SHARE) \$15,612,353

Fiscal Information:

CFDA Number: 93.724
EIN: 1746002070A2
Document Number: UDP002453A

	IC	CAN	2010
DP		9391055	\$15,612,353

SUMMARY TOTALS FOR ALL YEARS		
YR	THIS AWARD	CUMULATIVE TOTALS
1	\$15,612,353	\$15,612,353

CDC Administrative Data:
PCC: / OC: 4151

SECTION II – PAYMENT/HOTLINE INFORMATION – 1U58DP002453-01

For payment information see Payment Information section in Additional Terms and Conditions.

INSPECTOR GENERAL: The HHS Office Inspector General (OIG) maintains a toll-free number (1-800-HHS-TIPS [1-800-447-8477]) for receiving information concerning fraud, waste or abuse under grants and cooperative agreements. Information also may be submitted by e-mail to hstips@oig.hhs.gov or by mail to Office of the Inspector General, Department of Health and Human Services, Attn: HOTLINE, 330 Independence Ave., SW, Washington DC 20201. Such reports are treated as sensitive material and submitters may decline to give their names if they choose to remain anonymous. This note replaces the Inspector General contact information cited in previous notice of award.

SECTION III – TERMS AND CONDITIONS – 1U58DP002453-01

This award is based on the application submitted to, and as approved by, CDC on the above-titled project and is subject to the terms and conditions incorporated either directly or by reference in the following:

- a. The grant program legislation and program regulation cited in this Notice of Award.
- b. The restrictions on the expenditure of federal funds in appropriations acts to the extent those restrictions are pertinent to the award.
- c. 45 CFR Part 74 or 45 CFR Part 92 as applicable.
- d. The HS Grants Policy Statement, including addenda in effect as of the beginning date of the budget period.

- e. This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

Treatment of Program Income:

Additional Costs

SECTION IV – DP Special Terms and Conditions – 1U58DP002453-01

Notice of Cooperative Agreement

Cooperative Agreement Number: 1 U58 DP002453-01

ARRA AWARD - Category A: \$15,612,353.

Grantee: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

Note 1. INCORPORATION. Funding Opportunity Announcement Number CDC-RFA-DP09-912ARRA titled, U.S Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), American Recovery and Reinvestment Act of 2009, Communities Putting Prevention to Work; the Category A (Obesity, Physical Activity and Nutrition) application dated 11/30/2009; and budget discussions held 2/12/2010.

Note 2. RESPONSE TO SUMMARY STATEMENT: Attached to this Notice of Award is a Summary Statement providing the strengths, weaknesses and recommendations of the application. A response to the Recommendations and Weaknesses within the summary statement must be submitted to the Grants Management Specialist no later than 30 days from the issue date of the Notice of Grant Award. Failure to respond could result in enforcement actions, including withholding of funds or termination.

Note 3. APPROVED FUNDING: Funding in the amount of \$15,612,353. is approved for the budget period, which is March 19, 2010, through March 18, 2012.

Grantee must submit a revised budget, budget narrative and a statement identifying any initially proposed activities that will no longer be pursued as a result of available funding as stated in the Notice of Award. Grantee shall submit a revised 424a, budget narrative and the statement identifying any initially proposed activities that will no longer be pursued to the Grants Management Specialist identified at Note 19 within 30 days from the effective date of this Notice of Award.

Note 4. INDIRECT COSTS.

Indirect costs are approved based on the Indirect Cost Rate Agreement dated June 12, 2009 which calculates indirect costs as follows, a provisional rate is approved at a rate of 17.70% of the base, which includes, total salaries and fringe benefits. The effective dates of this indirect cost rate are from June 12, 2009 until amended.

Note 5. REPORTING REQUIREMENTS.

Final performance and Financial Status reports are due no more than 90 days after the end of the project period. These reports must be submitted to the grants management specialist identified at Note 19.

Note 6. ADDITIONAL REQUIREMENTS:

Grantees are required to participate in the meetings and trainings described in the funding opportunity announcement.

Grantees must ensure that three members of the Leadership Team: the Program Director, the Program Coordinator or equivalent, and one additional leader outside the health department attend a kick-off meeting in Atlanta Georgia April 13 ? 15, 2010.

Grantees must ensure that 8-10 members of the Leadership team participate in one Regional Action Institute currently scheduled as follows:

May 25-28: San Diego Marriott Hotel and Marina

June 1-4: Hyatt Regency Capitol Hill

June 8-11: St. Louis Union Station Marriott

Note 7. CORRESPONDENCE. ALL correspondence (including emails and faxes) regarding this award must be dated and, identified with the AWARD NUMBER.

Note 8. **PRIOR APPROVAL:** All requests which require the prior approval of the Grants Management Officer as noted in 45 CFR 92 or 45 CFR 74 must bear the signature of an authorized official of the business office of the grantee organization as well as the principal investigator or program or project director. Any requests received, which reflect only one signature, will be returned to the grantee unprocessed. Additionally, any requests involving funding issues must include a new proposed budget, and a narrative justification of the requested changes.

Note 9. **INVENTIONS.** Acceptance of grant funds obligates recipients to comply with the standard patent rights clause in 37 CFR 401.14.

Note 10. **PUBLICATIONS.** Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgment and disclaimer, as appropriate, such as,

This publication (journal article, etc.) was supported by the Cooperative Agreement Number above from The Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.

Note 11. **CONFERENCE DISCLAIMER AND USE OF LOGOS.**

Disclaimer. Where a conference is funded by a grant or cooperative agreement, a subgrant or a contract the recipient must include the following statement on conference materials, including promotional materials, agenda, and Internet sites,

Funding for this conference was made possible (in part) by the cooperative agreement award number above from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services, nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government

Logos. Neither the HHS nor the CDC logo may be displayed if such display would cause confusion as to the source of the conference or give the false appearance of Government endorsement. A non-federal entity unauthorized use of the HHS name or logo is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communication. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the Office of the Inspector General has authority to impose civil monetary penalties for violations (42 C.F.R. Part 1003). Neither the HHS nor the CDC logo can be used on conference materials, under a grant, cooperative agreement, contract or co-sponsorship agreement without the expressed, written consent of either the Project Officer or the Grants Management Officer. It is the responsibility of the grantee (or recipient of funds under a cooperative agreement) to request consent for the use of the logo in sufficient detail to assure a complete depiction and disclosure of all uses of the Government logos, and to assure that in all cases of the use of Government logos, the written consent of either the Project Officer or the Grants Management Officer has been received.

Note 12. **EQUIPMENT AND PRODUCTS.** To the greatest extent practicable, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as Tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000 or more per unit. However, consistent with recipient policy, a lower threshold may be established. Please provide the information to the Grants Management Officer to establish a lower equipment threshold to reflect your organization policy.

The grantee may use its own property management standards and procedures provided it observes the provisions of the following sections in the Office of Management and Budget (OMB) Circular A-110 and 45 CFR Part 92:

Office of Management and Budget (OMB) Circular A-110, Sections 31 through 37 provides the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations
<http://www.whitehouse.gov/omb/circulars/a110/a110.html>

45 CFR Parts 92.31 and 92.32 provides the uniform administrative requirements for grants and cooperative agreements to state, local and tribal governments.

Note 13. **TRAFFICKING IN PERSONS.** This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term and condition, go to http://www.cdc.gov/od/pgo/funding/grants/Award_Term_and_Condition_for_Trafficking_in_Persons.shtm

Note 14. **ACKNOWLEDGMENT OF FEDERAL SUPPORT.** When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Note 15. **PAYMENT INFORMATION:**

PAYMENT INFORMATION: Payment under this award will be made available through the Department of Health and Human Services (HHS) Payment Management System (PMS). The Division of Payment Management; Program Support Center, administers PMS, HHS administers PMS. PMS will forward instructions for obtaining payments.

A. PMS correspondence, mailed through the U.S. Postal Service, should be addressed as follows:

Director, Division of Payment Management, OS/ASAM/PSC/FMS/DPM
P.O. Box 6021
Rockville, MD 20852
Phone Number: (877) 614-5533
Fax Numbers:
University and Non-Profit Payment Branch (301) 443-2672
Governmental and Tribal Payment Branch (301) 443-2569
Cross Servicing Payment Branch: (301) 443-0377
General Fax: (301) 443-8362

Email PMSSupport@psc.gov

Website: http://www.dpm.psc.gov/grant_recipient/shortcuts/shortcuts.aspx?explorer.event=true

B. If a carrier other than the U.S. Postal Service is used, such as United Parcel Service, Federal Express, or other commercial service, the correspondence should be addressed as follows:

Division of Payment Management
FMS/PSC/HHS
Rockwall Building #1, Suite 700
11400 Rockville Pike
Rockville, MD 20852

To expedite your first payment from this award, attach a copy of the Notice of Grant/Cooperative Agreement to your payment request form.

Note 16. **LOBBYING STATEMENT:** We want to remind you that federal law prohibits award recipients and their sub- contractors from using Federal funds for lobbying congress or a Federal agency, or to influence legislation or appropriations pending before the Congress or any State or local legislature.

This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Any activity designed to influence action in regard to a particular piece of pending legislation would be considered lobbying. That is lobbying for or against pending legislation, as well as indirect or grass roots lobbying efforts by award recipients that are directed at inducing members of the public

to contact their elected representatives at the Federal , State or local levels to urge support of, or opposition to, pending legislative proposals is prohibited.

Recipients of CDC grants and cooperative agreements need to be careful to prevent CDC funds from being used to influence or promote pending legislation. With respect to conferences, public events, publications, and grassroots activities that relate to specific legislation, recipients of CDC funds should give close attention to isolating and separating the appropriate use of CDC funds from non-CDC funds.

CDC also cautions recipients of CDC funds to be careful not to give the appearance that CDC funds are being used to carry out activities in a manner that is prohibited under Federal law.

All reported activity under the CPPW Communities Initiative, including Recovery Act reporting, must be activity that is consistent with federal law.

For additional guidance, please refer to the FOA, Additional Requirement # 12 on lobbying restrictions and 31 U.S.C. Section 1352; 18 U.S.C. Section 1913.

Note 17. CERTIFICATION STATEMENT: By drawing down funds, awardee certifies that proper financial management controls and accounting systems to include personnel policies and procedures have been established to adequately administer Federal awards and funds drawn down are being used in accordance with applicable Federal cost principles, regulations, and the President's Budget and Congressional intent.

Note 18. AUDIT REQUIREMENT: An organization that expends \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, Audit of States, Local Governments, and Non-Profit Organizations. The audit must be completed along with a data collection form, and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditors report(s), or nine months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Should you have questions regarding the submission or processing of your Single Audit Package, contact the Federal Audit Clearinghouse at: (301) 763-1551, (800) 253-0696 or email: gov.s.fac@census.gov

The grantee is to ensure that the sub-recipients receiving CDC funds also meet these requirements (if total Federal grant or grant funds received exceed \$500,000). The grantee must also ensure that appropriate corrective action is taken within six months after receipt of the sub-recipient audit report in instances of non-compliance with Federal law and regulations. The grantee is to consider whether sub-recipient audits necessitate adjustment of the grantees own accounting records. If a sub-recipient is not required to have a program-specific audit, the Grantee is still required to perform adequate monitoring of sub-recipient activities. The grantee is to require each sub-recipient to permit independent auditors to have access to the sub-recipients records and financial statements. The grantee should include this requirement in all sub-recipient contracts.

Note 19. CDC CONTACT NAMES

Business and Grants Policy Contact

Tracey Sims, Grants Management Specialist
Centers for Disease Control, PGO, Branch III
2920 Brandywine Road, Mail Stop E-09
Atlanta, GA 30341-4146
Telephone: 770-488-2739
Fax: 770-488-2778
Email: atu9@cdc.gov

Programmatic and Technical Contact

Rebecca Payne, MPH

Community Interventions Team Lead
ARRA/CPW
Division of Adult and Community Health, NCCDPHP
CDC-Atlanta
Office: 770-488-5167
Fax: 770-488-5964
Email: Rco0@cdc.gov

Note 20: RECIPIENT REPORTING REGISTRATION

Recipients and reviewers must be registered with www.federalreporting.gov
Recipients need the following to register:
DUNS ? <http://fedgov.dnb.com/webform>
CCR ? www.ccr.gov/GAQ.aspx
FRPIN ? www.federalreporting.gov

Note 21: CDC CODES FOR ARRA AWARDS

Awarding Code - 7523
Funding Code ? 7523
CFDA - 93.724
Program TAS - 75-0942
http://cdc.gov/fmo/topic/Recovery_Act/index.html

Standard Terms and Conditions for American Recovery and Reinvestment Act of 2009

1. Other Standard Terms and Conditions

All other grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements apply unless they conflict or are superseded by the following terms and conditions implementing the American Recovery and Reinvestment Act of 2009 (ARRA) requirements below. Recipients are responsible for contacting their HHS grant/program managers for any needed clarifications.

2. Recipient Reporting

Recipients of Federal awards from funds authorized under Division A of the ARRA must comply with all requirements specified in Division A of the ARRA (Public Law 111-5), including reporting requirements outlined in Section 1512 of the Act. For purposes of reporting, ARRA recipients must report on ARRA sub-recipient (sub-grantee and sub-contractor) activities as specified below.

Not later than 10 days after the end of each calendar quarter, starting with the quarter ending March 31, 2010 and reporting by April 10, 2010, the recipient must submit quarterly reports to HHS that will be posted to Recovery.gov, containing the following information:

- a. The total amount of ARRA funds under this award;
- b. The amount of ARRA funds received under this award that were obligated and expended to projects or activities;
- c. The amount of unobligated award balances;
- d. A detailed list of all projects or activities for which ARRA funds under this award were obligated and expended, including
 - The name of the project or activity;
 - A description of the project or activity;
 - An evaluation of the completion status of the project or activity;
 - An estimate of the number of jobs created and the number of jobs retained by the project or activity;
 - and
 - For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.
- e. Detailed information on any sub-awards (sub-contracts or sub-grants) made by the grant recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).

For any sub-award equal to or larger than \$25,000, the following information:

- The name of the entity receiving the sub-award;
- The amount of the sub-award;

The transaction type;
The North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number;
Program source;
An award title descriptive of the purpose of each funding action;
The location of the entity receiving the award;
The primary location of performance under the award, including the city, State, congressional district, and country; and
A unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity.

f. All sub-awards less than \$25,000 or to individuals may be reported in the aggregate, as prescribed by HHS.

g. Recipients must account for each ARRA award and sub-award (sub-grant and sub-contract) separately. Recipients will draw down ARRA funds on an award-specific basis. Pooling of ARRA award funds with other funds for drawdown or other purposes is not permitted.

h. Recipients must account for each ARRA award separately by referencing the assigned CFDA number for each award.

The definition of terms and data elements, as well as any specific instructions for reporting, including required formats, will be provided in subsequent guidance issued by HHS.

3. Buy American - Use of American Iron, Steel, and Manufactured Goods

Recipients may not use any funds obligated under this award for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless HHS waives the application of this provision. (ARRA Sec. 1605)

4. Wage Rate Requirements

[This term and condition shall not apply to tribal contracts entered into by the Indian Health Service funded with this appropriation. (ARRA Title VII?Interior, Environment, and Related Agencies, Department of Health and Human Services, Indian Health Facilities)]

Subject to further clarification issued by the Office of Management and Budget, and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this award shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code. (ARRA Sec. 1606)

5. Preference for Quick Start Activities (ARRA)

In using funds for this award for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

6. Limit on Funds (ARRA)

None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

7. Disclosure of Fraud or Misconduct

Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

8. ARRA: One-Time Funding

Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

9. Schedule of Expenditures of Federal Awards

Recipients agree to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512(c). (2 CFR 215.26, 45 CFR 74.26, and 45 CFR 92.26)

10. Responsibilities for Informing Sub-recipients

Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds. (2 CFR 215.26, 45 CFR 74.26, and 45 CFR 92.26)

STAFF CONTACTS

Grants Management Specialist: Tracey M Sims
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SPREADSHEET SUMMARY

GRANT NUMBER: 1U58DP002453-01

INSTITUTION: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

<i>Budget</i>	<i>Year 1</i>
Salaries and Wages	\$669,329
Fringe Benefits	\$229,864
Personnel Costs (Subtotal)	\$899,193
Equipment	\$7,595
Supplies	\$912,372
Travel Costs	\$29,424
Other Costs	\$8,220,950
Consortium/Contractual Cost	\$5,383,662
TOTAL FEDERAL DC	\$15,453,196
TOTAL FEDERAL F&A	\$159,157
TOTAL COST	\$15,612,353

**Centers for Disease Control and Prevention
Funding Opportunity Announcement DP09-912ARRA09
*Communities Putting Prevention to Work (CPPW)***

Objective Review Summary Statement

Date Reviewed:	January 11-14, 2010
Applicant Organization:	City of San Antonio Metropolitan Health District
Application Number:	90015865
Application Title:	Communities Putting Prevention to Work (CPPW)
Funds Requested:	\$18,023,416
Recommendation:	Recommended
Final Average Score:	82.42
Human Subjects Issues:	None

Summary of the Project

The San Antonio Metropolitan Health District (Metro Health) proposes to address obesity prevention through a comprehensive set of initiatives to increase opportunities for physical activity and access to healthy foods for children and families of San Antonio, Texas. Metro Health will serve as the lead agency for the San Antonio-Communities Putting Prevention to Work Obesity Project (SA-CPPW). Oversight of the SA-CPPW will be carried out by Jennifer Herriott, MPH, Population-based Services Area Administrator and the Leadership Team consisting of community leaders and the SA-CPPW program director. Metro Health will coordinate efforts with City of San Antonio government departments, the transportation planning organization, the transit system, the restaurant association and established public health collaboration networks to leverage the resources and expertise necessary to implement the proposed initiative. Together, SA-CPPW partners will work to implement population-based policy, systems and environmental changes across five evidence-based MAPPS strategies that address physical activity, nutrition and active living.

The SA-CPPW proposes five goals to make progress toward a reduction in chronic disease and obesity: 1) An increase in physical activity as a result of community-wide and school-based policy, systems and environmental changes; 2) An improvement in nutrition as a result of community-wide and school-based policy, systems and environmental changes; 3) Improve aspects of San Antonio's Built Environment through policy, systems, and environmental changes; 4) Elicit behavior change regarding physical activity and nutrition through a successful social marketing campaign; and 5) Establish infrastructure and processes for planning, implementation and evaluation of San Antonio-CPPW Project activities.

The SA-CPPW interventions will include a multi-disciplinary physical activity event, expansion of the use facilities, such as schools, for after-hours use for physical activity, city development projects to improve protection for 'vulnerable users', such as complete streets, implementation of healthy food and beverage guidelines by local restaurants, and trainings for schools to improve physical activity and the availability of healthy food. Overall, the initiative is expected to yield community assessment and evaluation data, a built environment more conducive to walking and cycling, an increase in the availability of no-cost spaces for physical activity, healthier options on restaurant menus, approved changes to related municipal and organizational policies, and a multidisciplinary collaborative invested in community health.

Summary of Strengths

The *program infrastructure and fiscal management* are relatively well-addressed. The lead / fiduciary agency is clearly identified. Metro Health is a well-established organization with extensive community outreach. It appears to have appropriate fiduciary procedures in place to manage additional funding. The agency received a STEPS grant that has laid groundwork for the proposed project. A financial management system has been executed by the CoSA Departmental Fiscal Division of Metro Health. In accordance with OMB A-102 OMB Circular A-133, CoSA is responsible for establishing and maintaining acceptable internal controls for financial reporting. Building upon established school policies and other previous successful initiatives such as menu labeling with a specific restaurant, it appears that strategies are ready to expand. The applicant identifies the need for 12 positions (e.g., program manager, 11 full time

and / or contract staff with capacity in media planning, administrative and fiscal management for 6 small teams. Each team lead will be responsible for the coordination of one of the critical operational areas of the project (e.g., physical activity, nutrition, media, leadership team and coalitions, contracts and budget, and evaluation and monitoring). In addition to Metro Health's staffing, five contracted positions are included to support other partner departments within the City of San Antonio. Three CVs are provided for the Health Director, Assistant Director, and Population-Based Service Area Administrator who is the only staff person currently hired with project responsibilities. Concrete letters of support are provided from the Mayor plus a variety of organizations (e.g., 8 school districts, health care, coalitions, media, city / public agencies, professional associations, business, and a university). Position descriptions are provided, roles are defined, and positions are full time. With regard to demonstrating staff experience with policy making and briefing political leaders and policy makers, there is one filled staff position with an individual who administered the STEPS to a Healthier San Antonio project and addressed policy and environmental change.

The *leadership team and community coalitions* are clearly described, and appear to be well-established. The Leadership Team has 14 members from a variety of organizations. There is an emphasis on involvement of the medical community to institute a systems change to include the calculation of body mass index (BMI) at every medical office visit and to emphasize monitoring prenatal weight gain. Members have been selected based upon their decision-making authority in their respective organizations. Members of the leadership team demonstrate a high-level commitment to the CPPW Initiative, including a commitment of time and other resources. Letters of support are provided from 10 of the 14 members. Membership of three coalitions is documented. The capacity of the existing coalition are described in terms of leadership, expertise, community representation, collaborative experience / abilities, and agency representation. Members of the existing coalitions appear to have successfully worked together and in collaboration with community leaders to implement broad-based policy, systems, and environmental change initiatives. Examples of past successes are provided. Evidence is offered to substantiate that the applicant will encourage linkages with other community-based efforts and the Office of the Regional Health Administrator, with special attention to leveraging other federally funded and foundation activities. The applicant is building upon the success of Steps-SA with partnerships that continue to support policy, environmental, and systems change to increase active living and healthy eating for children and families. The applicant notes the Steps-SA partners provided in-kind contributions during 2004-2009 that equaled \$1,845,000 and that partners have committed in-kind resources estimated at \$181,812 over the next four years. The San Antonio Restaurant Association (SARA) joined with Metro Health to develop the San Antonio Healthy Restaurants Coalition (HRC), which was established to support healthy food choices in community restaurants. The applicant notes three Recovery Act Programs in San Antonio with which they will collaborate.

The *intervention area, CAP, and intervention strategies* are clearly addressed and described for the most part. The plan is sufficiently robust to impact the entire jurisdiction and to achieve the short- and long-term goals of the initiative, and includes the creation of grassroots coalitions and partnerships. The proposed intervention area encompasses the entire jurisdiction of the health department, including a thorough description of the exact size and location of the populations to be served. Data are provided that substantiate the existing burden and / or disparities of chronic diseases, conditions, existing health behaviors, and risk factors in the jurisdiction and populations to be served. Assets and barriers to successful program implementation are

identified, including an understanding of the policy, systems, and environmental policies in the community. The applicant clearly articulates which risk factors they will address, and has selected from the prescribed set of MAPPS evidence-based strategies and the appropriate mix of interventions. The MAPPS strategies relate to the goals to create an environment in which physical activity is the norm, to establish policy and systematic changes that provide more nutritious and affordable food options for residents in need, and to develop a social marketing program that helps realize the necessary transformation in the risk population. The community action plan describes an overall integrated strategy. Realistic plans are outlined to coordinate proposed activities with state- and community-level programs to prevent and control chronic disease. An overview of the work to be done is described. The proposed strategies appear to build upon activities from the Steps-SA. The applicant provides evidence of leveraging resources from partners. Cultural and linguistic diversity are clearly addressed.

Plans for project monitoring and evaluation are well-developed and are clearly articulated to some extent. The applicant references use of the CHANGE tool as its basis for evaluation. However, there is no mention of the quarterly reports or benchmarks. Plans are described to collaborate fully in external, independently coordinated evaluation activities to evaluate the overall impact of the initiative, especially the national evaluation activities. The applicant notes participation in CDC evaluation activities. With regard to the overall plan to evaluate the initiative at the community level, and applicant references experience in engaging research experts as outside evaluators. Metro Health needs to use a competitive bid process, and plans to include surveys of key leaders to measure changes in perceptions and attitudes regarding policy and environmental interventions, and an Inter-Organizational Network Survey that was conducted in 2008. YRBSS data will be collected and analyzed, and the YRBSS lead will attend the August 2010 training. Letters are provided from the 12 independent school districts, 7 of which indicate commitment to collaborating in administering the YRBSS during the specified timeframe. The applicant notes that Bexar also has more than 50 parochial schools and over 100 private schools.

Programmatic support needs are clearly addressed. Opportunities, supports, and barriers to achieving intended outcomes are discussed. Barriers to achieving broad reach and impact are realistically discussed. Specific topic areas for which support will be needed are identified. The applicant notes a general willingness to seek support from CDC, TDSHS, and the evaluation contractor. The applicant is building upon the recent success of the STEPS program.

Summary of Weaknesses / Concerns

While *program infrastructure and fiscal management* are relatively well-addressed, a number of concerns were articulated by panelists. In terms of how well the applicant evidences the ability to implement funding for this program in the timeframe required, both full time and contract staff will have to be hired for services (p.1-2). However, there is no indication of how long this is expected to take. There is inconsistency between the narrative and the budget in terms of the number of staff positions, fulltime and / or contractual, that are being created for the proposed program. The narrative states 12, while the budget shows 7 staff for Metro Health and 10 contract staff. Only one staff member is currently working in Metro Health who is assigned to manage the proposed program, and the applicant will need to recruit and hire the remaining 11 to 16 proposed staff positions. The staffing plan provides for the hiring of policy experts, but does not demonstrate sufficient existing expertise in this area (e.g., one relevant filled staff

position).

While the *intervention area, CAP, and intervention strategies* are clearly addressed and described for the most part, some concerns were raised. The proposed strategies appear to build upon activities from the Steps-SA; however, it is not clear whether they are unique to this funding. There appear to be multiple funding resources available to this area for childhood obesity and physical activity (p.5-6). While the applicant provides evidence of leveraging resources from partners (p.4), there is no indication of how the newly created staff / contract positions will be continued when this funding ends.

Plans for project monitoring and evaluation are well-developed and are clearly articulated to some extent; however, some panelists raised issues of concern. While the applicant references the use of the CHANGE tool as its basis for evaluation (p.26-27), there is no mention of the quarterly reports or benchmarks.

Budget

The budget is reasonable, clearly justified, and appears to be consistent with the proposed activities and intent of the initiative for the most part. However, some issues of concern were noted. There appear to be multiple funding resources, but the applicant does not clarify who is responsible for carrying out specific tasks. Some panelists thought the budget seemed excessive in some cases with proposed costs that may not be appropriate. The following items were cited in particular:

- Personnel requests 7 full time positions (\$669,329) and 10 contractual positions (\$988,607), all of which are vacant. However, the narrative only identifies 12 fulltime positions and / or contractual positions.
- Equipment includes T-3 scooters (\$49,750), radio communication systems (\$7,595), computer equipment (\$38,746), physical activity equipment (\$981,900), and salad bar equipment (\$759,078), but the narrative does not specify how this will be distributed and used. Materials budgeted at \$5,625,000 include items such as curb ramp installation, sidewalk improvements, pedestrian signal improvements, cross walk marking, and speed bumps.
- The narrative references the Shared User Agreement on page 17, and notes that partners would supply equipment of exercise classes and special events and capitalize on shared use agreements with schools and faith-based organizations. On page 24, Strategy 5 is a systems change creating formal partnerships allowing the public to use the facilities. The budget includes a contract budget for Shared User Agreement for \$1,422,655 which includes \$270,000 salary plus \$20,655 fringe, administrative support \$30,000, marketing \$30,000, and incentives \$1,072,000. It is not clear why this amount of funds is necessary for this strategy or why full time staff are needed.
- The budget justification provides a detailed plan for how resources will be implemented in the time required; however, a narrative explaining the ability of the applicant to implement funding quickly is not provided.

→ There is a \$1 discrepancy in personnel costs on budget form and budget narrative.

Reductions were recommended during the budget mark up process due to limited programmatic funding.

Human Subjects

Not applicable.

Recommendation(s)

If considered for funding, the applicant should address any issues of concern noted in the Weaknesses / Concerns, Budget, and Human Subjects Sections and / or as follows:

- Provide assurances that hiring of new staff can be put in place 30-days post-award.
- Ensure that Individuals identified for key staff positions have extensive experience with policy making and / or environmental change.
- Engage with Project Officer to (1) clearly identify activities funded specifically by this FOA and (2) develop and finalize a sustainability plan encompassing all program components.
- Secure commitment of support for the administration of YRBS from remaining five school districts.

Special Provisions

Macro International Incorporated (the CONTRACTOR) agrees and understands that funds for this project come in whole or in part from a grant made available through the American Recovery and Reinvestment Act of 2009 (ARRA, or the “Recovery Act”). The CONTRACTOR understands that the San Antonio Metropolitan Health District (SAMHD) is the direct grantee of funds and must adhere to grant requirements imposed by the U.S. Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC) and standard terms and conditions under ARRA (Public Law 111-5). The CONTRACTOR understands that as a subrecipient of these funds it must comply with timelines and requirements in coordination with SAMHD in order to meet grant requirements.

As such, the CONTRACTOR agrees that it will comply with all applicable requirements and provisions of ARRA, as well as terms and conditions from HHS and the CDC, including but not limited to those articulated below:

**I.
Standard Terms and Conditions for the
American Recovery and Reinvestment Act of 2009
and
U.S. Department of Health and Human Services /
Centers for Disease Control and Prevention**

1.1 Generally: SAMHD as an HHS grantee must comply with all terms and conditions outlined in its grant award, including grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements, and requirements imposed by program statutes and regulations and HHS grant administration regulations, as applicable, unless they conflict or are superseded by terms and conditions implementing the American Recovery and Reinvestment Act of 2009 (ARRA) requirements. The CONTRACTOR, as subrecipient, must comply with all requirements for subrecipients and provide reporting and documentation to support SAMHD’s requirements under the grant award. In addition to the standard terms and conditions of award, recipients and subrecipients receiving funds under Division A of ARRA must abide by the general terms and conditions set out below.

1.2 Preference for Quick Start Activities: In using funds for this award for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

1.3 Limit on Funds: None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

1.4 One-time Funding: Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

1.5 Civil Rights Obligations: Recipients and subrecipients of ARRA funds or other Federal financial assistance must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), and the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services). For further information and technical assistance, please contact the HHS Office for Civil Rights at (202) 619-0403, OCRmail@hhs.gov, or <http://www.hhs.gov/ocr/civilrights/>.

1.6 Disclosure of Fraud or Misconduct: Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

1.7 Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards:

(a) To maximize the transparency and accountability of funds authorized under the Recovery Act as required by Congress and in accordance with 45 CFR 74.21 and 92.20 "Uniform Administrative Requirements for Grants and Agreements", as applicable, and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Subrecipients are required to include on their SEFA information specific identification of Recovery Act funding similar to the requirements for the recipient SEFA described above. This

information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

1.8 Wage Rate Requirements:

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

1.9 Inventions: Acceptance of grant funds obligates recipients to comply with the standard patents rights clause in 37 CFR 401.14.

1.10 Publications: Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgment and disclaimer as appropriate, such as:

“This publication (journal article, etc.) was supported by the Cooperative Agreement Number above from the Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.”

1.11 Conference Disclaimer and Use of Logos:

(a) Conferences: Where a conference is funded by a grant or cooperative agreement, a subgrant or a contract, the recipient must include the following statement on conference materials, including promotional materials, agenda and Internet sites:

“Funding for this conference was made possible (in part) by the cooperative agreement award number above from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily represent the official policies of the Department of Health and Human Services, nor does mention of trade

names, commercial practices, or organizations imply endorsement by the U.S. Government.”

(b) Logos: Neither the HHS nor the CDC logo may be displayed if such display would cause confusion as to the source of the conference or give the false appearance of Government endorsement. Unauthorized use of the HHS name and logo by a non-federal entity is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communication. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the Office of the Inspector General has authority to impose civil monetary penalties for violations (42 CFR Part 1003). Neither the HHS nor the CDC logo can be used for conference materials under a grant, cooperative agreement, contract or co-sponsorship agreement without the expressed, written consent of either the Project Officer or Grants Management Officer. It is the responsibility of the grantee (or recipient of funds under a cooperative agreement) to request consent for the use of the logo in sufficient detail to assure a complete depiction and disclosure of all uses of the Government logos, and to assure that in all cases of the use of Government logos, the written consent of either the Project Officer or the Grants Management Officer has been received.

1.12 Equipment and Products: To the greatest extent practicable, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000.00 or more per unit. However, consistent with recipient policy, a lower threshold may be established upon submission to the Grant Management Officer to reflect recipient organization policy.

The grantee may use its own property management standards and procedures provided it observes the provisions of the following sections in the Office of Management and Budget (OMB) Circular A-110, and 45 CFR Part 92:

OMB Circular A-110, sections 31 and 37 provides the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other non-profit organizations. <http://www.whitehouse.gov/omb/circulars/a110/a110.html>

45 CFR Part 92.31 and 92.32 provides uniform administrative requirements for grants and cooperative agreements to state, local and tribal governments. http://access.gpo.gov/nara/cfr/waisidx_03/45cfr92_03.html

1.13 Trafficking in Persons: This award is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22U.S.C. 7104). For the full text of the award term and condition, go to:

http://www.cdc.gov/od/pgo/funding/grants/Award_Term_and_Condition_for_Trafficking_in_Persons.shtml

1.14 Acknowledgement of Federal Support: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of Federal funds for the project or program, and (3)

percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

1.15 Lobbying: Federal law prohibits award recipients and sub-contractors from using Federal funds for lobbying Congress or a Federal agency, or to influence legislation or appropriations pending before the Congress or any State or local legislature.

This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Any activity designed to influence action in regard to a particular piece of pending legislation would be considered lobbying. That is lobbying for or against pending legislation, as well as indirect or grass roots lobbying efforts by award recipients that are directed at inducing members of the public to contact their elected representatives at the Federal, state, or local levels to urge support of, or oppositions to, pending legislative proposals is prohibited.

Recipients of CDC grants and cooperative agreements need to be careful to prevent CDC funds from being used to influence or promote pending legislation. With respect to conferences, public events, publications, and grass roots activities that relate to specific legislation, recipients of CDC funds should give close attention to isolating and separating the appropriate use of CDC funds from non-CDC funds.

CDC also cautions recipients of CDC funds to be careful not to give the appearance that CDC funds are being used to carry out activities in a manner that is prohibited under Federal law.

All reported activity under the Communities Putting Prevention to Work (CPPW) Communities Initiative, including Recovery Act reporting, must be activity that is consistent with Federal law.

For additional guidance, please refer to the Funding Opportunity Announcement, Additional Requirement #12 on lobbying restrictions and 31 U.S.C. Section 1352; 18 U.S.C. Section 1913.

II.

Requirements for Construction Projects

2.1 Required Use of American Iron, Steel, and Manufactured Goods – Section 1605 of ARRA:

(a) Definitions.

“Manufactured good” means a good brought to the construction site for incorporation into the building or work that has been--

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works

may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

- (1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act)(Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.
- (2) This requirement does not apply to the material listed by the Federal Government as follows: NONE.
- (3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal government determines that:
 - (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
 - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
 - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act.

- (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—
 - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data.

To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON

Description	Unit of Measure	Quantity	Price (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
Item 2:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed.

Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[Include all delivery costs to the construction site.]*

III. Audit Requirements

3.1 An organization that expends \$500,000.00 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, Audit of States, Local Governments, and Non-Profit Organizations. The audit must be completed along with a data collection form, and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

3.2 Subrecipients receiving CDC funds must also meet these requirements (if the total Federal grant or grant funds received exceed \$500,000.00). In instances of noncompliance with Federal law and regulations, the subrecipient must take appropriate corrective action within six months after receipt of the audit.

3.3 If a subrecipient is not required to have a program-specific audit, the grantee (SAMHD) is still required to perform adequate monitoring of subrecipient activities. Subrecipient shall cooperate with all such activities. Additionally, the subrecipient agrees to permit independent auditors to have access to subrecipient records and financial records as necessary.

IV. Reporting Requirements

In addition to those requirements set out in the Interdepartmental Agreement, and above in section 1.7, the following reporting requirements apply to this project:

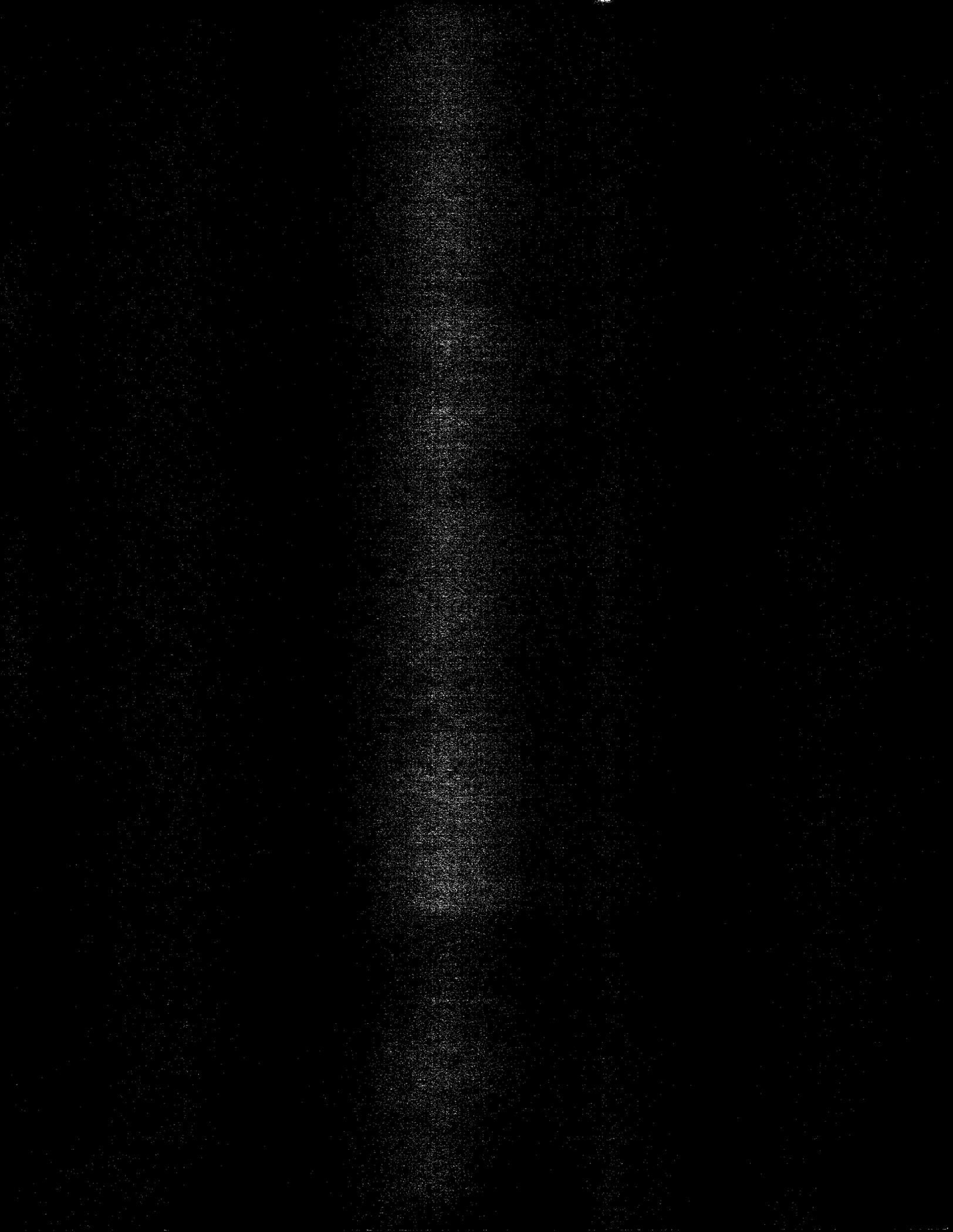
4.1 Recipients of Federal awards from funds authorized under Division A of the ARRA must comply with all requirements specified in Division A of the ARRA, including reporting requirements outlined in Section 1512 of the Act. For purposes of reporting, recipients must report on ARRA subrecipient (sub-grantee and subcontractor) activities as specified below, and subrecipient agrees to cooperate with SAMHD in providing information as necessary for SAMHD to comply with the following requirements:

Not later than 10 days after the end of each calendar quarter, starting with the quarter ending March 31, 2010, and reporting by April 10, 2010, SAMHD must submit quarterly reports to HHS that will be posted to Recovery.gov, containing the following information:

- (a) the total amount of ARRA funds under this award;

- (b) The total amount of ARRA funds received under this award that were obligated and expended to projects or activities;
- (c) The amount of unobligated award balances;
- (d) A detailed list of all projects or activities for which ARRA funds under this award were obligated and expended, including:
 - (1) the name of the project or activity;
 - (2) a description of the project or activity;
 - (3) an evaluation of the completion status of the project or activity;
 - (4) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and,
 - (5) for infrastructure investments made by State or local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under the Recovery Act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (e) Detailed information on any sub-awards (subcontracts or sub-grants) made by the grant recipient to include data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).
 - (1) For any sub-award equal to or larger than \$25,000.00, the following information:
 - (i) the name of the entity receiving the sub-award;
 - (ii) the amount of the sub-award;
 - (iii) the transaction type (the North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number);
 - (iv) program source;
 - (v) an award title descriptive of the purpose of each funding action;
 - (vi) the location of the entity receiving the award;
 - (vii) the primary location of performance under the award, including the city, State, congressional district, and country; and
 - (viii) a unique identifier of the entity receiving the award, and the parent entity of the recipient, should the entity be owned by another entity.
- (f) All sub-awards less than \$25,000.00, or to individuals, may be reported in the aggregate, as prescribed by HHS.
- (g) Recipients must account for each ARRA award and sub-award (sub-grant and subcontract) separately. Pooling of ARRA award funds with other funds for drawdown or other purposes is not permitted.
- (h) Recipients must account for each ARRA award separately by referencing the assigned CFDA number for each award.

4.2 Subrecipient agrees to provide any and all information necessary for SAMHD to complete required reports by no later than 5 days after the end of each calendar quarter.



neither City nor MPO will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

**III.
SCOPE OF SERVICES**

3.1 MPO 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 The MPO will develop a Pedestrian Safety Action (PSA) plan for Bexar County to be prepared according to U.S. Department of Transportation Federal Highway Administration (FHWA) and National Highway Traffic Safety Administration (NHTSA) guidelines.

3.3 The San Antonio-Bexar County Metropolitan Planning Organization's (MPO) Pedestrian Mobility Advisory Committee (PMAC) will serve as the oversight committee for the PSA plan. The MPO, using its adopted procurement procedures for the use of federal funds, will competitively procure a consultant with transportation planning, engineering and public outreach experience. The timeline for the consultant procurement will affect the final schedule, however, assuming a notice to proceed can be issued by September 1, 2010, the following schedule is being provided:

<i>Step</i>	<i>Pedestrian Safety Action Plan Steps & Tasks for Completion</i>	<i>Start & End Dates</i>
1. Define Objectives: With assistance by the consultant, the oversight committee will define specific and measurable objectives that can later be used to evaluate the level of success of the program.		Sep 1-15, 2010
A.	Hold initial meeting between consultant and PMAC to define objectives and discuss process.	Sep 15, 2010
B.	Consultant facilitates round table discussion with PMAC and other transportation and pedestrian mobility stakeholders on issues such as street design, pedestrian system connectivity, land use, access management and existing ordinances in the region.	Sep 15, 2010
2. Identify Locations: Using existing data and data collected throughout the study area, the consultant, with input from the study oversight committee (PMAC), will identify and recommend locations where improvements could make the most impact based on locations in close proximity to underserved areas in terms of pedestrian safety as well as consideration of areas with high rates of chronic obesity. Locations can be but are not limited to: spot locations, corridors, targeted areas and/or entire county limits.		Sep 15-Oct 31, 2010
A.	Consultant will present and gain PMAC concurrence on the project management plan.	Oct 20, 2010
B.	MPO provides Crash Records Information System data in support of data collection	Oct 21-31, 2010
C.	Additional data collection to include pedestrian behavior such as,	Oct 21-Nov 15, 2010

	but not limited to, mid block crossings, age of pedestrians, adherence to signals	
D.	Additional primary and secondary data collection to include motorist behavior such as, but not limited to, adherence to pedestrian crosswalks, adherence to signals	Oct 21-Nov 15, 2010
3. Consider Land Use, Zoning, and Site Design Issues: The consultant will identify the most effective land use, zoning, and site design measures for creating a more pedestrian-friendly environment.		Nov 1-30, 2010
A.	Review and present current CoSA Unified Development Code as it pertains to pedestrians	Nov 17, 2010
B.	Identify and present relevant best practices in place from other areas, preferably in Texas	Nov 17, 2010
C.	Contact up to six local suburban cities for their development guidelines; review and present relevant information	Nov 17, 2010
4. Analyze Information and Prioritize Concerns The consultant will identify and select engineering, educational, and enforcement techniques that can be implemented over time.		Dec 1, 2010 - Jan 15, 2011
A.	Coordinate with CoSA, County, State and selected suburban cities for an understanding of current measures in place.	Dec 1-15, 2010
B.	Consider improvements to include, but not be limited to, pedestrian facility design, roadway design, intersection design, traffic calming, traffic management, signage and signalization, educational programs, transit connections and other measures.	Dec 1-31, 2010
5. Develop an Implementation Strategy: The consultant will identify how pedestrian improvements will be made, through coordination with necessary stakeholders and agencies, and including a funding plan.		Jan 16-Feb 14, 2011
A.	Consult or coordinate with CoSA, suburban cities, County and State.	Jan 16-Feb 14, 2011
B.	Identify improvements that can be completed within two years; to include funding source.	Jan 16-Feb 14, 2011
C.	Identify projects that can be completed within a three to five year time frame; to include a funding source.	Jan 16-Feb 14, 2011
6. Institutionalize Changes to Planning & Design Standards: The consultant will incorporate findings obtained through the process completed in Steps 1-5 into the planning, design, and maintenance manuals as well as standard specifications of government entities. Coordinate with similar projects such as the Safe Routes to Schools plan and Complete Streets project.		Feb 15-Jun 30, 2011
A.	Coordinate with governmental and partner agencies to obtain written commitment, such as resolutions, to choose pedestrian friendly strategies within the transportation system.	Feb 15-Jun 30, 2011
B.	Coordinate with CoSA on potential updates to the Unified Development Code.	Feb 15-Jun 30, 2011
7. Reinforce Commitment: The consultant and members of PMAC will present a draft version of the		Jul-Sep 2011

	plan to various stakeholder organizations.	
A.	Present the plan to the MPO Transportation Policy Board for adoption.	Oct-Dec 2011
B.	Present the plan to San Antonio City Council and/or committees.	Nov 2011 - Jan 2012
C.	Promote adoption by the San Antonio City Council and other municipalities and entities in Bexar County.	Feb 2012

3.3.1 Delivery of Services:

- a) The Consultant shall attend a project initiation meeting with the MPO's Pedestrian Mobility Advisory Committee (PMAC) no later than the next scheduled PMAC meeting following award of the consultant contract (September 15, 2010). The purpose of the meeting is to introduce key individuals, identify project plans, and discuss a plan of action, requirements, and logistical needs for the project. A project management plan will be discussed at this meeting and a deliverable distribution list will be initiated by the consultant. At this time the Definition of Objectives for the project will be determined.
- b) The Consultant shall prepare a project management plan for PMAC. A draft project management plan shall be completed by October 13, 2010, for submission for discussion during the subsequent PMAC meeting (October 20, 2010) following the initial meeting with the consultant. The plan shall address how the consultant plans to fulfill the tasks of the project and shall present a schedule for task completion. The Plan must identify data analysis of targeted locations such as spot locations, corridors, and neighborhoods with existing safety hazards, as well as those with highest incidence of chronic obesity levels. The plan must also identify initial countermeasures, including education, enforcement, and engineering strategies to address the core problems.
- c) SAMHD, as a member of the MPO's PMAC, will receive routine updates as part of the oversight committee. Staff from SAMHD and the MPO will maintain communication between meetings to ensure information is shared timely.

3.3.2 Performance Measures/Indicators:

<i>Deliverable</i>	<i>Due Date</i>	<i>Recipient</i>
Project Initiation Meeting with PMAC	September 15, 2010	PMAC
Meeting with Pedestrian Mobility Advisory Committee (PMAC) to obtain Definition of Objectives	September 15, 2010	PMAC
Project Management Plan	October 20, 2010	PMAC
Deliverable Distribution List	October 20, 2010	PMAC
Oversight Committee Meeting Schedule	October 20, 2010	PMAC
Oversight Committee Meeting Minutes	10 days after every meeting	PMAC
PSA Plan Draft Framework	April 20, 2011	PMAC
First Draft of PSA Plan to PMAC	July 20, 2011	PMAC

Final Draft of PSA Plan to PMAC	September 21, 2011	PMAC
Final Edits to Plan following review by PMAC	October 19, 2011	PMAC
MPO Transportation Policy Board meeting to review and approve PSA Plan	October-December 2011	MPO
Completion of PSA Plan - 1 master copy and 25 bound copies plus electronic version of the final plan	February 28, 2012	PMAC and Partner Agencies

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

IV.
COMPENSATION TO MPO

4.1 In consideration of MPO'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 MPO an amount not to exceed one hundred seventy five thousand dollars (\$175,000.00) as total compensation, which is budgeted for such payment, as set forth and incorporated herein in the budget which is attached hereto as Attachment I.

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

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

4.4 The MPO agrees to submit statements showing monthly itemized costs to the City associated with this Agreement. Reimbursement of eligible expenses, as determined by the City, will be made monthly according to standard procedures followed by City, as requested upon receipt of billing from the MPO. Invoices will be due 3 days after the end of the monthly report period. The MPO will submit to the City a monthly billing invoice to request payment of

expenses incurred on or before the 3rd day of each month. An invoice documenting final expenses associated with the Agreement will be submitted to the City by March 18, 2012.

4.5 MPO agrees to provide any and all documentation required for inclusion in any report concerning the ARRA-CPPW grant. In coordination with Consultant, MPO staff shall prepare and submit monthly reports of work progress and performance measures in accordance with instruction and training to be provided by SAMHD's contracted program evaluation team. Monthly reports will be submitted via a dedicated database, due on the first day of each month in regard to the work of the previous calendar month. 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.

V.

OWNERSHIP OF DOCUMENTS

5.1 Ownership of Intellectual Property. MPO and City agree that any and all writings, documents, maps or information in whatsoever form and character produced by MPO 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. MPO 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. MPO 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 MPO'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, MPO hereby irrevocably designates and appoints City and its duly authorized officers and agents as MPO's agent and attorney-in-fact, to act for and in MPO'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 MPO. Provided, however, nothing herein contained is intended nor shall it be construed to require MPO to transfer any ownership interest in MPO's best practice and benchmarking information to the City.

5.2 In the event that MPO desires to copyright material or to permit any third-party to do so, MPO 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, MPO 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, MPO agrees that no such local government records produced by or on the behalf of MPO pursuant to this Contract shall be the subject of any copyright or proprietary claim by MPO.

MPO 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. MPO further agrees to turn over to City all such records upon termination of this Contract. MPO 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. SAMHD 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 MPO 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 MPO 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, MPO shall retain the records until the resolution of such litigation or other such questions. MPO 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 MPO 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 MPO 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. MPO shall have ten (10) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If MPO 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 MPO's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Bankruptcy or selling substantially all of company's assets

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

7.4.3 Performing unsatisfactorily

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

7.6 Regardless of how this Agreement is terminated, MPO 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 MPO, or provided to MPO, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by MPO 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 MPO's sole cost and expense. Payment of compensation due or to become due to MPO 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, MPO 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 MPO to submit its claims within said thirty (30) calendar days shall negate any liability on the part of City and constitute a **Waiver** by MPO of any and all right or claims to collect moneys that MPO 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, MPO shall cease all operations of work being performed by MPO 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 MPO 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
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

AND City of San Antonio
Director, San Antonio Metropolitan Health District
332 W. Commerce, Suite 307
San Antonio, Texas 78205

If intended for MPO, to:

San Antonio - Bexar County Metropolitan Planning Organization
Attn: Isidro Martinez, Director
825 S. St. Mary's Street
San Antonio, TX 78205

IX.

TERMS AND CONDITIONS RELATED TO ARRA (STIMULUS) FUNDS

9.1 The MPO acknowledges that funds for this Agreement come from the 2009 American Recovery and Reinvestment Act. As such, the MPO agrees to comply with all terms and conditions associated with said funds as directed by the City or as required in this Agreement, including but not limited to:

- a) The American Recovery and Reinvestment Act (ARRA);
- b) 2 C.F.R. 176.210 *et seq.*;
- c) The terms and conditions of ARRA/PPP Grant Number 1U58DP002453-01 as set out in an award letter to CITY (attached hereto, and incorporated herein, as Attachment II), as well as relevant ARRA information memorandum and publications issued by the federal government;
- d) The following Department of Management and Budget (OMB) Circulars, as applicable to the funds received by the DEPARTMENT hereunder:
 - i. OMB Circular A-102, entitled, "Grants and Cooperative Agreements with State and Local Governments";
 - ii. OMB Circular A-110, entitled, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations";
 - iii. OMB Circular A-133, entitled, "Audits of States, Local Governments, and Not for Profit Organizations".

9.2 The MPO further agrees to comply with all applicable terms and conditions attached hereto as Attachment III – Special Provisions.

X.
AUDIT

10.1 If the MPO 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 MPO 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 MPO's fiscal year, expiration or early termination of this Agreement, whichever is earlier. MPO understands and agrees to furnish the SAMHD 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 the SAMHD by MPO within twenty (20) days upon receipt of said report or upon submission of said corrective action plan to the auditor.

The MPO agrees to reimburse the City or supplement any disallowed costs with eligible and allowable expenses based upon reconciled adjustments resulting from MPO's Single Audit. Reimbursement shall be made within 20 calendar days of written notification regarding the need for reimbursement.

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

10.2 MPO agrees that if MPO receives or expends more than \$500,000.00 in federal funds from the City, the audit shall be made in accordance with the Single Audit Act Amendments of 1996, the State of Texas Single Audit Circular, and U.S. Office of Management and Budget Circular (OMB-133 revision) and MPO shall also be required to submit copies of its annual independent audit report, and all related reports issued by the independent certified public accountant within a period not to exceed one hundred twenty (120) days after the end of MPO's fiscal year to the Federal Audit Clearinghouse in Jeffersonville, Indiana. MPO may submit reports through the following website: <http://gov.fac@census.gov> and may also contact the Clearinghouse by telephone at (301) 763-1551 (voice) or 1-888-222-9907 (toll free) or 1-800-253-0696.

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

Federal Audit Clearinghouse
1201 E. 10th Street
Jeffersonville, Indiana 47132

10.3 If MPO expends less than \$500,000.00 of funds provided by or through the City, then during the term of this Agreement, the Contactor shall complete and submit an unaudited financial statement(s) within a period not to exceed ninety (90) days immediately succeeding the end of MPO'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 MPO attesting to the correctness of said financial statement.

10.4 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.

10.5 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, MPO agrees to make available to City all accounting and Project records. MPO 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.

MPO 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 MPO 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 MPO 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.

The City may, in its sole and absolute discretion, require the MPO 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 MPO shall abide by such requirements.

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

Should any expense or charge that has been reimbursed be subsequently disapproved or disallowed as a result of any site review or audit, the MPO 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, the SAMHD may instead deduct such claims from subsequent reimbursements; however, in the absence of prior notice by City of

the exercise of such option, MPO 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 MPO 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 MPO is forbidden from reducing Project expenditures and MPO must use its own funds to maintain the Project.

MPO agrees and understands that all expenses, fees, fines and penalties associated with the collection of delinquent debts owed by MPO shall be the sole responsibility of the MPO and shall not be paid from any Project funds received by the MPO under this Agreement. Delinquent debts that would otherwise be identified as allowable costs may be paid with Project funds with approval of the SAMHD.

10.7 If the City determines, in its sole discretion, that MPO 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 MPO pay for such audit from non-City resources.

XI. **ADMINISTRATION OF AGREEMENT** **and RESTRICTIONS ON USE OF FUNDS**

11.1 The MPO agrees to comply with all the terms and conditions that the City must comply with in its award document from CDC/HHS. A copy of said award document is attached hereto and incorporated herein for all purposes as Attachment II. From time to time, the award document may be amended or supplemented, and these shall be incorporated into the Agreement collectively as Attachment I.

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 the SAMHD, as representatives of the City and the parties ultimately responsible for all matters of compliance with CDC/HHS/ARRA and City rules and regulations, shall have the final authority to render or secure an interpretation.

11.3 MPO 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 SAMHD.

11.4 Within a period not to exceed sixty (60) calendar days after the expiration, or early termination, date of the Agreement, MPO shall submit all required deliverables to City. MPO understands and agrees that in conjunction with the submission of the final report, the MPO shall execute and deliver to City a receipt for all sums and a release of all claims against the Project.

11.5 MPO 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, MPO 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, MPO 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 MPO shall make available to City, CDC, HHS, 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 MPO's facility and to MPO's personnel for the purpose of interview and discussion related to such documents. MPO shall, upon request, transfer certain records to the custody of City, CDC or HHS when City, CDC or HHS determines that the records possess long-term retention value.

11.7 The SAMHD 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, MPO agrees to permit City and/or HHS to evaluate, through monitoring, reviews, inspection or other means, the quality, appropriateness, and timeliness of services delivered under this Agreement and to assess MPO's compliance with applicable legal and programmatic requirements. At such times and in such form as may be required by the SAMHD, the MPO shall furnish to the SAMHD and the Grantor of the Grant Funds, if applicable, such statements, reports, records, data, all policies and procedures and information as may be requested by the SAMHD and shall permit the City and Grantor of the Grant Funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement. MPO agrees that the failure of the City to monitor, evaluate, or provide guidance and direction shall not relieve the Contactor of any liability to the City for failure to comply with the Terms of the Grant 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 MPO, or MPO 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 MPO in a timely manner and will attempt to convey information of Program strengths and weaknesses and assist with Program improvement.

11.11 Unless otherwise provided herein, all reports, statements, records, data, policies and procedures or other information requested by the SAMHD shall be submitted by MPO 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 MPO 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 MPO until such reports are delivered to City. Furthermore, the MPO ensures that all information contained in all required reports or information submitted to City is accurate.

11.12 Unless disclosure is authorized by the City, MPO 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. MPO 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, MPO shall give the Director of the SAMHD prior written notice that such disclosure is required with a full and complete description regarding such requirement. MPO 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 MPO's employees and subcontractors prior to any disclosure of the Confidential Information. This Article shall not be construed to limit HHS's, the CDC'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, MPO 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.

11.13 MPO will maintain a system for tracking, on an ongoing basis, inventory of equipment and supplies purchased with ARRA-CPPW grant funds that either (i) has an purchase price of \$5,000.00 or greater; or (ii) meets such other criteria as City may prescribe, and consistent with those requirements set out in Attachment III. Upon request, MPO will provide City a status report of the current inventory of equipment and supplies meeting these requirements. City shall have the right to review and approve MPO's inventory tracking system.

11.14 Prohibited Political Activity. MPO 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.

11.15 MPO 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.

11.16 The prohibitions set forth in Sections 11.14 and 11.15 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.

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

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

11.19 Sections 11.14 through 11.18 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, MPO 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.

11.20 Adversarial proceedings. Except in circumstances where the following is in conflict with federal law or regulations pertaining to this grant, the MPO 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 MPO, 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 Prior to the commencement of any work under this Agreement, MPO shall furnish copies of an original completed Certificate(s) of Insurance to the City's Health Department, which shall be clearly labeled "ARRA-CPPW Obesity Grant" 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 Health Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

12.2 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.

12.3 MPO's financial integrity is of interest to the City; therefore, subject to MPO's right to maintain reasonable deductibles in such amounts as are approved by the City, MPO shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at MPO'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	AMOUNT
1. Workers' Compensation ** Employers' Liability **	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations	For Bodily Injury and Property Damage of \$1,000,000 per occurrence \$2,000,000 general aggregate or its equivalent in umbrella or excess

b. Broad Form Contractual Liability c. Products/completed operations d. Personal Injury	liability coverage
3. 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.
** Alternate Plans Must Be Approved by Risk Management	

12.4 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). MPO 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. MPO shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: San Antonio Metropolitan Health District
332 West Commerce St
San Antonio, Texas 78205

12.5 MPO 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.

12.6 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, MPO shall provide a replacement Certificate of Insurance and applicable

endorsements to City. City shall have the option to suspend MPO's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

12.7 In addition to any other remedies the City may have upon MPO'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 MPO to stop work hereunder, and/or withhold any payment(s) which become due to MPO hereunder until MPO demonstrates compliance with the requirement hereof.

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

12.9 It is agreed that MPO'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.

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

12.11 MPO and any Subcontractors are responsible for all damage to their own equipment and/or property.

XIII. **INDEMNIFICATION**

13.1 MPO covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to MPO's activities under this Agreement, including any acts or omissions of MPO, any agent, officer, director, representative, employee, consultant or subcontractor of MPO, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers, or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT MPO 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.

13.2 The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

13.3 MPO shall promptly advise the City in writing of any claim or demand against the City or MPO known to MPO related to or arising out of MPO's activities under this Agreement.

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

13.5 Defense Counsel - MPO shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Contract. If MPO fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and MPO shall reimburse City for all costs related to retaining defense counsel until such time as MPO retains Counsel as required by this section.. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

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

XIV.

SMALL, MINORITY OR WOMAN OWNED BUSINESS ADVOCACY POLICY

14.1 MPO 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. MPO 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 MPO utilizes subcontractors to perform any part of this agreement the MPO 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 MPO 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 MPO. MPO, 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 MPO 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 MPO. City shall in no event be obligated to any third party, including any subcontractor of MPO, 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, MPO 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, MPO shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor MPO, 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 MPO 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 MPO 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 MPO shall in no event release MPO from any obligation under the terms of this Agreement, nor shall it relieve or release MPO from the payment of any damages to City, which City sustains as a result of such violation.

XVI.
INDEPENDENT CONTRACTOR

16.1 MPO covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that MPO 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 MPO, 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 MPO. 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 MPO under this Agreement and that the MPO has no authority to bind the City.

XVII.
NONDISCRIMINATION POLICY

17.1 MPO 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. MPO agrees that MPO 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 which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. MPO further agrees that MPO will abide by all applicable terms and provisions of City's Non-Discrimination Policy and City's Equal Opportunity Affirmative Action Policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

17.2 The MPO 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, MPO 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. MPO further agrees to abide by all applicable provisions of San Antonio City ordinance number 69403 on file in the City Clerk's Office. Additionally, MPO 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 MPO 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, MPO 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. MPO 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 MPO. The Director of the SAMHD 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 MPO warrants and certifies that MPO 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 MPO 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 MPO represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of MPO and to bind MPO 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 MPO 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 MPO 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, MPO 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 _____, 2010.

CITY OF SAN ANTONIO

**SAN ANTONIO-BEXAR COUNTY
METROPOLITAN PLANNING
ORGANIZATION**

Printed Name: Fernando A. Guerra
 M.D., M.P.H.
Title: Director of Health
Date: _____

Printed Name: Isidro Martinez
Title: Executive Director
Date: _____

Approved as to Form:

Michael D. Bernard, City Attorney

ATTACHMENTS

Attachment I – Program Budget
Attachment II – Award Letter
Attachment III – Special Provisions

ATTACHMENT I

PROJECT BUDGET

San Antonio - Bexar County Metropolitan Planning Organization

<i>Item Description</i>	<i>Unit Cost x Quantity</i>	<i>Item Total</i>
Advertise RFP in San Antonio Express-News and La Prensa	San Antonio Express-News: \$750; La Prensa: \$250	\$1,000
Cost for Professional Services contract to retain Consultant	Maximum \$170,000 for project period	\$170,000
Public involvement expenses:	Advertise public meetings in local newspapers: \$2,500	\$3,800
	Possible meeting room rental and security: \$1,000	
	Light refreshments for public meeting(s): \$300	
Mileage for MPO staff to attend local meetings	400 miles x \$0.50/mile	\$200
TOTAL		\$175,000.00



THIS AWARD IS ISSUED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND IS SUBJECT TO SPECIAL HHS TERMS AND CONDITIONS AS REFERENCED IN SECTION III

Grant Number: 1U58DP002453-01

Principal Investigator(s):

Jennifer Herriott

Project Title: CATEGORY A: COMMUNITIES PUTTING PREVENTION TO WORK

FERNANDO GUERRA
SAN ANTONIO METROPOLITAN HEALTH
332 WEST COMMERCE STREET
SAN ANTONIO,, TX 78205

Budget Period: 03/19/2010 – 03/18/2012

Project Period: 03/19/2010 – 03/18/2012

Dear Business Official:

The Centers for Disease Control and Prevention hereby awards a grant in the amount of \$15,612,353 (see "Award Calculation" in Section I and "Terms and Conditions" in Section III) to SAN ANTONIO METROPOLITAN HEALTH DISTRICT in support of the above referenced project. This award is pursuant to the authority of 301A,311BC,317K2(42USC241A,243BC247BK2) and is subject to the requirements of this statute and regulation and of other referenced, incorporated or attached terms and conditions.

Acceptance of this award including the "Terms and Conditions" is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

If you have any questions about this award, please contact the individual(s) referenced in Section IV.

Sincerely yours,

Tracey M Sims
Grants Management Officer
Centers for Disease Control and Prevention

Additional information follows

SECTION I – AWARD DATA – 1U58DP002453-01**Award Calculation (U.S. Dollars)**

Salaries and Wages	\$669,329
Fringe Benefits	\$229,864
Personnel Costs (Subtotal)	\$899,193
Equipment	\$7,595
Supplies	\$912,372
Travel Costs	\$29,424
Other Costs	\$8,220,950
Consortium/Contractual Cost	\$5,383,662

Federal Direct Costs	\$15,453,196
Federal F&A Costs	\$159,157
Approved Budget	\$15,612,353
Federal Share	\$15,612,353
TOTAL FEDERAL AWARD AMOUNT	\$15,612,353

AMOUNT OF THIS ACTION (FEDERAL SHARE)	\$15,612,353
--	---------------------

Fiscal Information:

CFDA Number:	93.724
EIN:	1746002070A2
Document Number:	UDP002453A

	<i>IC</i>	<i>CAN</i>	<i>2010</i>
DP		9391055	\$15,612,353

SUMMARY TOTALS FOR ALL YEARS		
YR	THIS AWARD	CUMULATIVE TOTALS
1	\$15,612,353	\$15,612,353

CDC Administrative Data:

PCC: / OC: 4151

SECTION II – PAYMENT/HOTLINE INFORMATION – 1U58DP002453-01

For payment information see Payment Information section in Additional Terms and Conditions.

INSPECTOR GENERAL: The HHS Office Inspector General (OIG) maintains a toll-free number (1-800-HHS-TIPS [1-800-447-8477]) for receiving information concerning fraud, waste or abuse under grants and cooperative agreements. Information also may be submitted by e-mail to hhstips@oig.hhs.gov or by mail to Office of the Inspector General, Department of Health and Human Services, Attn: HOTLINE, 330 Independence Ave., SW, Washington DC 20201. Such reports are treated as sensitive material and submitters may decline to give their names if they choose to remain anonymous. This note replaces the Inspector General contact information cited in previous notice of award.

SECTION III – TERMS AND CONDITIONS – 1U58DP002453-01

This award is based on the application submitted to, and as approved by, CDC on the above-titled project and is subject to the terms and conditions incorporated either directly or by reference in the following:

- a. The grant program legislation and program regulation cited in this Notice of Award.
- b. The restrictions on the expenditure of federal funds in appropriations acts to the extent those restrictions are pertinent to the award.
- c. 45 CFR Part 74 or 45 CFR Part 92 as applicable.
- d. The HS Grants Policy Statement, including addenda in effect as of the beginning date of the budget period.

- e. This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

Treatment of Program Income:

Additional Costs

SECTION IV – DP Special Terms and Conditions – 1U58DP002453-01

Notice of Cooperative Agreement

Cooperative Agreement Number: 1 U58 DP002453-01

ARRA AWARD - Category A: \$15,612,353.

Grantee: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

Note 1. INCORPORATION. Funding Opportunity Announcement Number CDC-RFA-DP09-912ARRA titled, U.S Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), American Recovery and Reinvestment Act of 2009, Communities Putting Prevention to Work; the Category A (Obesity, Physical Activity and Nutrition) application dated 11/30/2009; and budget discussions held 2/12/2010.

Note 2. RESPONSE TO SUMMARY STATEMENT: Attached to this Notice of Award is a Summary Statement providing the strengths, weaknesses and recommendations of the application. A response to the Recommendations and Weaknesses within the summary statement must be submitted to the Grants Management Specialist no later than 30 days from the issue date of the Notice of Grant Award. Failure to respond could result in enforcement actions, including withholding of funds or termination.

Note 3. APPROVED FUNDING: Funding in the amount of \$15,612,353. is approved for the budget period, which is March 19, 2010, through March 18, 2012.

Grantee must submit a revised budget, budget narrative and a statement identifying any initially proposed activities that will no longer be pursued as a result of available funding as stated in the Notice of Award. Grantee shall submit a revised 424a, budget narrative and the statement identifying any initially proposed activities that will no longer be pursued to the Grants Management Specialist identified at Note 19 within 30 days from the effective date of this Notice of Award.

Note 4. INDIRECT COSTS.

Indirect costs are approved based on the Indirect Cost Rate Agreement dated June 12, 2009 which calculates indirect costs as follows, a provisional rate is approved at a rate of 17.70% of the base, which includes, total salaries and fringe benefits. The effective dates of this indirect cost rate are from June 12, 2009 until amended.

Note 5. REPORTING REQUIREMENTS.

Final performance and Financial Status reports are due no more than 90 days after the end of the project period. These reports must be submitted to the grants management specialist identified at Note 19.

Note 6. ADDITIONAL REQUIREMENTS:

Grantees are required to participate in the meetings and trainings described in the funding opportunity announcement.

Grantees must ensure that three members of the Leadership Team: the Program Director, the Program Coordinator or equivalent, and one additional leader outside the health department attend a kick-off meeting in Atlanta Georgia April 13 ? 15, 2010.

Grantees must ensure that 8-10 members of the Leadership team participate in one Regional Action Institute currently scheduled as follows:

May 25-28: San Diego Marriott Hotel and Marina

June 1-4: Hyatt Regency Capitol Hill

June 8-11: St. Louis Union Station Marriott

Note 7. CORRESPONDENCE. ALL correspondence (including emails and faxes) regarding this award must be dated and, identified with the AWARD NUMBER.

Note 8. **PRIOR APPROVAL:** All requests which require the prior approval of the Grants Management Officer as noted in 45 CFR 92 or 45 CFR 74 must bear the signature of an authorized official of the business office of the grantee organization as well as the principal investigator or program or project director. Any requests received, which reflect only one signature, will be returned to the grantee unprocessed. Additionally, any requests involving funding issues must include a new proposed budget, and a narrative justification of the requested changes.

Note 9. **INVENTIONS.** Acceptance of grant funds obligates recipients to comply with the standard patent rights clause in 37 CFR 401.14.

Note 10. **PUBLICATIONS.** Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgment and disclaimer, as appropriate, such as,

This publication (journal article, etc.) was supported by the Cooperative Agreement Number above from The Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.

Note 11. **CONFERENCE DISCLAIMER AND USE OF LOGOS.**

Disclaimer. Where a conference is funded by a grant or cooperative agreement, a subgrant or a contract the recipient must include the following statement on conference materials, including promotional materials, agenda, and Internet sites,

Funding for this conference was made possible (in part) by the cooperative agreement award number above from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services, nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government

Logos. Neither the HHS nor the CDC logo may be displayed if such display would cause confusion as to the source of the conference or give the false appearance of Government endorsement. A non-federal entity unauthorized use of the HHS name or logo is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communication. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the Office of the Inspector General has authority to impose civil monetary penalties for violations (42 C.F.R. Part 1003). Neither the HHS nor the CDC logo can be used on conference materials, under a grant, cooperative agreement, contract or co-sponsorship agreement without the expressed, written consent of either the Project Officer or the Grants Management Officer. It is the responsibility of the grantee (or recipient of funds under a cooperative agreement) to request consent for the use of the logo in sufficient detail to assure a complete depiction and disclosure of all uses of the Government logos, and to assure that in all cases of the use of Government logos, the written consent of either the Project Officer or the Grants Management Officer has been received.

Note 12. **EQUIPMENT AND PRODUCTS.** To the greatest extent practicable, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as Tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000 or more per unit. However, consistent with recipient policy, a lower threshold may be established. Please provide the information to the Grants Management Officer to establish a lower equipment threshold to reflect your organization policy.

The grantee may use its own property management standards and procedures provided it observes the provisions of the following sections in the Office of Management and Budget (OMB) Circular A-110 and 45 CFR Part 92:

Office of Management and Budget (OMB) Circular A-110, Sections 31 through 37 provides the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations
<http://www.whitehouse.gov/omb/circulars/a110/a110.html>

45 CFR Parts 92.31 and 92.32 provides the uniform administrative requirements for grants and cooperative agreements to state, local and tribal governments.

http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfr92_03.html

Note 13. **TRAFFICKING IN PERSONS.** This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term and condition, go to http://www.cdc.gov/od/pgo/funding/grants/Award_Term_and_Condition_for_Trafficking_in_Persons.shtm

Note 14. **ACKNOWLEDGMENT OF FEDERAL SUPPORT.** When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Note 15. **PAYMENT INFORMATION:**

PAYMENT INFORMATION: Payment under this award will be made available through the Department of Health and Human Services (HHS) Payment Management System (PMS). The Division of Payment Management; Program Support Center, administers PMS, HHS administers PMS. PMS will forward instructions for obtaining payments.

A. PMS correspondence, mailed through the U.S. Postal Service, should be addressed as follows:

Director, Division of Payment Management, OS/ASAM/PSC/FMS/DPM
P.O. Box 6021
Rockville, MD 20852
Phone Number: (877) 614-5533
Fax Numbers:
University and Non-Profit Payment Branch (301) 443-2672
Governmental and Tribal Payment Branch (301) 443-2569
Cross Servicing Payment Branch: (301) 443-0377
General Fax: (301) 443-8362

Email PMSSupport@psc.gov

Website: http://www.dpm.psc.gov/grant_recipient/shortcuts/shortcuts.aspx?explorer.event=true

B. If a carrier other than the U.S. Postal Service is used, such as United Parcel Service, Federal Express, or other commercial service, the correspondence should be addressed as follows:

Division of Payment Management
FMS/PSC/HHS
Rockwall Building #1, Suite 700
11400 Rockville Pike
Rockville, MD 20852

To expedite your first payment from this award, attach a copy of the Notice of Grant/Cooperative Agreement to your payment request form.

Note 16. **LOBBYING STATEMENT:** We want to remind you that federal law prohibits award recipients and their sub- contractors from using Federal funds for lobbying congress or a Federal agency, or to influence legislation or appropriations pending before the Congress or any State or local legislature.

This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Any activity designed to influence action in regard to a particular piece of pending legislation would be considered lobbying. That is lobbying for or against pending legislation, as well as indirect or grass roots lobbying efforts by award recipients that are directed at inducing members of the public

to contact their elected representatives at the Federal , State or local levels to urge support of, or opposition to, pending legislative proposals is prohibited.

Recipients of CDC grants and cooperative agreements need to be careful to prevent CDC funds from being used to influence or promote pending legislation. With respect to conferences, public events, publications, and grassroots activities that relate to specific legislation, recipients of CDC funds should give close attention to isolating and separating the appropriate use of CDC funds from non-CDC funds.

CDC also cautions recipients of CDC funds to be careful not to give the appearance that CDC funds are being used to carry out activities in a manner that is prohibited under Federal law.

All reported activity under the CPPW Communities Initiative, including Recovery Act reporting, must be activity that is consistent with federal law.

For additional guidance, please refer to the FOA, Additional Requirement # 12 on lobbying restrictions and 31 U.S.C. Section 1352; 18 U.S.C. Section 1913.

Note 17. CERTIFICATION STATEMENT: By drawing down funds, awardee certifies that proper financial management controls and accounting systems to include personnel policies and procedures have been established to adequately administer Federal awards and funds drawn down are being used in accordance with applicable Federal cost principles, regulations, and the President's Budget and Congressional intent.

Note 18. AUDIT REQUIREMENT: An organization that expends \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, Audit of States, Local Governments, and Non-Profit Organizations. The audit must be completed along with a data collection form, and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditors report(s), or nine months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Should you have questions regarding the submission or processing of your Single Audit Package, contact the Federal Audit Clearinghouse at: (301) 763-1551, (800) 253-0696 or email: govs.fac@census.gov

The grantee is to ensure that the sub-recipients receiving CDC funds also meet these requirements (if total Federal grant or grant funds received exceed \$500,000). The grantee must also ensure that appropriate corrective action is taken within six months after receipt of the sub-recipient audit report in instances of non-compliance with Federal law and regulations. The grantee is to consider whether sub-recipient audits necessitate adjustment of the grantees own accounting records. If a sub-recipient is not required to have a program-specific audit, the Grantee is still required to perform adequate monitoring of sub-recipient activities. The grantee is to require each sub-recipient to permit independent auditors to have access to the sub-recipients records and financial statements. The grantee should include this requirement in all sub-recipient contracts.

Note 19. CDC CONTACT NAMES

Business and Grants Policy Contact

Tracey Sims, Grants Management Specialist
Centers for Disease Control, PGO, Branch III
2920 Brandywine Road, Mail Stop E-09
Atlanta, GA 30341-4146
Telephone: 770-488-2739
Fax: 770-488-2778
Email: atu9@cdc.gov

Programmatic and Technical Contact

Rebecca Payne, MPH

Community Interventions Team Lead
ARRA/CPPW
Division of Adult and Community Health, NCCDPHP
CDC-Atlanta
Office: 770-488-5167
Fax: 770-488-5964
Email: Rco0@cdc.gov

Note 20: RECIPIENT REPORTING REGISTRATION

Recipients and reviewers must be registered with www.federalreporting.gov
Recipients need the following to register:
DUNS ? <http://fedgov.dnb.com/webform>
CCR ? www.ccr.gov/GAQ.aspx
FRPIN ? www.federalreporting.gov

Note 21: CDC CODES FOR ARRA AWARDS

Awarding Code - 7523
Funding Code ? 7523
CFDA - 93.724
Program TAS - 75-0942
http://cdc.gov/fmo/topic/Recovery_Act/index.html

Standard Terms and Conditions for American Recovery and Reinvestment Act of 2009

1. Other Standard Terms and Conditions

All other grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements apply unless they conflict or are superseded by the following terms and conditions implementing the American Recovery and Reinvestment Act of 2009 (ARRA) requirements below. Recipients are responsible for contacting their HHS grant/program managers for any needed clarifications.

2. Recipient Reporting

Recipients of Federal awards from funds authorized under Division A of the ARRA must comply with all requirements specified in Division A of the ARRA (Public Law 111-5), including reporting requirements outlined in Section 1512 of the Act. For purposes of reporting, ARRA recipients must report on ARRA sub-recipient (sub-grantee and sub-contractor) activities as specified below.

Not later than 10 days after the end of each calendar quarter, starting with the quarter ending March 31, 2010 and reporting by April 10, 2010, the recipient must submit quarterly reports to HHS that will be posted to Recovery.gov, containing the following information:

- a. The total amount of ARRA funds under this award;
- b. The amount of ARRA funds received under this award that were obligated and expended to projects or activities;
- c. The amount of unobligated award balances;
- d. A detailed list of all projects or activities for which ARRA funds under this award were obligated and expended, including
 - The name of the project or activity;
 - A description of the project or activity;
 - An evaluation of the completion status of the project or activity;
 - An estimate of the number of jobs created and the number of jobs retained by the project or activity;and
 - For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.
- e. Detailed information on any sub-awards (sub-contracts or sub-grants) made by the grant recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).

For any sub-award equal to or larger than \$25,000, the following information:

- The name of the entity receiving the sub-award;
- The amount of the sub-award;

The transaction type;
The North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number;
Program source;
An award title descriptive of the purpose of each funding action;
The location of the entity receiving the award;
The primary location of performance under the award, including the city, State, congressional district, and country; and
A unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity.

f. All sub-awards less than \$25,000 or to individuals may be reported in the aggregate, as prescribed by HHS.

g. Recipients must account for each ARRA award and sub-award (sub-grant and sub-contract) separately. Recipients will draw down ARRA funds on an award-specific basis. Pooling of ARRA award funds with other funds for drawdown or other purposes is not permitted.

h. Recipients must account for each ARRA award separately by referencing the assigned CFDA number for each award.

The definition of terms and data elements, as well as any specific instructions for reporting, including required formats, will be provided in subsequent guidance issued by HHS.

3. Buy American - Use of American Iron, Steel, and Manufactured Goods

Recipients may not use any funds obligated under this award for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless HHS waives the application of this provision. (ARRA Sec. 1605)

4. Wage Rate Requirements

[This term and condition shall not apply to tribal contracts entered into by the Indian Health Service funded with this appropriation. (ARRA Title VII?Interior, Environment, and Related Agencies, Department of Health and Human Services, Indian Health Facilities)]

Subject to further clarification issued by the Office of Management and Budget, and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this award shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code. (ARRA Sec. 1606)

5. Preference for Quick Start Activities (ARRA)

In using funds for this award for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

6. Limit on Funds (ARRA)

None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

7. Disclosure of Fraud or Misconduct

Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

8. ARRA: One-Time Funding

Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

9. Schedule of Expenditures of Federal Awards

Recipients agree to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512(c). (2 CFR 215.26, 45 CFR 74.26, and 45 CFR 92.26)

10. Responsibilities for Informing Sub-recipients

Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds. (2 CFR 215.26, 45 CFR 74.26, and 45 CFR 92.26)

STAFF CONTACTS

Grants Management Specialist: Tracey M Sims
Centers for Disease Control and Prevention
Procurement and Grants Office
Koger Center, Colgate Building
2920 Brandywine Road, Mail Stop E-09
Atlanta, GA 30341
Email: tsims3@cdc.gov **Phone:** 770-488-2739 **Fax:** 770-488-2777

Grants Management Officer: Tracey M Sims
Centers for Disease Control and Prevention
Procurement and Grants Office
Koger Center, Colgate Building
2920 Brandywine Road, Mail Stop E-09
Atlanta, GA 30341
Email: tsims3@cdc.gov **Phone:** 770-488-2739 **Fax:** 770-488-2777

SPREADSHEET SUMMARY

GRANT NUMBER: 1U58DP002453-01

INSTITUTION: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

<i>Budget</i>	<i>Year 1</i>
Salaries and Wages	\$669,329
Fringe Benefits	\$229,864
Personnel Costs (Subtotal)	\$899,193
Equipment	\$7,595
Supplies	\$912,372
Travel Costs	\$29,424
Other Costs	\$8,220,950
Consortium/Contractual Cost	\$5,383,662
TOTAL FEDERAL DC	\$15,453,196
TOTAL FEDERAL F&A	\$159,157
TOTAL COST	\$15,612,353

**Centers for Disease Control and Prevention
Funding Opportunity Announcement DP09-912ARRA09
*Communities Putting Prevention to Work (CPPW)***

**Objective Review
Summary Statement**

Date Reviewed: January 11-14, 2010

Applicant Organization: City of San Antonio Metropolitan Health District

Application Number: 90015865

Application Title: Communities Putting Prevention to Work (CPPW)

Funds Requested: \$18,023,416

Recommendation: Recommended

Final Average Score: 82.42

Human Subjects Issues: None

Summary of the Project

The San Antonio Metropolitan Health District (Metro Health) proposes to address obesity prevention through a comprehensive set of initiatives to increase opportunities for physical activity and access to healthy foods for children and families of San Antonio, Texas. Metro Health will serve as the lead agency for the San Antonio-Communities Putting Prevention to Work Obesity Project (SA-CPPW). Oversight of the SA-CPPW will be carried out by Jennifer Herriott, MPH, Population-based Services Area Administrator and the Leadership Team consisting of community leaders and the SA-CPPW program director. Metro Health will coordinate efforts with City of San Antonio government departments, the transportation planning organization, the transit system, the restaurant association and established public health collaboration networks to leverage the resources and expertise necessary to implement the proposed initiative. Together, SA-CPPW partners will work to implement population-based policy, systems and environmental changes across five evidence-based MAPPS strategies that address physical activity, nutrition and active living.

The SA-CPPW proposes five goals to make progress toward a reduction in chronic disease and obesity: 1) An increase in physical activity as a result of community-wide and school-based policy, systems and environmental changes; 2) An improvement in nutrition as a result of community-wide and school-based policy, systems and environmental changes; 3) Improve aspects of San Antonio's Built Environment through policy, systems, and environmental changes; 4) Elicit behavior change regarding physical activity and nutrition through a successful social marketing campaign; and 5) Establish infrastructure and processes for planning, implementation and evaluation of San Antonio-CPPW Project activities.

The SA-CPPW interventions will include a multi-disciplinary physical activity event, expansion of the use facilities, such as schools, for after-hours use for physical activity, city development projects to improve protection for 'vulnerable users', such as complete streets, implementation of healthy food and beverage guidelines by local restaurants, and trainings for schools to improve physical activity and the availability of healthy food. Overall, the initiative is expected to yield community assessment and evaluation data, a built environment more conducive to walking and cycling, an increase in the availability of no-cost spaces for physical activity, healthier options on restaurant menus, approved changes to related municipal and organizational policies, and a multidisciplinary collaborative invested in community health.

Summary of Strengths

The *program infrastructure and fiscal management* are relatively well-addressed. The lead / fiduciary agency is clearly identified. Metro Health is a well-established organization with extensive community outreach. It appears to have appropriate fiduciary procedures in place to manage additional funding. The agency received a STEPS grant that has laid groundwork for the proposed project. A financial management system has been executed by the CoSA Departmental Fiscal Division of Metro Health. In accordance with OMB A-102 OMB Circular A-133, CoSA is responsible for establishing and maintaining acceptable internal controls for financial reporting. Building upon established school policies and other previous successful initiatives such as menu labeling with a specific restaurant, it appears that strategies are ready to expand. The applicant identifies the need for 12 positions (e.g., program manager, 11 full time

and / or contract staff with capacity in media planning, administrative and fiscal management for 6 small teams. Each team lead will be responsible for the coordination of one of the critical operational areas of the project (e.g., physical activity, nutrition, media, leadership team and coalitions, contracts and budget, and evaluation and monitoring). In addition to Metro Health's staffing, five contracted positions are included to support other partner departments within the City of San Antonio. Three CVs are provided for the Health Director, Assistant Director, and Population-Based Service Area Administrator who is the only staff person currently hired with project responsibilities. Concrete letters of support are provided from the Mayor plus a variety of organizations (e.g., 8 school districts, health care, coalitions, media, city / public agencies, professional associations, business, and a university). Position descriptions are provided, roles are defined, and positions are full time. With regard to demonstrating staff experience with policy making and briefing political leaders and policy makers, there is one filled staff position with an individual who administered the STEPS to a Healthier San Antonio project and addressed policy and environmental change.

The *leadership team and community coalitions* are clearly described, and appear to be well-established. The Leadership Team has 14 members from a variety of organizations. There is an emphasis on involvement of the medical community to institute a systems change to include the calculation of body mass index (BMI) at every medical office visit and to emphasize monitoring prenatal weight gain. Members have been selected based upon their decision-making authority in their respective organizations. Members of the leadership team demonstrate a high-level commitment to the CPPW Initiative, including a commitment of time and other resources. Letters of support are provided from 10 of the 14 members. Membership of three coalitions is documented. The capacity of the existing coalition are described in terms of leadership, expertise, community representation, collaborative experience / abilities, and agency representation. Members of the existing coalitions appear to have successfully worked together and in collaboration with community leaders to implement broad-based policy, systems, and environmental change initiatives. Examples of past successes are provided. Evidence is offered to substantiate that the applicant will encourage linkages with other community-based efforts and the Office of the Regional Health Administrator, with special attention to leveraging other federally funded and foundation activities. The applicant is building upon the success of Steps-SA with partnerships that continue to support policy, environmental, and systems change to increase active living and healthy eating for children and families. The applicant notes the Steps-SA partners provided in-kind contributions during 2004-2009 that equaled \$1,845,000 and that partners have committed in-kind resources estimated at \$181,812 over the next four years. The San Antonio Restaurant Association (SARA) joined with Metro Health to develop the San Antonio Healthy Restaurants Coalition (HRC), which was established to support healthy food choices in community restaurants. The applicant notes three Recovery Act Programs in San Antonio with which they will collaborate.

The *intervention area, CAP, and intervention strategies* are clearly addressed and described for the most part. The plan is sufficiently robust to impact the entire jurisdiction and to achieve the short- and long-term goals of the initiative, and includes the creation of grassroots coalitions and partnerships. The proposed intervention area encompasses the entire jurisdiction of the health department, including a thorough description of the exact size and location of the populations to be served. Data are provided that substantiate the existing burden and / or disparities of chronic diseases, conditions, existing health behaviors, and risk factors in the jurisdiction and populations to be served. Assets and barriers to successful program implementation are

identified, including an understanding of the policy, systems, and environmental policies in the community. The applicant clearly articulates which risk factors they will address, and has selected from the prescribed set of MAPPS evidence-based strategies and the appropriate mix of interventions. The MAPPS strategies relate to the goals to create an environment in which physical activity is the norm, to establish policy and systematic changes that provide more nutritious and affordable food options for residents in need, and to develop a social marketing program that helps realize the necessary transformation in the risk population. The community action plan describes an overall integrated strategy. Realistic plans are outlined to coordinate proposed activities with state- and community-level programs to prevent and control chronic disease. An overview of the work to be done is described. The proposed strategies appear to build upon activities from the Steps-SA. The applicant provides evidence of leveraging resources from partners. Cultural and linguistic diversity are clearly addressed.

Plans for project monitoring and evaluation are well-developed and are clearly articulated to some extent. The applicant references use of the CHANGE tool as its basis for evaluation. However, there is no mention of the quarterly reports or benchmarks. Plans are described to collaborate fully in external, independently coordinated evaluation activities to evaluate the overall impact of the initiative, especially the national evaluation activities. The applicant notes participation in CDC evaluation activities. With regard to the overall plan to evaluate the initiative at the community level, and applicant references experience in engaging research experts as outside evaluators. Metro Health needs to use a competitive bid process, and plans to include surveys of key leaders to measure changes in perceptions and attitudes regarding policy and environmental interventions, and an Inter-Organizational Network Survey that was conducted in 2008. YRBSS data will be collected and analyzed, and the YRBSS lead will attend the August 2010 training. Letters are provided from the 12 independent school districts, 7 of which indicate commitment to collaborating in administering the YRBSS during the specified timeframe. The applicant notes that Bexar also has more than 50 parochial schools and over 100 private schools.

Programmatic support needs are clearly addressed. Opportunities, supports, and barriers to achieving intended outcomes are discussed. Barriers to achieving broad reach and impact are realistically discussed. Specific topic areas for which support will be needed are identified. The applicant notes a general willingness to seek support from CDC, TDSHS, and the evaluation contractor. The applicant is building upon the recent success of the STEPS program.

Summary of Weaknesses / Concerns

While *program infrastructure and fiscal management* are relatively well-addressed, a number of concerns were articulated by panelists. In terms of how well the applicant evidences the ability to implement funding for this program in the timeframe required, both full time and contract staff will have to be hired for services (p.1-2). However, there is no indication of how long this is expected to take. There is inconsistency between the narrative and the budget in terms of the number of staff positions, fulltime and / or contractual, that are being created for the proposed program. The narrative states 12, while the budget shows 7 staff for Metro Health and 10 contract staff. Only one staff member is currently working in Metro Health who is assigned to manage the proposed program, and the applicant will need to recruit and hire the remaining 11 to 16 proposed staff positions. The staffing plan provides for the hiring of policy experts, but does not demonstrate sufficient existing expertise in this area (e.g., one relevant filled staff

position).

While the *intervention area, CAP, and intervention strategies* are clearly addressed and described for the most part, some concerns were raised. The proposed strategies appear to build upon activities from the Steps-SA; however, it is not clear whether they are unique to this funding. There appear to be multiple funding resources available to this area for childhood obesity and physical activity (p.5-6). While the applicant provides evidence of leveraging resources from partners (p.4), there is no indication of how the newly created staff / contract positions will be continued when this funding ends.

Plans for project monitoring and evaluation are well-developed and are clearly articulated to some extent; however, some panelists raised issues of concern. While the applicant references the use of the CHANGE tool as its basis for evaluation (p.26-27), there is no mention of the quarterly reports or benchmarks.

Budget

The budget is reasonable, clearly justified, and appears to be consistent with the proposed activities and intent of the initiative for the most part. However, some issues of concern were noted. There appear to be multiple funding resources, but the applicant does not clarify who is responsible for carrying out specific tasks. Some panelists thought the budget seemed excessive in some cases with proposed costs that may not be appropriate. The following items were cited in particular:

- Personnel requests 7 full time positions (\$669,329) and 10 contractual positions (\$988,607), all of which are vacant. However, the narrative only identifies 12 fulltime positions and / or contractual positions.
- Equipment includes T-3 scooters (\$49,750), radio communication systems (\$7,595), computer equipment (\$38,746), physical activity equipment (\$981,900), and salad bar equipment (\$759,078), but the narrative does not specify how this will be distributed and used. Materials budgeted at \$5,625,000 include items such as curb ramp installation, sidewalk improvements, pedestrian signal improvements, cross walk marking, and speed bumps.
- The narrative references the Shared User Agreement on page 17, and notes that partners would supply equipment of exercise classes and special events and capitalize on shared use agreements with schools and faith-based organizations. On page 24, Strategy 5 is a systems change creating formal partnerships allowing the public to use the facilities. The budget includes a contract budget for Shared User Agreement for \$1,422,655 which includes \$270,000 salary plus \$20,655 fringe, administrative support \$30,000, marketing \$30,000, and incentives \$1,072,000. It is not clear why this amount of funds is necessary for this strategy or why full time staff are needed.
- The budget justification provides a detailed plan for how resources will be implemented in the time required; however, a narrative explaining the ability of the applicant to implement funding quickly is not provided.

→ There is a \$1 discrepancy in personnel costs on budget form and budget narrative.

Reductions were recommended during the budget mark up process due to limited programmatic funding.

Human Subjects

Not applicable.

Recommendation(s)

If considered for funding, the applicant should address any issues of concern noted in the Weaknesses / Concerns, Budget, and Human Subjects Sections and / or as follows:

- Provide assurances that hiring of new staff can be put in place 30-days post-award.
- Ensure that Individuals identified for key staff positions have extensive experience with policy making and / or environmental change.
- Engage with Project Officer to (1) clearly identify activities funded specifically by this FOA and (2) develop and finalize a sustainability plan encompassing all program components.
- Secure commitment of support for the administration of YRBS from remaining five school districts.

Special Provisions
San Antonio – Bexar County Metropolitan Planning Organization

The San Antonio-Bexar County Metropolitan Planning Organization (the MPO) agrees and understands that funds for this project come in whole or in part from a grant made available through the American Recovery and Reinvestment Act of 2009 (ARRA, or the “Recovery Act”). The MPO understands that the San Antonio Metropolitan Health District (SAMHD) is the direct grantee of funds and must adhere to grant requirements imposed by the U.S. Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC) and standard terms and conditions under ARRA (Public Law 111-5). The MPO understands that as a subrecipient of these funds it must comply with timelines and requirements in coordination with SAMHD in order to meet grant requirements.

As such, the MPO agrees that it will comply with all applicable requirements and provisions of ARRA, as well as terms and conditions from HHS and the CDC, including but not limited to those articulated below:

I.
Standard Terms and Conditions for the
American Recovery and Reinvestment Act of 2009
and
U.S. Department of Health and Human Services /
Centers for Disease Control and Prevention

1.1 Generally: SAMHD as an HHS grantee must comply with all terms and conditions outlined in its grant award, including grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements, and requirements imposed by program statutes and regulations and HHS grant administration regulations, as applicable, unless they conflict or are superseded by terms and conditions implementing the American Recovery and Reinvestment Act of 2009 (ARRA) requirements. The MPO, as subrecipient, must comply with all requirements for subrecipients and provide reporting and documentation to support SAMHD’s requirements under the grant award. In addition to the standard terms and conditions of award, recipients and subrecipients receiving funds under Division A of ARRA must abide by the general terms and conditions set out below.

1.2 Preference for Quick Start Activities: In using funds for this award for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of ARRA. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit. (ARRA Sec. 1602)

1.3 Limit on Funds: None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

1.4 One-time Funding: Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

1.5 Civil Rights Obligations: Recipients and subrecipients of ARRA funds or other Federal financial assistance must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), and the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services). For further information and technical assistance, please contact the HHS Office for Civil Rights at (202) 619-0403, OCRmail@hhs.gov, or <http://www.hhs.gov/ocr/civilrights/>.

1.6 Disclosure of Fraud or Misconduct: Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the HHS Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The HHS Office of Inspector General can be reached at <http://www.oig.hhs.gov/fraud/hotline/>

1.7 Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards:

(a) To maximize the transparency and accountability of funds authorized under the Recovery Act as required by Congress and in accordance with 45 CFR 74.21 and 92.20 "Uniform Administrative Requirements for Grants and Agreements", as applicable, and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Subrecipients are required to include on their SEFA information specific identification of Recovery Act funding similar to the requirements for the recipient SEFA described above. This

information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

1.8 Wage Rate Requirements:

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

1.9 Inventions: Acceptance of grant funds obligates recipients to comply with the standard patents rights clause in 37 CFR 401.14.

1.10 Publications: Publications, journal articles, etc. produced under a CDC grant support project must bear an acknowledgment and disclaimer as appropriate, such as:

“This publication (journal article, etc.) was supported by the Cooperative Agreement Number above from the Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.”

1.11 Conference Disclaimer and Use of Logos:

(a) Conferences: Where a conference is funded by a grant or cooperative agreement, a subgrant or a contract, the recipient must include the following statement on conference materials, including promotional materials, agenda and Internet sites:

“Funding for this conference was made possible (in part) by the cooperative agreement award number above from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily represent the official policies of the Department of Health and Human Services, nor does mention of trade

names, commercial practices, or organizations imply endorsement by the U.S. Government.”

(b) Logos: Neither the HHS nor the CDC logo may be displayed if such display would cause confusion as to the source of the conference or give the false appearance of Government endorsement. Unauthorized use of the HHS name and logo by a non-federal entity is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communication. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the Office of the Inspector General has authority to impose civil monetary penalties for violations (42 CFR Part 1003). Neither the HHS nor the CDC logo can be used for conference materials under a grant, cooperative agreement, contract or co-sponsorship agreement without the expressed, written consent of either the Project Officer or Grants Management Officer. It is the responsibility of the grantee (or recipient of funds under a cooperative agreement) to request consent for the use of the logo in sufficient detail to assure a complete depiction and disclosure of all uses of the Government logos, and to assure that in all cases of the use of Government logos, the written consent of either the Project Officer or the Grants Management Officer has been received.

1.12 Equipment and Products: To the greatest extent practicable, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000.00 or more per unit. However, consistent with recipient policy, a lower threshold may be established upon submission to the Grant Management Officer to reflect recipient organization policy.

The grantee may use its own property management standards and procedures provided it observes the provisions of the following sections in the Office of Management and Budget (OMB) Circular A-110, and 45 CFR Part 92:

OMB Circular A-110, sections 31 and 37 provides the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other non-profit organizations. <http://www.whitehouse.gov/omb/circulars/a110/a110.html>

45 CFR Part 92.31 and 92.32 provides uniform administrative requirements for grants and cooperative agreements to state, local and tribal governments. http://access.gpo.gov/nara/cfr/waisidx_03/45cfr92_03.html

1.13 Trafficking in Persons: This award is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22U.S.C. 7104). For the full text of the award term and condition, go to:

http://www.cdc.gov/od/pgo/funding/grants/Award_Term_and_Condition_for_Trafficking_in_Persons.shtm

1.14 Acknowledgement of Federal Support: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of Federal funds for the project or program, and (3)

percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

1.15 Lobbying: Federal law prohibits award recipients and sub-contractors from using Federal funds for lobbying Congress or a Federal agency, or to influence legislation or appropriations pending before the Congress or any State or local legislature.

This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

Any activity designed to influence action in regard to a particular piece of pending legislation would be considered lobbying. That is lobbying for or against pending legislation, as well as indirect or grass roots lobbying efforts by award recipients that are directed at inducing members of the public to contact their elected representatives at the Federal, state, or local levels to urge support of, or oppositions to, pending legislative proposals is prohibited.

Recipients of CDC grants and cooperative agreements need to be careful to prevent CDC funds from being used to influence or promote pending legislation. With respect to conferences, public events, publications, and grass roots activities that relate to specific legislation, recipients of CDC funds should give close attention to isolating and separating the appropriate use of CDC funds from non-CDC funds.

CDC also cautions recipients of CDC funds to be careful not to give the appearance that CDC funds are being used to carry out activities in a manner that is prohibited under Federal law.

All reported activity under the Communities Putting Prevention to Work (CPPW) Communities Initiative, including Recovery Act reporting, must be activity that is consistent with Federal law.

For additional guidance, please refer to the Funding Opportunity Announcement, Additional Requirement #12 on lobbying restrictions and 31 U.S.C. Section 1352; 18 U.S.C. Section 1913.

II.

Requirements for Construction Projects

2.1 Required Use of American Iron, Steel, and Manufactured Goods – Section 1605 of ARRA:

(a) Definitions.

“Manufactured good” means a good brought to the construction site for incorporation into the building or work that has been--

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works

may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

- (1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act)(Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.
- (2) This requirement does not apply to the material listed by the Federal Government as follows: NONE.
- (3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal government determines that:
 - (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
 - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
 - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act.

- (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—
 - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data.

To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON

Description	Unit of Measure	Quantity	Price (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
Item 2:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed.

Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[Include all delivery costs to the construction site.]*

III. Audit Requirements

3.1 An organization that expends \$500,000.00 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, Audit of States, Local Governments, and Non-Profit Organizations. The audit must be completed along with a data collection form, and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

3.2 Subrecipients receiving CDC funds must also meet these requirements (if the total Federal grant or grant funds received exceed \$500,000.00). In instances of noncompliance with Federal law and regulations, the subrecipient must take appropriate corrective action within six months after receipt of the audit.

3.3 If a subrecipient is not required to have a program-specific audit, the grantee (SAMHD) is still required to perform adequate monitoring of subrecipient activities. Subrecipient shall cooperate with all such activities. Additionally, the subrecipient agrees to permit independent auditors to have access to subrecipient records and financial records as necessary.

IV. Reporting Requirements

In addition to those requirements set out in the Interdepartmental Agreement, and above in section 1.7, the following reporting requirements apply to this project:

4.1 Recipients of Federal awards from funds authorized under Division A of the ARRA must comply with all requirements specified in Division A of the ARRA, including reporting requirements outlined in Section 1512 of the Act. For purposes of reporting, recipients must report on ARRA subrecipient (sub-grantee and subcontractor) activities as specified below, and subrecipient agrees to cooperate with SAMHD in providing information as necessary for SAMHD to comply with the following requirements:

Not later than 10 days after the end of each calendar quarter, starting with the quarter ending March 31, 2010, and reporting by April 10, 2010, SAMHD must submit quarterly reports to HHS that will be posted to Recovery.gov, containing the following information:

- (a) the total amount of ARRA funds under this award;

- (b) The total amount of ARRA funds received under this award that were obligated and expended to projects or activities;
- (c) The amount of unobligated award balances;
- (d) A detailed list of all projects or activities for which ARRA funds under this award were obligated and expended, including:
 - (1) the name of the project or activity;
 - (2) a description of the project or activity;
 - (3) an evaluation of the completion status of the project or activity;
 - (4) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and,
 - (5) for infrastructure investments made by State or local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under the Recovery Act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (e) Detailed information on any sub-awards (subcontracts or sub-grants) made by the grant recipient to include data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).
 - (1) For any sub-award equal to or larger than \$25,000.00, the following information:
 - (i) the name of the entity receiving the sub-award;
 - (ii) the amount of the sub-award;
 - (iii) the transaction type (the North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number);
 - (iv) program source;
 - (v) an award title descriptive of the purpose of each funding action;
 - (vi) the location of the entity receiving the award;
 - (vii) the primary location of performance under the award, including the city, State, congressional district, and country; and
 - (viii) a unique identifier of the entity receiving the award, and the parent entity of the recipient, should the entity be owned by another entity.
- (f) All sub-awards less than \$25,000.00, or to individuals, may be reported in the aggregate, as prescribed by HHS.
- (g) Recipients must account for each ARRA award and sub-award (sub-grant and subcontract) separately. Pooling of ARRA award funds with other funds for drawdown or other purposes is not permitted.
- (h) Recipients must account for each ARRA award separately by referencing the assigned CFDA number for each award.

4.2 Subrecipient agrees to provide any and all information necessary for SAMHD to complete required reports by no later than 5 days after the end of each calendar quarter.