

2009-06-25-0556

**AN ORDINANCE**

**AMENDING A CONTRACT WITH SOUTHWEST TEXAS REGIONAL ADVISORY COUNCIL FOR SOFTWARE FOR THE FIRE DEPARTMENT EMERGENCY MEDICAL SERVICES USE OF MOBILE LICENSES FOR PATIENT CARE RECORDS, FOR AN INITIAL ESTIMATED COST OF \$190,000.00 ANNUALLY, FUNDED FROM THE FY 2009 BUDGET.**

\* \* \* \* \*

**WHEREAS**, on May 10, 2007 through Ordinance #2007-05-10-0528, the City Council approved a contract that established an Interlocal Cooperation Agreement with South Texas Regional Area Council to provide the Fire Department with Zoll Data Systems Tablet Patient Care Reporting software licenses; and

**WHEREAS**, the Fire Department wishes to amend the contract to extend the term of the agreement, provide maintenance and receive additional licenses; **NOW THEREFORE**,

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

**SECTION 1.** The amendment to the Interlocal Cooperation Agreement Concerning a Trauma Data Project System, in the amount of \$190,000.00, is hereby approved. A copy of the Amendment, addendum and bid tabulation are attached hereto and incorporated herein as **Attachment 1**.

**SECTION 2.** Funding for this ordinance is available as part of the FY09 budget per the table below:

| <b>Amount</b>      | <b>Cost Center</b> | <b>General Ledger</b> | <b>SAP Fund</b> |
|--------------------|--------------------|-----------------------|-----------------|
| \$150,000.00       | 2004010001         | 5201047               | 11001000        |
| \$40,000.00        | 2005010001         | 5201047               | 11001000        |
| Total \$190,000.00 |                    |                       |                 |

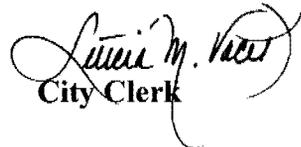
**SECTION 3.** Payment not to exceed the budgeted amount is authorized to Southwest Texas Regional Advisory Council and should be encumbered with a purchase order.

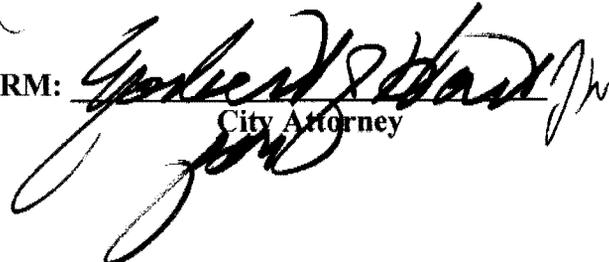
**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders,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

**SECTION 5.** This Ordinance shall be effective on the tenth day after passage.

**PASSED AND APPROVED** this 25th day of June, 2009.

  
M A Y O R  
**JULIÁN CASTRO**

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney

|                        |   |                    |            |            |                |               |               |
|------------------------|---|--------------------|------------|------------|----------------|---------------|---------------|
| <b>Agenda Item:</b>    | 7 ( in consent vote: 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 20A, 20B, 21, 22, 23, 24, 25, 28, 29, 30, 32, 33, 34, 36A, 36B, 36C, 36D, 36E, 36F, 36G, 36H, 36I, 36J, 37, 39, 40, 41, 42A, 42B, 43, 44, 46, 47, 48, 49 )  |                    |            |            |                |               |               |
| <b>Date:</b>           | 06/25/2009  |                    |            |            |                |               |               |
| <b>Time:</b>           | 10:15:24 AM   |                    |            |            |                |               |               |
| <b>Vote Type:</b>      | Motion to Approve   |                    |            |            |                |               |               |
| <b>Description:</b>    | An Ordinance amending a contract with Southwest Texas Regional Advisory Council for software for the Fire Department Emergency Medical Services use of mobile licenses for patient care records, for an initial estimated cost of \$190,000.00 annually, funded from the FY 2009 Budget. [Sharon De La Garza, Assistant City Manager; Janie Cantu, Director, Purchasing & General Services] |                    |            |            |                |               |               |
| <b>Result:</b>         | Passed  |                    |            |            |                |               |               |
| <b>Voter</b>           | <b>Group</b>  | <b>Not Present</b> | <b>Yea</b> | <b>Nay</b> | <b>Abstain</b> | <b>Motion</b> | <b>Second</b> |
| Julian Castro          | Mayor   |                    | x          |            |                |               |               |
| Mary Alice P. Cisneros | District 1  |                    | x          |            |                | x             |               |
| Ivy R. Taylor          | District 2  |                    | x          |            |                |               |               |
| Jennifer V. Ramos      | District 3  |                    | x          |            |                |               |               |
| Philip A. Cortez       | District 4  |                    | x          |            |                |               | 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                  |            |            |                |               |               |

|                 |   |                        |
|-----------------|---|------------------------|
| STATE OF TEXAS  | § | INTERLOCAL COOPERATION |
|                 | § | AGREEMENT CONCERNING   |
|                 | § | A TRAUMA DATA          |
| COUNTY OF BEXAR | § | PROJECT SYSTEM         |

THIS INTERLOCAL COOPERATION AGREEMENT (the "Agreement") concerning a Trauma Data Project System is entered into by and between the following parties.

CITY OF SAN ANTONIO, hereinafter referred to as CITY, a Texas Home Rule Municipality and the SOUTH TEXAS REGIONAL AREA COUNCIL, hereinafter referred to as "STRAC", a political subdivision of the State of Texas.

~~----- This Agreement is entered into by the PARTIES pursuant to authority granted under the Interlocal Cooperation Act, Tex. Chapter 791 of the Texas Government Code. -----~~

**RECITALS:**

WHEREAS, Chapter 773 of the Texas Health and Safety Code provides the authority pursuant to which the South Texas Regional Area Council has been established; and

WHEREAS, the San Antonio Fire Department, is the recognized emergency medical services agency for the CITY, and is authorized, ready, able and willing to provide as stated herein, paramedics, who are certified, and to record emergency medical services provided in the course of performing such services; and

WHEREAS, the Parties believe that it is in their best interest and for the economical and efficient administration of the necessary and essential services, which the parties to this Agreement are authorized to perform, and is in the best interest of all the residents of the City of San Antonio, for the parties of this Agreement to provide the services provided for herein:

NOW THEREFORE, in order to carry out the intent of the Parties as expressed above, and for and in consideration of the mutual promises and covenants contained herein and the receipt and sufficiency of which are hereby acknowledged by both Parties, the Parties agree as follows:

**ARTICLE I**  
**CONTRACTING PARTIES**

- 1.01 The South Texas Regional Area Council, which has been established and authorized in accordance with the Texas Health and Safety Code, Chapter 773 ("STRAC").
- 1.02 The City of San Antonio, Texas, acting by and through the San Antonio Fire Department (the "Fire Department").
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- 1.03 The Fire Department and STRAC may be collectively referred to herein as the "Parties."

**ARTICLE II**  
**STATEMENT OF SERVICES TO BE PERFORMED**  
**AND LIMITATIONS OF AUTHORITY**

- 2.01 The Fire Department and STRAC agree to work collaboratively to establish a trauma data reporting system to transfer data from Emergency Medical Service (EMS) units to other health care providers via computer and to determine content and frequency of any and all reporting.
- 2.02 The Fire Department EMS division shall have the sole authority over determining any and all issues regarding clinical necessity and the appropriate emergency medical services necessary to resolve a case necessitating emergency medical treatment.
- 2.03 In the performance of the work, duties and obligations herein, it is mutually understood and agreed that the Parties shall not be considered employees of each other Party. The Parties shall be considered and are independent contractors. The Parties shall not have control, direction and/or dominion over the other nor any of their respective employees, other than the terms of this Agreement. The Parties shall be responsible for performing
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the services contemplated herein in good manner and the work shall be conducted in strict accordance with currently approved practices and in compliance with all laws, licenses and certification requirements, if any. No partnership, joint venture or other arrangement (other than independent contractor) is intended to be, or has been, created as a result of this Agreement. Parties have no authority to act for or on behalf of the other Party except as provided for in this Agreement, and no other authority, power or use is granted or implied. Parties may not incur any debt, obligation, expense, or liability of any kind on behalf of the other Parties without said party's expressed written permission.

2.04 Parties have no exclusive rights or benefits other than those set forth herein.

2.05 Parties are neither responsible nor liable for any misrepresentations, errors, omissions of any kind, negligence, carelessness, or other problems or disputes which the other Party may cause or be involved in or that may arise during the term of this Agreement.

### ARTICLE III

#### MOBILE UNIT SUPPORT FEE SCHEDULE

3.01 STRAC agrees to purchase software support and software upgrades on an annual basis for transmission of trauma data from the Fire Department EMS to hospitals, and other team members supported by STRAC. To offset the cost of this software support and upgrades, the City agrees to pay an annual support fee to STRAC based on the number of mobile unit licenses in use. The mobile unit license maintenance fee is set by the Trauma Data Project System Administrator and STRAC Executive Director and is approved by the STRAC Executive Committee and subject to approval by the City.

3.02 Upon receipt and invoice from STRAC, the City shall pay an annual fee of \$400.00 for each mobile unit ("MU") in use by the Fire Department EMS at the beginning of the contract term. For MU's added after the beginning of the fiscal year, the City shall pay for all or any portion of a calendar quarter the MU is used. For the period July 1, 2007 to June 30, 2008, the City shall pay a fee of \$20,000 for the initial installation of 50 licenses.

3.03 MU's are the property of STRAC. Three years (36 months) after the Fire Department has fully implemented ZollData Tablet PCR and is using the STRAC Trauma Data Project and ZollData TabletPCR for routine patient reporting use, the MU will become the property of the Fire Department. If the Fire Department opts out of any aspect of the STRAC Trauma Data Project or stops utilizing all software prior to the completion of this three-year period, the MU's will remain the property of STRAC and must be surrendered upon request.

3.04 The Fire Department agrees to consider all requests for related research from STRAC Trauma Data Project, TRISAT, or the Brooke Army Medical Center's Institute of Surgical Research. Each individual request will be reviewed and either approved or denied by the Chief of the Fire Department's EMS division. These individual requests ~~will be in writing and will describe in detail the scope and responsibilities of the research~~ project. A response to research requests will be no longer than 90 days from date of receipt of the written request. Although scope and responsibilities may be similar, an individual request must be submitted for each instance.

3.05 The Fire Department shall provide appropriate staff for deployment, maintenance, and initial and ongoing training of the data transfer software with the assistance of the System Administrator of STRAC's Trauma Data Project.

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ARTICLE IV.  
TERM OF AGREEMENT

- 4.01 The Agreement may be extended from year to year, providing City Council has budgeted funds for its continuation. The term of this Agreement will begin July 1, 2007 and continue for a term of three years, unless terminated by one of the parties.
- 4.02 Either party may terminate this Agreement immediately if the party has cause to believe that termination of the Agreement is in the best interests of the health and safety of persons needing medical care served under this Agreement, or for any reason upon sixty (60) days written notice.
- 4.03 The exchange of information between the Fire Department and STRAC shall be in accordance with applicable law, to include Chapter 773 of the Texas Health and Safety Code, and, to the extent applicable, the Health Insurance Portability and Accounting Act of 1996 and the regulations thereunder ("HIPAA"). This Agreement does not contemplate or permit disclosure of "protected health information" except for treatment purposes as that term is defined under and for purposes of HIPAA and implementing regulations issued pursuant thereto. Any and all exchange and/or disclosure of "protected health information" between the Parties shall be in accordance with HIPAA and all applicable state and federal statutes and regulations. Parties shall comply and shall cause its employees or persons performing services hereunder (including subcontractors) to comply with applicable provisions of HIPAA to the extent such law and regulations apply regarding patient and medical record confidentiality. Each Party assumes full responsibility for any breach of confidence by its employees or its personnel with regard to the provision of services under this Agreement. The Parties agree to execute such agreements, including Business Associate Agreements, as each Party reasonably believes are necessary to comply with these requirements.

ARTICLE V.

MEDICAL RECORDS AND PRACTICE OF MEDICINE

- 5.01 The Fire Department shall utilize STRAC trauma software to transfer emergency treatment records to STRAC, including but not limited to: medical history forms, consent forms and monitoring forms. STRAC maintains these records on its record retention system.
- 5.02 Although STRAC maintains the records, these remain the property of the Fire Department. In the event of a request for records governed under the Texas Public Information Act, Chapter 552, Texas Government Code (the "Act"), the Party from whom records have been requested shall respond to said request in compliance with applicable provisions of the the Act. Consultation regarding requests for records with other Parties to this Agreement will be done in compliance with the terms of the request and applicable law.
- 5.03 Nothing contained herein is intended to (a) constitute the use of a medical license for the practice of medicine by anyone other than a licensed physician; (b) aid the Parties or any corporation to practice medicine when in fact such corporation is not licensed to practice medicine; or (c) constitute or result in any other act or create any other arrangements in violation of the Texas Medical Practice Act currently codified in the Texas Occupations Code.
- 5.04 The Parties warrant and certify that any 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.
- 5.05 The Parties acknowledge they are political subdivisions to the State of Texas and are subject to, and comply with the applicable provisions to the Texas Tort Claims Act, as set out in the Civil Practices 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 and death.

**ARTICLE VI.  
MISCELLANEOUS**

6.01 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.

**FOR SAN ANTONIO  
FIRE DEPARTMENT:**

Charles N. Hood  
Fire Chief  
115 Auditorium Circle  
San Antonio, Texas 78205

**FOR SOUTH TEXAS REGIONAL  
ADVISORY COUNCIL:**

Eric Epley  
Executive Director  
8610 N. New Braunfels, Suite 105  
San Antonio, Texas 78217

6.02 **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 ENFORCEABLE EXCLUSIVELY IN BEXAR COUNTY, TEXAS.**

6.03 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.

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

6.05 The signers of this Agreement for the Parties represent, warrant, assure and guarantee that they have full legal authority to execute this Agreement on behalf of the Parties and to bind the Parties to all of the terms, conditions, provisions and obligations herein contained.

6.06 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.

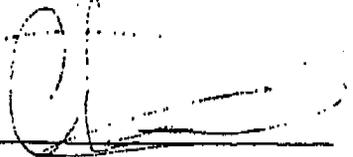
6.07 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

6.08 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 Section 6.04.

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EXECUTED IN DUPLICATE ORIGINALS. EACH OF WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL. ON THIS 4<sup>th</sup> DAY OF May, 2007, A.D.

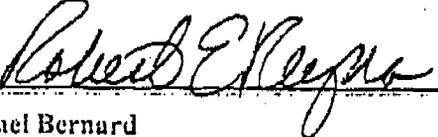
SAN ANTONIO FIRE DEPARTMENT

BY: 

CHARLES N. HOOD

FIRE CHIEF

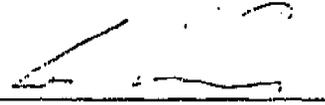
APPROVED AS TO FORM:

BY: 

Michael Bernard

City Attorney

SOUTH TEXAS REGIONAL AREA  
COUNCIL

BY: 

ERIC EPLEY

Executive Director

STATE OF TEXAS

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§  
§  
§

COUNTY OF BEXAR

**SECOND AMENDMENT  
TO  
THE INTERLOCAL COOPERATION AGREEMENT  
CONCERNING A TRAUMA DATA PROJECT SYSTEM**

THIS SECOND AMENDMENT TO THE INTERLOCAL COOPERATION AGREEMENT CONCERNING A TRAUMA DATA PROJECT SYSTEM (the "Second Amendment") is made and entered into by and between THE SOUTHWEST TEXAS REGIONAL ADVISORY COUNCIL ("STRAC"), a political subdivision of the State of Texas formerly (referred to in the original agreement as the South Texas Regional Area Council), and the CITY OF SAN ANTONIO ("CITY"), a Texas Home Rule Municipality. COUNTY and CITY shall collectively be referred to as "the Parties." This Amendment is entered into by the Parties pursuant to authority granted under the Interlocal Cooperation Act being Chapter 791 of the Texas Government Code.

**WITNESSETH**

WHEREAS, subsequently, STRAC and the CITY entered into an INTERLOCAL COOPERATION AGREEMENT CONCERNING A TRAUMA DATA PROJECT SYSTEM (the "Agreement") on May 14, 2007, in which STRAC purchased perpetual software licenses, software support and software upgrades for transmission of trauma data from the CITY's Fire Department EMS to hospitals and other team members supported by STRAC; and

WHEREAS, STRAC and the CITY entered into a FIRST AMENDMENT TO THE INTERLOCAL COOPERATION AGREEMENT CONCERNING A TRAUMA DATA PROJECT SYSTEM (the "First Amendment") on April 17, 2008, wherein an additional 100 licenses were purchased; and

WHEREAS, subsequent to the Agreement, the parties desire to amend the agreement to increase the maintenance fee on the initial 50 and subsequently added 100 licenses, extend the term of the agreement and correct the name of STRAC from the South Texas Regional Area Council to the Southwest Texas Regional Advisory Council;

NOW, THEREFORE, in consideration of the mutual covenants and agreement stated herein, the Parties agree to amend the Agreement by changing:

Article I, Section 1.01 as follows:

1.01 The Southwest Texas Regional Area Council, which has been established and authorized in accordance with the Texas Health and Safety Code, Chapter 773 ("STRAC").

Article III, Section 3.02 as follows:

3.02 Upon receipt an invoice from STRAC, the CITY shall pay an annual license maintenance fee for all licenses. For licenses purchased under the First Amendment, the City shall pay an annual license maintenance fee of \$1500.00 per year per license. This annual license maintenance fee may be increased each year at an amount not to exceed 8% of the then current annual license maintenance fee. In addition, the CITY shall pay \$800.00 for each mobile unit ("MU") in use by the Fire Department EMS at the beginning of the term of the Agreement. The annual license maintenance fee for the original 50 licenses may be increased by a maximum of \$400.00 per license per year until it equals the maintenance fee for the additional licenses purchased under the First Amendment, after which the annual maintenance fee shall be the same as the licenses purchased under the First Amendment. For MU's added after the beginning of the fiscal year, the CITY shall pay for all or any portion of a calendar quarter the MU is used. For the period July 1, 2007 to June 30, 2008, the City shall pay a fee of \$20,000 for the initial installation of 50 licenses. On \_\_\_\_\_, 2008, CITY shall pay a one time licensing fee of \$350,000.00 for 100 additional perpetual licenses at a cost of \$3,500.00 per license from STRAC.

Article IV, Section 4.01 as follows:

4.01 The term of this Agreement will begin on July 1, 2007 and shall continue for a term of seven years, unless terminated by one of the parties. The parties may agree to extend the term for an additional 3 years period at the end of the initial term, provided City Council has budgeted the funds for the continuation of the Agreement.

All other provisions of the Agreement remain in full force and effect.

EXECUTED IN DUPLICATE ORIGINALS, EACH OF WHICH SHALL HAVE THE

FULL FORCE AND EFFECT OF ANY ORIGINAL, signed this the \_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTHWEST TEXAS REGIONAL  
ADVISORY COUNCIL

CITY OF SAN ANTONIO, TEXAS

\_\_\_\_\_  
Eric Epley  
Executive Director

\_\_\_\_\_  
Sheryl L. Sculley  
City Manager

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Michael Bernard  
City Attorney

Opened: May 21, 2009

For: Zoll Tablet PCR License Access & Maintenance with Southwest Texas Regional Advisory Council (STRAC)

A1303-09

WF

Southwest Texas Regional Advisory Council (STRAC)

7500 Hwy 90 W.  
AT&T Building, Suite 200

San Antonio,  
TX 78227  
210-822-5379

| Item | Description  |                       |
|------|--|-----------------------|
| 1    | Software License Access & Maintenance<br>Current Year<br>Total Price | \$190,000.00          |
| 2    | Software License Access & Maintenance<br>Year 1<br>Total Price       | \$190,000.00          |
| 3    | Software License Access & Maintenance<br>Year 2<br>Total Price       | \$222,000.00          |
| 4    | Software License Access & Maintenance<br>Year 3<br>Total Price       | \$254,960.00          |
| 5    | Software License Access & Maintenance<br>Year 4<br>Total Price       | \$283,435.50          |
| 6    | Software License Access & Maintenance<br>Year 5<br>Total Price       | \$306,111.00          |
|      | Estimated Total  | \$1,446,506.50        |
|      | <b>Estimated Total Award</b>   | <b>\$1,446,506.50</b> |