CHW
04/02/15
Item No. 44

AN ORDINANCE 2015-04-02-0242

AUTHORIZING CONTRACTS WITH METHODIST HEALTHCARE SYSTEM OF SAN ANTONIO, LTD. LLP, D/B/A/ METHODIST HOSPITAL (CAMPUS OF METHODIST SPECIALTY AND TRANSPLANT HOSPITAL) AND CHRISTUS SANTA ROSA HEALTH SYSTEM D/B/A CHILDREN'S HOSPITAL OF SAN ANTONIO TO PROVIDE SPECIALIZED SEXUAL ASSAULT /ABUSE EXAMINATIONS.

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WHEREAS, article 56.06 of the Texas Code of Criminal Procedure requires that a law enforcement agency that requests a medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of a criminal offense shall pay all costs of the examination; and

WHEREAS, the San Antonio Police Department (SAPD) wishes to enter into a contract with Methodist Healthcare System of San Antonio, LTD., LLP d/b/a Methodist Hospital (campus of Methodist Specialty and Transplant Hospital) to provide such examinations for persons who are thirteen years of age or older and for removal of physical evidence from suspects of sexual assaults; and

WHEREAS, the SAPD wishes to enter into a contract with CHRISTUS Santa Rosa Health System d/b/a Children's Hospital to provide such examinations for persons who are eighteen years of age or younger; and

WHEREAS, expenditures incurred pursuant to said contracts will approximate $560,000.00 annually; and

WHEREAS, said contracts will commence April 1, 2015, and terminate March 31, 2018, and the City may opt for as many as two one-year extensions; **NOW THEREFORE:**

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

SECTION 1. The City Manager and her designated representative are hereby authorized to enter into contracts with Methodist Healthcare System of San Antonio, LTD., LLP d/b/a Methodist Hospital (campus of Methodist Specialty and Transplant Hospital) and CHRISTUS Santa Rosa Health System d/b/a Children's Hospital for a total approximate amount of $560,000.00 to provide sexual assault/abuse examinations that contain substantially similar terms and conditions as those contained in the contracts attached hereto as **Exhibit I** and **Exhibit II**, respectively.

SECTION 2. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 217000000041, and General Ledgers 6301120 and 6301130. Funding in the amount of $560,000.00 for this Ordinance is available for Fund 11001000, Cost Center 1705070001, and General Ledger 5201040, as part of the Fiscal Year 2015 budget. Payment not to exceed the budgeted amount of $245,000.00 is authorized to Methodist Healthcare System of San Antonio, LTD., LLP and should be encumbered with a purchase order. Payment not to exceed the budgeted amount of $315,000.00 is authorized to CHRISTUS Santa Rosa Health System and should be encumbered with a purchase order. Future funding through the term of these contracts is contingent upon City Council approval of subsequent fiscal year budgets.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts, as necessary to carry out the purpose of this Ordinance.

SECTION 4. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 2nd day of April, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda, Acting City Attorney

Agenda Item:	**44 (in consent vote: 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 41, 42, 43, 44)**
Date:	04/02/2015
Time:	11:33:45 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing contracts with Methodist Healthcare System, of San Antonio, LTD. LLP, d/b/a/ Methodist Hospital (campus of Methodist Specialty and Transplant Hospital) and Christus Santa Rosa Health System d/b/a Children's Hospital of San Antonio to provide specialized sexual assault /abuse examinations. [Erik Walsh, Deputy City Manager; Anthony Trevino, Interim Chief of Police]
Result:	Passed

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

PROFESSIONAL SERVICES AGREEMENT
FOR
SEXUAL ASSAULT EXAMINATIONS
BETWEEN
THE CITY OF SAN ANTONIO
AND
METHODIST HEALTHCARE SYSTEM

This Agreement is entered into by and between the City of San Antonio (CITY), a Texas municipal corporation acting by and through its City Manager, pursuant to Ordinance No. 2015-, passed and approved on_____, and Methodist Healthcare System, of San Antonio, LTD., LLP d/b/a Methodist Hospital (campus of Methodist Specialty and Transplant Hospital (HOSPITAL), a Texas limited partnership.

WITNESSETH

WHEREAS, the CITY, by and through the San Antonio Police Department (SAPD), is in need of services for conducting specialized examinations and evidence collection, at the direction of the SAPD, for victims of sexual assault and sexual abuse that are thirteen years of age and older and for removal of physical evidence from suspects of sexual assaults; and

WHEREAS, HOSPITAL is able and willing to provide these needed services to the CITY; and

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

ARTICLE I
PURPOSE

1.01 The purpose of this Agreement is to secure competent services in the conduction of specialized sexual assault examinations and the gathering of evidence in sexual assault cases for use in the prosecution of such cases that involve victims as herein defined. The SAPD is entering into this Agreement in order to comply with Article 56.06 of the Texas Code of Criminal Procedure, which provides that a "law enforcement agency that requests a medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examination" and that the article "does not require a law enforcement agency to pay any costs of treatment for injuries."

1.02 This Agreement is a contract for services only and is not intended to nor does it create a partnership or joint venture between the parties.

Exhibit I

ARTICLE II
TERM

2.01 The term of this Agreement is for the period beginning April 1, 2015, and ending March 31, 2018, unless terminated earlier pursuant to the provisions hereof. The CITY, at its sole option, may extend this Agreement for as many as two one-year terms. Extensions shall be in writing, and the Chief of Police shall have the authority to execute the extensions without further City Council action.

2.02 HOSPITAL and the CITY recognize that the continuation of any contract after the close of any given fiscal year of the CITY, which fiscal year ends on September 30, shall be subject to appropriation of funds for the contract. Should funds not be appropriated, this contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

ARTICLE III
DEFINITIONS

3.01 The following definitions shall apply in this Agreement.

A. Victim Evaluation: This term refers to the preliminary interview of a person that presents themselves to HOSPITAL declaring that he/she is a Sexual Assault/ Abuse Victim. The evaluation process includes the documenting of that interview. The evaluation determines whether the person is, indeed, such a victim and, if so, whether (1) the person is a victim of Acute Sexual Assault or Non- Acute Sexual Assault/ Abuse, and (2) a Partial Sexual Assault Examination or a Full Sexual Assault Examination is required.

B. Partial Sexual Assault Examination: Means a forensic examination of a victim of Non-Acute Sexual Assault. The examination (l) includes a forensic interview, (2) may include a colposcope examination, (3) may include testing for sexually transmitted diseases, and (4) includes the preparation of a report fully documenting the examination. The examination does not include the use of a Sexual Assault Collection Kit.

C. Full Sexual Assault Examination: Means a forensic examination of a victim of Acute Sexual Assault. The examination (l) includes a forensic interview, (2) may include a colposcope examination, (3) may include testing for sexually transmitted diseases, (4) includes the use of a Sexual Assault Collection Kit, and (5) includes the preparation of a report fully documenting the examination.

D. Sexual Assault/ Abuse Victim: Means a person between thirteen years of age and older that, after a Victim Evaluation, appears to be the victim of Acute Sexual Assault or Non-Acute Sexual Assault/ Abuse.

E. Sexual Assault Collection Kit: Means a pre-made kit that contains sterile packaging and articles for the actual search and removal of physical evidence of a sexual assault to include, but not be limited to, blood vials, comb, and paper packaging for the storage of various items of physical evidence.

F. Acute Sexual Assault: Means a sexual assault that occurred within ninety-six hours of presentation and involved genital contact or penetration.

G. Non-Acute Sexual Assault/Abuse: Means a sexual assault or sexual abuse that occurred more than ninety-six hours prior to presentation.

H. Records: Means all documents, papers, records, and other evidence pertaining to the services rendered pursuant to this Agreement.

I. Unreasonable Delay: Means the failure to begin conducting an evaluation or examination within one hour of (1) the presentation of a person declaring to be a Sexual Assault/ Abuse Victim or (2) the presentation of a Suspect by a sworn member of the SAPD; and the failure to complete the Evaluation without interruption after it has begun.

J. Sexual Assault Nurse Examiners (SANE): Means a registered nurse that has received specialized training in performing Suspect Examinations, Victim Evaluations, Partial Sexual Assault Examinations, and Full Sexual Assault Examinations. Said training must meet the minimum standards set forth by the Texas State Attorney General's Office of Sexual Assault Prevention and Crisis Services. This training includes, but is not limited to, the use of the Sexual Assault Collection Kit; the use of a colposcope; and the preparation of the appropriate documentation of the examinations performed.

K. Suspect: Means a person who is under the control of the SAPD and who is suspected of committing the unlawful act of sexual assault or sexual abuse.

L. Suspect Examination: Means the examination of a Suspect for physical evidence implicating the Suspect in a sexual assault or sexual abuse and includes (1) the removal of biological/trace evidence from the Suspect, (2) the screening of the Suspect for other physical signs of assault (e.g., cuts, scrapes, bruises, transfer of human body fluids, and other physical injuries), and (3) the preparation of a report fully documenting the examination.

ARTICLE IV
OBLIGATIONS AND RESPONSIBILITIES

4.01 HOSPITAL agrees to provide the services herein described in exchange for the compensation described in Article V of this Agreement. Prior to conducting an examination where HOSPITAL will be seeking payment from the CITY pursuant to the terms of this Agreement, HOSPITAL shall obtain the approval of a sworn member of the SAPD.

4.02 HOSPITAL acknowledges its understanding that information it gathers under this Agreement will be used in criminal prosecutions and agrees that it will gather all evidence for use in criminal prosecutions within the parameters of all applicable rules, regulations and laws, including, but not limited to, the provisions of the Texas Code of Criminal Procedure and the Texas Penal Code, to ensure its admissibility as evidence in the prosecution of criminal defendants. Documents will not be concealed or altered in any manner, and accurate and complete documents will be forwarded to the SAPD in every case.

4.03 HOSPITAL agrees to conduct Suspect Examinations and Victim Evaluations, Partial Sexual Assault Examinations, Full Sexual Assault Examinations, and any other tests for which a fee is specified in Section 5.01 of Sexual Assault/Abuse Victims that are thirteen years of age and older, as requested and directed by the CITY. HOSPITAL agrees to conduct only the examinations approved by a sworn member of SAPD and any medical screening examination required by state or federal law. HOSPITAL also agrees to refer all victims, thirteen years of age and older, of Sexual Assault/Abuse, with the approval of their parents, guardians or the Texas Department of Protective and Regulatory Services, when applicable, to Center for Miracles for follow-up examinations and Rape Crisis Center for counseling and other appropriate social services. Because changes in the law can occur at any time, it will be the responsibility of the SAPD to ensure that the arrest, search, seizure, and examination, as specified in this Agreement, of a Suspect comply with the existing law. HOSPITAL agrees that it will conduct Suspect Examinations at the direction of a sworn member of the SAPD.

4.04 HOSPITAL represents and agrees that any and all of its personnel who perform any part of the services under this Agreement shall meet and maintain all minimum requirements set by the federal, state and local laws, rules and regulations during the term of this Agreement, including, but not limited to, all licensing and training requirements. HOSPITAL agrees that all personnel performing the services required by this Agreement will be certified as Sexual Assault Nurse Examiners (SANE) and further agrees to ensure that all SANE personnel receive all additional training required by state law. HOSPITAL also agrees to remove any personnel assigned to provide the services required by this Agreement who fail to maintain the required level of certification, who engage in professional misconduct as it pertains to the rights of a Sexual Assault/Abuse Victim, who commit repeated violations of this Agreement, or who commit any Class A misdemeanor, Class B misdemeanor, or felony during the term of this Agreement. HOSPITAL agrees to provide sufficient SANE staffing to

prevent an unreasonable delay in evaluating a person presenting themselves for an Evaluation.

4.05 HOSPITAL agrees to provide the parent or guardian of any treated victim under the age of seventeen with a release of medical records affidavit, on a form to be provided by the CITY, to assist in providing the SAPD with a complete medical report regarding the examination of a victim of sexual abuse.

4.06 All work performed by HOSPITAL hereunder shall be performed to the satisfaction of the SAPD Chief of Police. The determination made by the Chief of Police shall be final, binding and conclusive on all parties hereto. The CITY shall be under no obligation to pay for any work performed by HOSPITAL that is not reasonably satisfactory to the Chief of Police, until such time as HOSPITAL performs to the reasonable satisfaction of the Chief of Police. The CITY shall have the right to terminate this Agreement or withhold payment, in whole or in part, in accordance with Article V should HOSPITAL'S work not be satisfactory to the Chief of Police, until such time as HOSPITAL performs to the reasonable satisfaction of the Chief of Police. Work that will be considered unsatisfactory includes but is not limited to the refusal of HOSPITAL personnel to conduct an examination or any part of an examination as directed by law enforcement officers of SAPD.

4.07 HOSPITAL agrees that, where a Sexual Assault/Abuse Victim has sustained injuries as a result of sexual assault or sexual abuse, HOSPITAL will either make available to the victim treatment at its facility or refer the victim to another medical facility or a physician capable of providing the necessary treatment.

4.08 HOSPITAL agrees that, in every case, an adult Sexual Assault/Abuse Victim, who has not already reported the offense to law enforcement, will be advised of their right to services as described in Article 56.065 of the Texas Code of Criminal Procedure, which entitles an adult Sexual Assault/ Abuse Victim to a SANE examination without immediately reporting the offense to law enforcement. HOSPITAL agrees to seek reimbursement directly from the State of Texas, as set forth in Article 56.065. If HOSPITAL and the Sexual Assault/ Abuse Victim agree to utilize the services as set forth in this agreement, the appropriate law enforcement agency will be notified, and it will be that law enforcement agency that determines if a "sexual assault", as listed under Article 56.06 of the Texas Code of Criminal Procedure, has occurred and whether a SANE examination is authorized under that statute.

ARTICLE V
COST OF SERVICE

5.01 In consideration of HOSPITAL'S performance in a satisfactory and efficient manner, as determined solely by the Chief of Police, of the services required to be performed pursuant to the terms of this Agreement, the CITY agrees to pay and HOSPITAL agrees to accept, for the examination of a Sexual Assault/Abuse Victim, the applicable fees set out in the table below.

Forensic Exam Procedures	Fees
Facility Charge – Treatment Room	$250.00
Exam w/Colposcope	$233.00
Exam without a Colposcope	$195.00
Sexual Assault Exam of Male	$128.00
Chlamydia Culture*	$37.00
Gonorrhea Testing*	$16.00
Syphilis Testing *	$11.00
Pregnancy Test*	$6.00
Urinalysis*	$9.00
Drug or Alcohol Screening*	$44.00
Lab Specimen Handling	$20.00
Venipuncture	$20.00
Evidence Collection Kit	$50.00
Supplies (details must be provided)	$100.00

The CITY will pay HOSPITAL for Laboratory procedures up to a maximum amount of $150.00. Laboratory procedures are the following: (1) pregnancy test, (2) urine analysis, (3) drug or alcohol screen, (4) Chlamydia culture, (5) gonorrhea testing and (6) syphilis test. In addition, the CITY agrees to pay and HOSPITAL agrees to accept the total sum of $125.00 for each Suspect Examination. The CITY will not pay and HOSPITAL agrees that the CITY has no obligation to pay for any additional services provided to a Sexual Assault/Abuse Victim or Suspect, such as treatment for injuries, by HOSPITAL.

5.02 The parties agree that the fees set out under Section 5.01 are inclusive of all costs and no other sums will be charged and no other sums will be paid under this Agreement for these services. No additional fees or expenses of HOSPITAL shall be charged by HOSPITAL nor be payable by the CITY. The parties hereby agree that all expenses of HOSPITAL have been provided for in the total payment to HOSPITAL as specified in Section 5.01 above. Total payments to HOSPITAL cannot exceed that amount set forth in Section 5.01 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.

5.03 HOSPITAL agrees to submit a monthly invoice to the CITY on or before the tenth day of the month following the rendition of the services.

5.04 The CITY agrees to pay all undisputed sums due and owing under this Agreement within forty-five business days. For all amounts in dispute, the CITY, within fifteen days of the receipt of the report required in Article IX of this Agreement, will notify HOSPITAL in writing of the amount in dispute and the basis for the dispute.

5.05 Final acceptance of work products and services require written approval by the CITY. The approval official shall be the Chief of Police or his designee. Payment will be made to HOSPITAL following written approval of the services rendered. The CITY shall not be obligated or liable under this Agreement to any party, other than

HOSPITAL, for the payment of any monies or the provisions of any goods or services.

5.06 The parties agree that in each month of June that occurs during this Agreement, they will conduct a performance review of the respective obligations of each of the parties.

ARTICLE VI
RECORDS RETENTION AND CONFIDENTIALITY

6.01 HOSPITAL shall properly, accurately and completely maintain all Records and shall make such available to the CITY at their respective offices, at all reasonable times and as often as the CITY may deem necessary during the Agreement period, including any extensions or renewal thereof, and the record retention period established herein, for purposes of audit, inspection, examination, and to make excerpts or copies of same by the CITY and any of its authorized representatives.

6.02 HOSPITAL shall retain the aforementioned Information indefinitely from the date of termination of this Agreement. If, at the end of this retention period, there is litigation or other questions arising from, involving or concerning the aforementioned Records, HOSPITAL shall retain the records until the resolution of any such litigation or other such questions. HOSPITAL acknowledges and agrees that the CITY shall have access to all Records, as deemed necessary by the CITY, during said retention period.

6.03 HOSPITAL shall notify the CITY immediately in the event HOSPITAL receives any requests for information from a third party that pertains to the Records. HOSPITAL understands and agrees that the CITY will process and handle all such requests.

6.04 HOSPITAL shall comply with the confidentiality procedures pertaining to the Records in accordance with the applicable federal, state and local laws. This provision shall not be construed as limiting the CITY'S right of access to the Records pursuant to this Agreement.

ARTICLE VII
TERMINATION

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

7.02 Termination Without Cause. This Agreement may be terminated by either the CITY or HOSPITAL upon sixty days' written notice, which notice shall be provided in accordance with Article VIII of this Agreement.

7.03 Termination for Cause. Upon written notice, which notice shall be provided in accordance with Article VIII, the CITY may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one or more of the
following events, each of which shall constitute an event for cause under this

Agreement (1) failure to comply with the terms and conditions stated in Article IV of this Agreement; (2) failure to comply with any covenant herein required; and (3) unsatisfactory performance.

7.04 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.

7.05 Regardless of how this Agreement is terminated, HOSPITAL shall effect an orderly transfer to the CITY or to such persons or firms as the CITY may designate, at no additional cost to the CITY, all completed or partially completed documents, papers, records, charts, reports, and any other material or information produced as a result of or pertaining to the services rendered by HOSPITAL, or provided to HOSPITAL, hereunder, regardless of the storage medium, if so requested by the CITY, or shall otherwise be retained by HOSPITAL in accordance with Article VI of this Agreement. Any record transfer shall be completed within thirty days of a written request by the CITY and shall be completed at HOSPITAL'S sole cost and expense. Payment of compensation due or to become due to HOSPITAL is conditioned upon delivery of all such documents, if requested.

7.06 Upon the effective date of expiration or termination of this Agreement, HOSPITAL shall cease all operations of work being performed by HOSPITAL pursuant to this Agreement.

7.07 Termination Not Sole Remedy. In no event shall the CITY'S action of terminating this Agreement, whether for cause or otherwise, be deemed an election of the CITY'S remedies, nor shall such termination limit, in any way, at law or at equity, the CITY'S right to seek damages from or otherwise pursue HOSPITAL for any default hereunder or other action.

ARTICLE VIII
NOTICES AND ADDRESSES

8.01 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 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.

CITY: San Antonio Police Department
Special Victims Unit
315 S. Santa Rosa
San Antonio, Texas 78207

HOSPITAL: Methodist Healthcare System of San Antonio, Ltd.,
L.L.P. d/b/a Methodist Hospital
(Methodist Specialty and Transplant Hospital Campus)
8026 Floyd Curl Drive
San Antonio, Texas 78229

8.02 Within ten days of the date this Agreement is approved, each party agrees to appoint a representative to act as liaison for oversight and implementation of the provisions of this Agreement. The names of such representatives shall be duly noted in writing and notice shall be forwarded to the appropriate representatives for each party at the aforementioned addresses.

ARTICLE IX
STATISTICS AND DOCUMENTATION

9.01 HOSPITAL shall maintain records for each examination conducted and fee charged under this Agreement. HOSPITAL shall allow any authorized representative of the CITY, at all reasonable times, to have access to and the right to inspect, copy, audit, and examine all books, records and/or other documents respecting the services provided hereunder.

9.02 HOSPITAL agrees to provide the CITY with a monthly report regarding services rendered, which is to be received by CITY on or before the tenth day of the month following the month the service was performed. A report provided under this section shall include the following for each examination: (I) the date of the examination; (2) the type of the examination conducted; (3) the case number or other identifier; (4) the victim's last name, first name, date of birth, race, and sex; (5) the name of the examiner, and (6) the fee charged for the examination.

ARTICLE X
LIABILITY

10.01 Each party shall be liable for any and all costs, claims, liens, damages, causes of action, liability, and suits of any kind and nature arising out of, resulting from, or related to the acts or omissions of all such party's agents, officers, directors, representatives, employees, consultants, or subcontractors. In the event HOSPITAL and the CITY are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively as determined by a court of competent jurisdiction 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.

10.02 HOSPITAL shall promptly advise the CITY in writing of any claim or demand against the CITY or HOSPITAL known to HOSPITAL relating to or arising out of HOSPITAL'S or the CITY'S activities under this Agreement and the CITY shall also promptly advise HOSPITAL in writing of any claim or demand against HOSPITAL or the CITY known to the CITY relating to or arising out of the CITY'S or HOSPITAL'S activities under this Agreement.

ARTICLE XI
INSURANCE

11.01 Prior to commencement of any work under this contract, HOSPITAL shall furnish to the CITY a completed certificate of insurance to the CITY'S Police Department, which shall be clearly labeled "Sexual Assault Examinations" 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 must have the agent's signature, and phone number, and be mailed directly from the agent to the CITY. The CITY shall have no duty to pay or perform under this contract until such certificate and endorsements have been received and approved by the CITY'S Police Department. No officer or employee, other than the CITY'S Risk Manager, shall have authority to waive this requirement.

11.02 HOSPITAL'S financial integrity is of interest to the CITY; therefore, subject to HOSPITAL'S right to maintain reasonable deductibles in such amounts as are approved by the CITY, HOSPITAL shall obtain and maintain in full force and effect for the duration of this contract, and any extension thereof, at HOSPITAL'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:

Insurance Type	Liability Limits
1. Workers' Compensation 2. Employers' Liability	Statutory Limits $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	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

*if applicable

11.03 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 and all endorsements thereto.

11.04 HOSPITAL agrees that with respect to the above required insurance, all insurance policies are to contain the following provisions:

(a) Name the CITY, its officers, officials, employees, volunteers, and elected representatives as additional insured's 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;

(b) 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 show on the policy;

(c) Provide, in Workers' compensation, employers' liability, general liability, and automobile liability policies, a waiver of subrogation in favor of the CITY; and

(d) Provide advance written notice directly to the CITY of any suspension, cancellation, non-renewal or material change in coverage, and not less than then calendar days advance notice for nonpayment of premium.

11.05 Within five calendar days of a suspension, cancellation or non-renewal of coverage, HOSPITAL shall provide a replacement Certificate of Insurance and applicable endorsements to the CITY. The CITY shall have the option to suspend HOSPITAL'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.

11.06 In addition to any other remedies the CITY may have upon HOSPITAL'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 HOSPITAL to stop work hereunder and/or withhold any payment which becomes due to HOSPITAL hereunder until HOSPITAL demonstrates compliance with the requirements hereof.

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

11.08 It is agreed that HOSPITAL'S insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the CITY for liability arising from HOSPITAL'S operations under this Agreement.

11.09 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.

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

ARTICLE XII
ASSIGNMENT AND SUBCONTRACTING

12.01 HOSPITAL 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 HOSPITAL. HOSPITAL, its employees or its subcontractors shall perform all necessary work.

12.02 Except as otherwise stated herein, HOSPITAL 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 by any other means, without the prior written approval by the Chief of Police and the San Antonio City Council, as evidenced by the

passage of an ordinance. As a condition of such consent, if such consent is granted, HOSPITAL shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor of HOSPITAL, assignee, transferee, or subcontractor.

12.03 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 HOSPITAL assign, transfer, convey, delegate, or otherwise dispose of any part or all of its rights, title or interest in this Agreement, the CITY may, at its option, cancel this Agreement and all rights, titles and interest of HOSPITAL shall thereupon cease and terminate in accordance with Article VII of this Agreement, notwithstanding any other remedy available to the CITY under this Agreement. The violation of this provision by HOSPITAL shall in no event release HOSPITAL from any obligation under the terms of this Agreement, nor shall it relieve or release HOSPITAL from the payment of any damages to the CITY, which the CITY sustains as a result of such violation.

ARTICLE XIII
INDEPENDENT CONTRACTOR

13.01 HOSPITAL covenants and agrees that it is an independent contractor and not an officer, agent, servant, or employee of the CITY; that HOSPITAL shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, consultants, subcontractors and contractors; that the doctrine of respondent superior shall not apply as between CITY and HOSPITAL, its officers, agents, employees, consultants, subcontractors, and contractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between the CITY and HOSPITAL. 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 HOSPITAL under this Agreement and that HOSPITAL has no authority to bind the CITY.

ARTICLE XIV
CONFLICT OF INTEREST

14.01 HOSPITAL 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 I 0 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 individuals 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 percent or more of the voting stock or shares of the business entity, or ten 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; or a partner or a parent or subsidiary business entity.

14.02 Pursuant to the subsection above, HOSPITAL 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. HOSPITAL further warrants and certifies that it has tendered to the CITY a discretionary contracts disclosure statement in compliance with the CITY'S Ethics Code.

ARTICLE XV
AMENDMENTS

15.01 This Agreement shall not be deemed waived, amended, or modified by either party unless and until such waiver, amendment, or modification is in writing and executed subsequent to the date of this Agreement by the party against whom it is sought to be enforce. In addition, any waiver, amendment, or modification must be approved by the San Antonio City Council by passage of an ordinance evidencing such.

ARTICLE XVI
LEGAL CONSTRUCTION

16.01 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, then and in that event it is the intention of the parties hereto that such invalidity, illegality, or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal, or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

ARTICLE XVII
NONWAIVER OF PERFORMANCE

17.01 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 the CITY, such changes must be approved by the San Antonio City Council, as described in Article XV of this Agreement. No act or omission by a party shall in any manner impair or rejudice any right, power, privilege, or remedy available to that party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

ARTICLE XVIII
GOVERNING LAW

18.01 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas. This Agreement shall be enforceable in Bexar County, Texas and if legal action is necessary by either party with respect to the enforcement of any or all of the terms and conditions herein, exclusive venue for same shall be in Bexar County, Texas.

ARTICLE XIX
PARTIES BOUND

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

ARTICLE XX
LEGAL AUTHORITY

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

ARTICLE XXI
ENTIRE AGREEMENT

21.01 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter thereof, and no other Agreement, statement or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

ARTICLE XXII
CAPTIONS

22.01 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.

EXECUTED IN DUPLICATE ORIGINALS on _____, 2015.

CITY OF SAN ANTONIO

_____
Sheryl Sculley
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

METHODIST HEALTHCARE SYSTEM OF SAN ANTONIO, LTD., LLP
D/B/A METHODIST HOSPITAL (METHODIST SPECIALITY AND TRANSPLANT HOSPITAL)

_____
David Handley
CEO

ATTEST:

_____

5PROFESSIONAL SERVICES AGREEMENT
FOR
SEXUAL ASSAULT EXAMINATIONS
BETWEEN
THE CITY OF SAN ANTONIO
AND
CHRISTUS SANTA ROSA HEALTH SYSTEM

This Agreement is entered into by and between the City of San Antonio (CITY), a Texas municipal corporation acting by and through its City Manager, pursuant to Ordinance No. 2015-, passed and approved on _____, and CHRISTUS Santa Rosa Health System d/b/a Children's Hospital of San Antonio (HOSPITAL), a non-profit corporation.

WITNESSETH

WHEREAS, the CITY, by and through the San Antonio Police Department (SAPD), is in need of services for conducting specialized examinations and evidence collection, at the direction of the SAPD, for victims of sexual assault and sexual abuse that are eighteen years of age and younger; and

WHEREAS, HOSPITAL is able and willing to provide these needed services to the CITY; and

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

ARTICLE I
PURPOSE

1.01 The purpose of this Agreement is to secure competent services in the conduction of specialized sexual assault examinations and the gathering of evidence in sexual assault cases for use in the prosecution of such cases that involve victims as herein defined. The SAPD is entering into this Agreement in order to comply with Article 56.06 of the Texas Code of Criminal Procedure, which provides that a "law enforcement agency that requests a medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examination" and that the article "does not require a law enforcement agency to pay any costs of treatment for injuries."

1.02 This Agreement is a contract for services only and is not intended to nor does it create a partnership or joint venture between the parties.

Exhibit II

ARTICLE II
TERM

2.01 The term of this Agreement is for the period beginning April 1, 2015, and ending March 31, 2018, unless terminated earlier pursuant to the provisions hereof. The CITY, at its sole option, may extend this Agreement for as many as two one-year terms. Extensions shall be in writing, and the Chief of Police shall have the authority to execute the extensions without further City Council action.

2.02 HOSPITAL and the CITY recognize that the continuation of any contract after the close of any given fiscal year of the CITY, which fiscal year ends on September 30, shall be subject to appropriation of funds for the contract. Should funds not be appropriated, this contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

ARTICLE III
DEFINITIONS

3.01 The following definitions shall apply in this Agreement.

A. Victim Evaluation: 1bis term refers to the preliminary interview of a person that presents themselves to HOSPITAL declaring that he/she is a Sexual Assault/Abuse Victim. The evaluation process includes the documenting of that interview. The evaluation determines whether the person is, indeed, such a victim and, if so, whether (1) the person is a victim of Acute Sexual Assault or Non-Acute Sexual Assault/Abuse and (2) a Partial Sexual Assault Examination or a Full Sexual Assault Examination is required.

B. Partial Sexual Assault Examination: This term refers to a medical forensic examination of a victim of Non-Acute Sexual Assault. The examination (1) includes a forensic interview, (2) may include a colposcope examination, (3) may include testing for sexually transmitted diseases, and (4) includes the preparation of a report fully documenting the examination. The examination does not include the use of a Sexual Assault Collection Kit.

C. Full Sexual Assault Examination: This term refers to a medical forensic examination of a victim of Acute Sexual Assault. The examination (1) includes a medical forensic interview, (2) may include a colposcope examination, (3) may include testing for sexually transmitted diseases, (4) includes the use of a Sexual Assault Evidence Collection Kit, and (5) includes the preparation of a report fully documenting the examination.

D. Sexual Assault/Abuse Victim: This term refers to a person eighteen years of age or younger that, after a Victim Evaluation, appears to be the victim of Acute Sexual Assault or Non-Acute Sexual Assault/Abuse.

E. Sexual Assault Evidence Collection Kit: This term refers to a pre-made kit that contains sterile packaging and articles for the actual search and removal of physical evidence of a sexual assault to include, but not be limited to, blood vials, comb, and paper packaging for the storage of various items of physical evidence.

F. Acute Sexual Assault: This term refers to a sexual assault that occurred within ninety-six hours of presentation and involved oral, genital, or anal contact or penetration.

G. Non-Acute Sexual Assault/Abuse: This term refers for a sexual assault or sexual abuse that occurred more than ninety-six hours prior to presentation.

H. Records: All documents, papers, records, and other evidence pertaining to the services rendered pursuant to this Agreement.

I. Unreasonable Delay: This term refers to the failure to begin conducting an evaluation or examination within one hour of the presentation of a person declaring to be a Sexual Assault/Abuse Victim and the failure to complete the Evaluation without interruption after it has begun.

J. Sexual Assault Nurse Examiners (SANE): this term refers to a registered nurse that has received specialized training in performing Victim Evaluations, Partial Sexual Assault Examinations, and Full Sexual Assault Examinations. Said training must meet the minimum standards set forth by the Texas State Attorney General's Office of Sexual Assault Prevention and Crisis Services. This training includes, but is not limited to, the use of the Sexual Assault Evidence Collection Kit; the use of a colposcope; and the preparation of the appropriate documentation of the examinations performed.

ARTICLE IV
OBLIGATIONS AND RESPONSIBILITIES

4.01 HOSPITAL agrees to provide the services herein described in exchange for the compensation described in Article V of this Agreement. Prior to conducting an examination where HOSPITAL will be seeking payment from the CITY pursuant to the terms of this Agreement, HOSPITAL shall obtain the approval of a sworn member of the SAPD.

4.02 HOSPITAL acknowledges its understanding that information it gathers under this Agreement will be used in criminal prosecutions and agrees that it will gather all evidence for use in criminal prosecutions within the parameters of all applicable rules, regulations and laws, including, but not limited to, the provisions of the Texas Code of Criminal Procedure and the Texas Penal Code, to ensure its admissibility as evidence in the prosecution of criminal defendants. Documents will not be concealed or altered in any manner, and accurate and complete documents will be forwarded to the SAPD in every case.

4.03 HOSPITAL agrees to conduct Victim Evaluations, Partial Sexual Assault Examinations, Full Sexual Assault Examinations, and any other tests for which a fee is specified in Section 5.01 of Sexual Assault/Abuse Victims that are eighteen years of age and younger, as requested and directed by the CITY. HOSPITAL agrees to conduct only the examinations required by the CITY and any medical screening examination required by state or federal law. HOSPITAL also agrees to refer all victims, eighteen years of age or younger, of Sexual Assault/Abuse, with the approval of their parents, guardians or the Texas Department of Protective and Regulatory Services, when applicable, to Center for Miracles for follow-up examinations and Rape Crisis Center for counseling and other appropriate social services.

4.04 HOSPITAL represents and agrees that any and all of its personnel who perform any part of the services under this Agreement shall meet and maintain all minimum requirements set by the federal, state and local laws, rules and regulations during the term of this Agreement, including, but not limited to, all licensing and training requirements. HOSPITAL agrees that all personnel performing the services required by this Agreement will be certified as Sexual Assault Nurse Examiners (SANE) and further agrees to ensure that all SANE personnel receive all additional training required by state law. HOSPITAL also agrees to remove any personnel assigned to provide the services required by this Agreement who fail to maintain the required level of certification, who engage in professional misconduct as it pertains to the rights of a Sexual Assault/Abuse Victim, who commit repeated violations of this Agreement, or who commit any Class A misdemeanor, Class B misdemeanor, or felony during the term of this Agreement. HOSPITAL agrees to provide sufficient SANE staffing to prevent an Unreasonable Delay in evaluating a person presenting themselves for an Evaluation.

4.05 HOSPITAL agrees to provide SAPD with a complete medical report regarding the examination of a victim of sexual abuse.

4.06 All work performed by HOSPITAL hereunder shall be performed to the satisfaction of the SAPD Chief of Police. The determination made by the Chief of Police shall be final, binding and conclusive on all parties hereto. The CITY shall be under no obligation to pay for any work performed by HOSPITAL that is not satisfactory to the Chief of Police, until such time as HOSPITAL performs to the satisfaction of the Chief of Police. The CITY shall have the right to terminate this Agreement or withhold payment, in whole or in part, in accordance with Article V should HOSPITAL'S work not be satisfactory to the Chief of Police, until such time as HOSPITAL performs to the satisfaction of the Chief of Police. Work that will be considered unsatisfactory includes the refusal of HOSPITAL personnel to conduct an examination or any part of an examination as directed by law enforcement officers of SAPD.

4.07 HOSPITAL agrees that, where a Sexual Assault/Abuse Victim has sustained injuries as a result of sexual assault or sexual abuse, HOSPITAL will either make available to the victim treatment at its facility or refer the victim to another medical facility or a physician capable of providing the necessary treatment.

ARTICLE V
COST OF SERVICE

5.01 In consideration of HOSPITAL'S performance in a satisfactory and efficient manner, as determined solely by the Chief of Police, of the services required to be performed pursuant to the terms of this Agreement, the CITY agrees to pay and HOSPITAL agrees to accept, for the examination of a Sexual Assault/Abuse Victim, the applicable fees set out in the table below.

Code	Forensic Exam Procedures	Fees
450 or 760	Facility Charge	$250.00
57452	Exam with Colposcope	$233.00
99283	Exam without Colposcope	$195.00
99170	Sexual Assault Exam of Male	$128.00
56820	Sexual Assault Exam of Child	$200.00
87320	Chlamydia Culture*	$37.00
87110	Chlamydia Culture *	$37.00
87941	Chlamydia Culture *	$37.00
87801	Chlamydia Culture *	$37.00
87590	Gonorrhea Testing*	$16.00
87801	Gonorrhea Testing *	$16.00
87591	Gonorrhea Testing *	$16.00
86592	Syphilis Testing*	$11.00
80125	Urine Pregnancy Testing*	$6.00
84703	Serum Pregnancy Testing*	$6.00
81001	Urinalysis*	$9.00
82055	Urine Alcohol*	$44.00
80101	Drug or Alcohol Screen *	$44.00
80104	Drug/Alcohol screen, complex*	$44.00
99000	Specimen handling fee	$20.00
36415	Venipuncture	$20.00
11015	Evidence Collection Kit	$50.00
99070	Additional Supplies	$100.00

*Laboratory Procedures

The CITY will pay HOSPITAL for Laboratory procedures up to a maximum amount of $150.00. Laboratory procedures are the following: (1) pregnancy test, (2) urine analysis, (3) drug or alcohol screen, (4) Chlamydia culture, (5) gonorrhea testing, and (6) syphilis test. The CITY will not pay and HOSPITAL agrees that the CITY has no obligation to pay for any additional services provided to a Sexual Assault/Abuse Victim, such as treatment for injuries, by HOSPITAL.

5.02 The parties agree that the fees set out under Section 5.01 are inclusive of all costs and no other sums will be charged and no other sums will be paid under this Agreement for these services. No additional fees or expenses of HOSPITAL shall be charged by HOSPITAL nor be payable by the CITY. The parties hereby agree that all expenses of HOSPITAL have been provided for in the total payment to HOSPITAL as specified in Section 5.01 above. Total payments to HOSPITAL cannot exceed that amount set forth in Section 5.01 above, without the prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

5.03 HOSPITAL agrees to submit a monthly invoice, which must identify the applicable procedure codes, to the CITY on or before the tenth day of the month following the rendition of the services. Said invoices shall be submitted electronically to CITY in Microsoft Excel format and mail in the victims UB04 Forms itemizing the invoicing only for the contractual SANE examination.

5.04 The CITY agrees to pay all undisputed sums due and owing under this Agreement within forty-five business days. For all amounts in dispute, the CITY, within fifteen days of the receipt of the report required in Article IX of this Agreement, will notify HOSPITAL in writing of the amount in dispute and the basis for the dispute.

5.05 Final acceptance of work products and services require written approval by the CITY. The approval official shall be the Chief of Police or his designee. Payment will be made to HOSPITAL following written approval of the services rendered. The CITY shall not be obligated or liable under this Agreement to any party, other than HOSPITAL, for the payment of any monies or the provisions of any goods or services.

5.06 The parties agree that in each month of June that occurs during this Agreement, they will conduct a performance review of the respective obligations of each of the parties.

ARTICLE VI
RECORDS RETENTION AND CONFIDENTIALITY

6.01 HOSPITAL shall properly, accurately and completely maintain all Records and shall make such available to the CITY at their respective offices, at all reasonable times and as often as the CITY may deem necessary during the Agreement period, including any extensions or renewal thereof, and the record retention period established herein, for purposes of audit, inspection, examination, and to make excerpts or copies of same by the CITY and any of its authorized representatives.

6.02 HOSPITAL shall retain the aforementioned Information indefinitely from the date of termination of this Agreement. If, at the end of this retention period, there is litigation or other questions arising from, involving or concerning the aforementioned Records, HOSPITAL shall retain the records until the resolution of any such litigation or other such questions. HOSPITAL acknowledges and agrees that the CITY shall have access to all Records, as deemed necessary by the CITY, during said retention period.

6.03 HOSPITAL shall notify the CITY immediately in the event HOSPITAL receives any requests for information from a third party that pertains to the Records. HOSPITAL understands and agrees that the CITY will process and handle all such requests.

6.04 HOSPITAL shall comply with the confidentiality procedures pertaining to the Records in accordance with the applicable federal, state and local laws. This provision shall not be construed as limiting the CITY'S right of access to the Records pursuant to this Agreement.

ARTICLE VII
TERMINATION

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

7.02 Termination Without Cause. This Agreement may be terminated by either the CITY or HOSPITAL upon sixty days' written notice, which notice shall be provided in accordance with Article VIII of this Agreement.

7.03 Termination for Cause. Upon written notice, which notice shall be provided in accordance with Article VIII, the CITY may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one or more of the following events, each of which shall constitute an event for cause under this Agreement: (1) failure to comply with the terms and conditions stated in Article IV of this Agreement; (2) failure to comply with any covenant herein required; and (3) unsatisfactory performance.

7.04 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.

7.05 Regardless of how this Agreement is terminated, HOSPITAL shall effect an orderly transfer to the CITY or to such persons or firms as the CITY may designate, at no additional cost to the CITY, all completed or partially completed documents, papers, records, charts, reports, and any other material or information produced as a result of or pertaining to the services rendered by HOSPITAL, or provided to HOSPITAL, hereunder, regardless of the storage medium, if so requested by the CITY, or shall otherwise be retained by HOSPITAL in accordance with Article VI of this Agreement. Any record transfer shall be completed within thirty days of a written request by the CITY and shall be completed at HOSPITAL'S sole cost and expense. Payment of compensation due or to become due to HOSPITAL is conditioned upon delivery of all such documents, if requested.

7.06 Upon the effective date of expiration or termination of this Agreement, HOSPITAL shall cease all operations of work being performed by HOSPITAL pursuant to this Agreement.

7.07 Termination Not Sole Remedy. In no event shall the CITY'S action of terminating this Agreement, whether for cause or otherwise, be deemed an election of the CITY'S remedies, nor shall such termination limit, in any way, at law or at equity, the CITY'S right to seek damages from or otherwise pursue HOSPITAL for any default hereunder or other action.

ARTICLE VIII
NOTICES AND ADDRESSES

8.01 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 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.

CITY: San Antonio Police Department
Special Victims Unit
315 S. Santa Rosa
San Antonio, Texas 78207

HOSPITAL: Children's Hospital of San Antonio
Contracts Management
333 N. Santa Rosa
San Antonio, Texas 78207

8.02 Within ten days of the date this Agreement is approved, each party agrees to appoint a representative to act as liaison for oversight and implementation of the provisions of this Agreement. The names of such representatives shall be duly noted in writing and notice shall be forwarded to the appropriate representatives for each party at the aforementioned addresses.

ARTICLE IX
STATISTICS AND D OCUMENTATION

9.01 HOSPITAL shall maintain records for each examination conducted and fee charged under this Agreement. HOSPITAL shall allow any authorized representative of the CITY, at all reasonable times, to have access to and the right to inspect, copy, audit, and examine all books, records and/or other documents respecting the services provided hereunder.

9.02 HOSPITAL agrees to provide the CITY with a monthly report regarding services rendered, which is to be received by CITY on or before the tenth day of the month following the month the service was performed. A report provided under this section shall include the following for each examination: (1) the date of the examination; (2) the type of the examination conducted; (3) the case number or other identifier; (4) the victim's last name, first name, date of birth, race, and sex; (5) the name of the examiner, and (6) the fee charged for the examination.

ARTICLE X
LIABILITY

10.01 Each party shall be liable for any and all costs, claims, liens, damages, causes of action, liability, and suits of any kind and nature arising out of, resulting from, or related to the acts or omissions of all such party's agents, officers, directors, representatives, employees, consultants, or subcontractors. In the event HOSPITAL and the CITY are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively as determined by a court of competent jurisdiction 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.

10.02 HOSPITAL shall promptly advise the CITY in writing of any claim or demand against the CITY or HOSPITAL known to HOSPITAL relating to or arising out of HOSPITAL'S or the CITY'S activities under this Agreement and the CITY shall also promptly advise HOSPITAL in writing of any claim or demand against HOSPITAL or the CITY known to the CITY relating to or arising out of the CITY'S or HOSPITAL'S activities under tills Agreement.

ARTICLE XI
INSURANCE

11.01 Prior to commencement of any work under this contract, HOSPITAL shall furnish to the CITY a completed certificate of insurance to the CITY'S Police Department, which shall be clearly labeled "Sexual Assault Examinations" 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 must have the agent's signature, and phone number, and be mailed directly from the agent to the CITY. The CITY shall have no duty to pay or perform under tills contract until such certificate and endorsements have been received and approved by the CITY'S Police Department. No officer or employee, other than the CITY'S Risk Manager, shall have authority to waive this requirement.

11.02 The CITY reserves the right to review the insurance requirements of this Article during the effective period of this Contract and any extension or renewal hereof and to modify insurance coverage 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 the CITY allow modification whereby the CITY may incur increased risk.

11.03 HOSPITAL'S financial integrity is of interest to the CITY; therefore, subject to HOSPITAL'S right to maintain reasonable deductibles in such amounts as are approved by the CITY, HOSPITAL shall obtain and maintain in full force and effect for the duration of this contract, and any extension thereof, at HOSPITAL'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:

Insurance Type	Liability Limits
1. Workers' Compensation 2. Employers' Liability	Statutory Limits $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	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

* if applicable

11.04 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 and all endorsements thereto and may make a reasonable request for 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). Upon such request by the CITY, HOSPITAL shall exercise reasonable efforts to accomplish such changes in policy, and shall pay the cost thereof.

11.05 HOSPITAL agrees that with respect to the above required insurance, all insurance policies are to contain the following provisions:

(a) 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;

(b) 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 show on the policy;

(c) Provide, in Workers' compensation, employers' liability, general liability,

and automobile liability policies, a waiver of subrogation in favor of the CITY; and

(d) Provide advance written notice directly to the CITY of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten calendar days advance notice for nonpayment of premium.

11.06 Within five calendar days of a suspension, cancellation or non-renewal of coverage, HOSPITAL shall provide a replacement Certificate of Insurance and applicable endorsements to the CITY. The CITY shall have the option to suspend HOSPITAL'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.

11.07 In addition to any other remedies the CITY may have upon HOSPITAL'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 HOSPITAL to stop work hereunder and/or withhold any payment which becomes due to HOSPITAL hereunder until HOSPITAL demonstrates compliance with the requirements hereof.

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

11.09 It is agreed that HOSPITAL'S insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the CITY for liability arising its operations under this Agreement.

11.10 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.

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

ARTICLE XII
ASSIGNMENT AND SUBCONTRACTING

12.01 HOSPITAL 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 HOSPITAL. HOSPITAL, its employees or its subcontractors shall perform all necessary work.

12.02 Except as otherwise stated herein, HOSPITAL 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 by any other means, without the prior written approval by the Chief of Police and the San Antonio City Council, as evidenced by the passage of an ordinance. As a condition of such consent, if such consent is granted, HOSPITAL shall remain liable for completion of the services outlined in this Agreement in

the event of default by the successor of HOSPITAL, assignee, transferee, or subcontractor.

12.03 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 HOSPITAL assign, transfer, convey, delegate, or otherwise dispose of any part or all of its rights, title or interest in this Agreement, the CITY may, at its option, cancel this Agreement and all rights, titles and interest of HOSPITAL shall thereupon cease and terminate in accordance with Article VII of this Agreement, notwithstanding any other remedy available to the CITY under this Agreement. The violation of this provision by HOSPITAL shall in no event release HOSPITAL from any obligation under the terms of this Agreement, nor shall it relieve or release HOSPITAL from the payment of any damages to the CITY, which the CITY sustains as a result of such violation.

ARTICLE XIII
INDEPENDENT CONTRACTOR

13.01 HOSPITAL covenants and agrees that it is an independent contractor and not an officer, agent, servant, or employee of the CITY; that HOSPITAL shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, consultants, subcontractors and contractors; that the doctrine of respondent superior shall not apply as between CITY and HOSPITAL, its officers, agents, employees, consultants, subcontractors, and contractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint ventures between the CITY and HOSPITAL. 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 HOSPITAL under this Agreement and that HOSPITAL has no authority to bind the CITY.

ARTICLE XIV
CONFLICT OF INTEREST

14.01 HOSPITAL 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 individuals 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 percent or more of the voting stock or shares of the business entity, or ten 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; or a partner or a parent or subsidiary business entity.

14.02 Pursuant to the subsection above, HOSPITAL 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. HOSPITAL further warrants and certifies that it has tendered to the CITY a discretionary contracts disclosure statement in compliance with the CITY'S Ethics Code.

ARTICLE XV
AMENDMENTS

15.01 This Agreement shall not be deemed waived, amended, or modified by either party unless and until such waiver, amendment, or modification is in writing and executed subsequent to the date of this Agreement by the party against whom it is sought to be enforce. In addition, any waiver, amendment, or modification must be approved by the San Antonio City Council by passage of an ordinance evidencing such.

ARTICLE XVI
LEGAL CONSTRUCTION

16.01 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, then and in that event it is the intention of the parties hereto that such invalidity, illegality, or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal, or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

ARTICLE XVII
NONWAIVER OF PERFORMANCE

17.01 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 the CITY, such changes must be approved by the San Antonio City Council, as described in Article XV of this Agreement. No act or omission by a party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

ARTICLE XVIII
GOVERNING LAW

18.01 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas. This Agreement shall be enforceable in Bexar County, Texas and if legal action is necessary by either party with respect to the enforcement of any or all of the terms and conditions herein, exclusive venue for same shall be in Bexar County, Texas.

ARTICLE XIX
PARTIES BOUND

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

ARTICLE XX
LEGAL AUTHORITY

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

ARTICLE XXI
ENTIRE AGREEMENT

21.01 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter thereof, and no other Agreement, statement or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

ARTICLE XXII
CAPTIONS

22.01 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.

EXECUTED IN DUPLICATE ORIGINALS on _____, 2015.

CITY OF SAN ANTONIO

_____
Sheryl Sculley
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

CHRISTUS SANTA ROSA HEALTH SYSTEMS
D/B/A CHILDREN'S HOSPITAL OF SAN ANTONIO

_____
Patrick Carrier
President and CEO

ATTEST:

_____

City of San Antonio

Agenda Memorandum

File Number: 15-1848

Agenda Item Number: 44.

Agenda Date: 4/2/2015

In Control: City Council A Session

DEPARTMENT: Police

DEPARTMENT HEAD: Anthony Trevino, Interim Chief of Police

COUNCIL DISTRICTS IMPACTED: City Wide

SUBJECT:

Contracts for Sexual Assault/Abuse Examinations

SUMMARY:

This ordinance authorizes the City Manager or her designated representative to enter into contracts with Methodist Healthcare System, of San Antonio, LTD. LLP, d/b/a/ Methodist Hospital (campus of Methodist Specialty and Transplant Hospital) and Christus Santa Rosa Health System d/b/a Children's Hospital of San Antonio to provide specialized sexual assault /abuse examinations for a total amount of approximately $560,000.00 annually, funded from the Police Department's general fund budget. These contracts will begin April 1, 2015 and expire March 31, 2018, with possible two one-year extensions.

BACKGROUND INFORMATION:

Previously the City had three contracts to provide specialized sexual assault /abuse examinations (Christus Santa Rosa Health Care, Methodist Heathcare System and Child Safe); however, the medical component of ChildSafe moved to Christus Santa Rosa Health System and became the Center for Miracles. The purpose of these contracts is to secure services to conduct specialized sexual assault/abuse examinations. The examinations will allow for evidence gathering used in the prosecution of these cases. Texas Code of Criminal Procedures, Article 56.06, Section A, requires an investigating law enforcement agency that requests a medical examination of a victim of an alleged episode of sexual assault/abuse to pay for the cost of the exam. A public health and safety waiver was obtained for the continuation of these services.

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The contract with Christus Santa Rosa Health System is for persons eighteen (18) years of age and younger and is estimated to provide about 450 exams for a total amount of $315,000.00 a year. The contract with Methodist Healthcare System is for persons thirteen (13) years of age and older and is estimated to provide about 436 exams for a total amount of $245,000.00 a year. The average expense for an examination is $442.00 and does not exceed $700. 00.

All personnel who perform any part of the services shall meet and maintain all minimum requirements set by federal, state, and local laws, rules and regulations, including, but not limited to, all licensing and training agreements.

The Texas Attorney General Office Crime Victim's Compensation (CVC) will reimburse SAPD through their Sexual Assault Examination Reimbursement Program for eligible costs of a forensic examination upon submission of applications. The average reimbursement for an examination is $442.00.

ISSUE:

This ordinance will support the City's efforts in addressing sexual assault/abuse.

ALTERNATIVES:

The Texas Code of Criminal Procedures, Article 56.06, Section A, requires an investigating law enforcement agency that requires a medical examination of a victim of an alleged episode of sexual assault/abuse to pay for the cost of the exam.

FISCAL IMPACT:

Funds are available for this expenditure in the Police Department's General Fund Budget. Expenditures for sexual assault/abuse examinations for future years will be budgeted in the Police Department's General Fund budget.

RECOMMENDATION:

Staff recommends that City Council approve the contracts for implementation.