

AN ORDINANCE 2014 - 10 - 16 - 0789

**APPROVING THE CITY OF SAN ANTONIO'S LEGISLATIVE PROGRAM FOR THE 84<sup>TH</sup> REGULAR SESSION OF THE TEXAS STATE LEGISLATURE AND AUTHORIZING PROFESSIONAL SERVICES AGREEMENTS FOR STATE REPRESENTATION SERVICES WITH LUIS SAENZ FOR AN AMOUNT NOT TO EXCEED \$72,000.00, SNAPPER CARR FOR AN AMOUNT NOT TO EXCEED \$72,000.00 AND CHRISTOPHER S. SHIELDS FOR AN AMOUNT NOT TO EXCEED \$36,000.00.**

\* \* \* \* \*

**WHEREAS**, prior to the convening of each biennial State legislative session, the City of San Antonio identifies policy priorities that it would like the Texas Legislature to address and in May 2014, the City's Intergovernmental Relations Department began working with City departments to identify issues for the upcoming session; and

**WHEREAS**, the result of this work is the pending State Legislative Program ("Program"), which is divided into three categories: the City's legislative priorities, items related to the protection of municipal interests and partnerships; and

**WHEREAS**, the City Council Intergovernmental Relations Committee considered the Program on September 10, 2014 and October 8, 2014 and is now recommending the Program for consideration by the full Council and the City Council was briefed on the Program in B Session on October 1, 2014; and

**WHEREAS**, the City of San Antonio hires various consultants to represent and advocate for the City in the State Legislature; and

**WHEREAS**, the City has contracted with Marc Rodriguez to provide ongoing representation services, but due to the large number of bills filed each session with potential impact to the City, additional consultants are hired to provide services during each state legislative session to assist with monitoring and tracking of city-related issues, communicating City Council policy positions to members of the Legislature, informing members of the Legislature of legislation and/or regulations which could impact the City, preparing testimony and assisting with scheduling of witnesses before legislative committees; and

**WHEREAS**, for the 84<sup>th</sup> Session staff recommends contracting with Luis Saenz of McGuireWoods Consulting, LLC, and Snapper Carr, of Focused Advocacy, to provide services related to the City's State Legislative Program from November 1, 2014 through the end of the state legislative session, including any specially called sessions and contracting with Christopher S. Shields to focus on tourism and event related issues from November 1, 2014 through September 30, 2015; **NOW THEREFORE:**

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

**SECTION 1.** The City of San Antonio State Legislative Program for the 84<sup>th</sup> Legislative Session, a copy of which is set out in **Attachment I**, is hereby approved.

**SECTION 2.** Staff is directed to inform the Bexar County Legislative Delegation of the Program and to undertake such steps as are reasonably necessary to obtain passage of the City's various initiatives during the upcoming 84<sup>th</sup> Legislative Session.

**SECTION 3.** The terms and conditions of the Professional Services Agreements with Luis Saenz in an amount not to exceed \$72,000, Snapper Carr in an amount not to exceed \$72,000.00 and Christopher S. Shields in an amount not to exceed \$36,000.00, for services during the 84<sup>th</sup> State Legislative Session, are authorized and approved. The City Manager, or her designee, is authorized to sign the Agreements, copies of which were, previously executed by the respective contractors and are set out in **Attachments II, III and IV**.

**SECTION 4.** Funding for this Ordinance is available as part of the Fiscal Year 2015 budget per the table below:

Amount	General Ledger	Cost Center	Fund
\$ 144,000.00	5201040	0801010001	11001000
\$ 36,000.00	5201040	4201010001	29006000
Total Amt \$180,000.00			

**SECTION 5.** Payment not to exceed the budgeted amount of \$72,000.00 is authorized to Snapper Carr and shall be encumbered with a purchase order.

**SECTION 6.** Payment not to exceed the budgeted amount of \$72,000.00 is authorized to McGuireWoods Consulting, LLC and shall be encumbered with a purchase order.

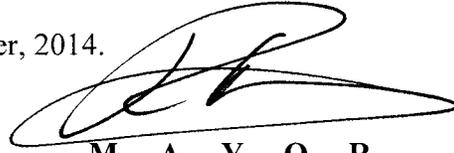
**SECTION 7.** Payment not to exceed the budgeted amount of \$36,000 is authorized to Christopher S. Shields, P.C. and shall be encumbered with a purchase order.

**SECTION 8.** 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 9.** This Ordinance shall take effect immediately upon the receipt of eight affirmative votes; otherwise it shall be effective ten days after its passage.

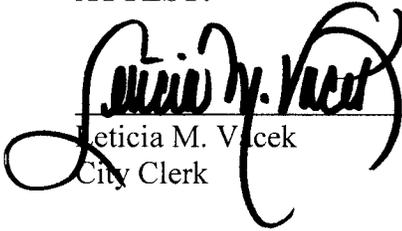
LB  
10/16/14  
Item No. 5

**PASSED AND APPROVED** this 16<sup>th</sup> day of October, 2014.



**M A Y O R**  
for Ivy R. Taylor

**ATTEST:**



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Jeticia M. Vacek  
City Clerk

**APPROVED AS TO FORM:**



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Robert F. Greenblum  
City Attorney

<b>Agenda Item:</b>	5						
<b>Date:</b>	10/16/2014						
<b>Time:</b>	11:18:41 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance approving the City's 2015 State Legislative Program for the 84th State Legislative Session and approving temporary, session-only contracts for State Representation Services. [Carlos Contreras, Assistant City Manager; Jeff Coyle, Director, Intergovernmental Relations]						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Diego Bernal	District 1		x				x
Keith Toney	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

## **ATTACHMENT I**



CITY OF SAN ANTONIO

# 2015 STATE LEGISLATIVE

PROGRAM

# 84TH LEGISLATURE



**RON NIRENBERG**  
CHAIR, IGR COMMITTEE  
COUNCIL DISTRICT 8



**MARI AGUIRRE-RODRIGUEZ**  
COUNCIL DISTRICT 7



**RAY LOPEZ**  
COUNCIL DISTRICT 6



**SHIRLEY GONZALES**  
COUNCIL DISTRICT 5



**REY SALDAÑA**  
COUNCIL DISTRICT 4



**IVY R. TAYLOR**  
MAYOR



**JOE KRIER**  
COUNCIL DISTRICT 9



**MIKE GALLAGHER**  
COUNCIL DISTRICT 10



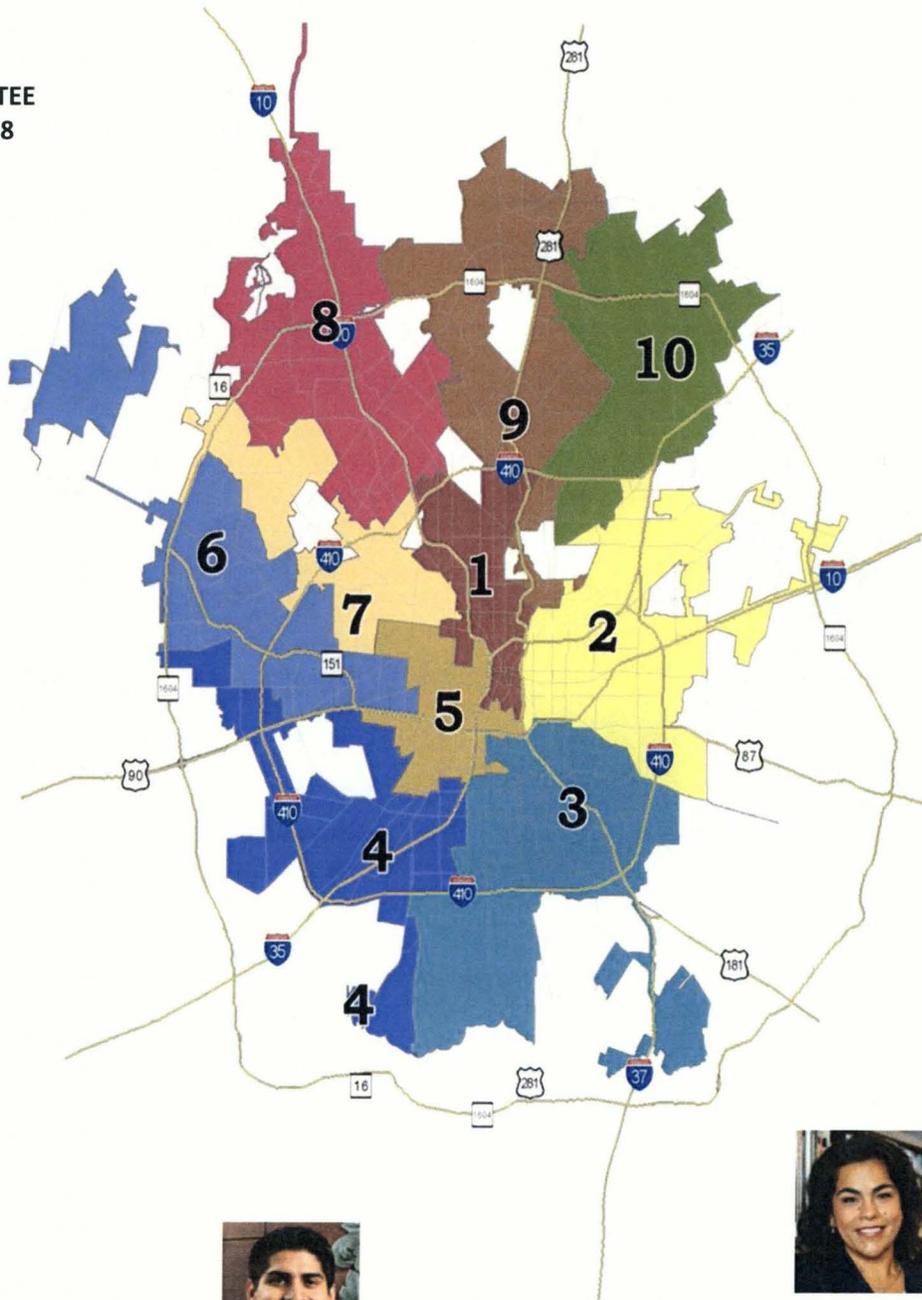
**DIEGO M. BERNAL**  
COUNCIL DISTRICT 1



**KEITH A. TONEY**  
COUNCIL DISTRICT 2



**REBECCA J. VIAGRAN**  
COUNCIL DISTRICT 3





**84<sup>th</sup> TEXAS LEGISLATIVE SESSION**

**CITY OF SAN ANTONIO COUNCIL**

**Ivy R. Taylor, Mayor**

Diego M. Bernal, District 1  
Keith Toney\*, District 2  
Rebecca J. Viagran\*, District 3  
Rey Saldaña, District 4  
Shirley Gonzales, District 5

Ray Lopez\*, District 6  
Mari Aguirre-Rodriguez, District 7  
Ron Nirenberg\*, District 8  
Joe Krier, District 9  
Mike Gallagher\*, District 10

Sheryl Sculley, City Manager  
Carlos Contreras, Assistant City Manager  
Jeff Coyle, Intergovernmental Relations Director

\* IGR Council Committee Chair  
\* IGR Council Committee Member

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# ECONOMIC DEVELOPMENT

*Objective: The City of San Antonio supports legislation that facilitates economic development.*

**The City supports the continuation of state incentives to supplement local economic development strategies to recruit and retain employers.**

**The City supports the creation of a state incentive program to develop nonstop air service to underserved markets.**

**\*The City supports the redevelopment of the G.J. Sutton Building and the Texas Facilities Commission appropriations request for the renovation or reconstruction of the building to support and not inhibit redevelopment efforts on San Antonio's east side.**

**The City supports the current structure of the Major Events Trust Fund and Events Trust Fund as tools for cities to attract and host major events and conventions, and the City opposes legislation that would limit or eliminate the current flexibility of the programs.**

**The City supports legislation that directs the Texas Department of Housing & Community Affairs to provide tax credits for housing redevelopment in areas targeted for community revitalization in San Antonio.**

**The City supports a resolution in favor of designating the San Antonio Missions as a World Heritage Site.**

# WORKFORCE DEVELOPMENT

*Objective: The City of San Antonio supports legislation that provides funding for programs that provide career pathway opportunities in targeted industries.*

**The City supports enhanced funding for programs such as the Skills Development Fund to provide training opportunities for employees in San Antonio companies.**

**The City supports funding for dual credit courses and other programs designed to prepare students for careers that fulfill industry demand.**

## EDUCATION

*Objective: The City of San Antonio supports legislation that increases access to high quality early childhood and higher education programs.*

**The City supports expanding state funding of Pre-K to provide high quality, full-day programs for Texas four-year-olds.**

**The City supports legislation that would provide enhanced formula funding for institutes of higher education (IHEs) and allow Tuition Revenue Bonds to be utilized for capital projects at IHEs in the San Antonio area.**

## GOVERNMENT EFFICIENCIES & TRANSPARENCY

*Objective: The City of San Antonio supports legislation that allows the City to operate more efficiently to improve customer service and save taxpayers money.*

**\*The City seeks introduction and passage of legislation that would increase flexibility for the City to use electronic recording devices to preserve records of municipal court cases, as is currently permitted for the cities of Arlington, Austin, Corpus Christi, Dallas, Denton, Fort Worth, Grapevine and Laredo, among others.**

## MILITARY PROTECTION

*Objective: The City of San Antonio supports legislation that protects Texas military installations.*

**The City, along with other military communities in Texas, supports funding for the Texas Military Preparedness Commission to assist defense communities with military value projects that enhance the installation's mission, improve operational efficiencies and proactively address impacts from sequestration or other base realignment and closure (BRAC) activities that may happen in the future.**

# NATURAL RESOURCES

*Objective: The City of San Antonio supports legislation that protects San Antonio's natural resources, including air quality, water supply and open space to ensure the continued wellbeing and growth of the city.*

**The City supports funding for programs that help regions meet federal air quality standards, including:**

- Rider 8 State and Local Air Quality Planning Program
- Texas Emissions Reduction Plan (TERP)
- AirCheck Texas Repair and Replacement Assistance Program (LIRAP)

**The City supports legislation that helps San Antonio meet its long-term water needs, including:**

- Additional checks and balances in local groundwater district laws and regulations, including regulatory consistency, long-term stability in permitting, and meaningful development and appeal of desired future conditions (DFCs).
- Favorable and distinct rules and regulations for the development of brackish groundwater that will incentivize its use.
- Ensuring a regulatory framework that protects and encourages the use of aquifer storage and recovery projects.

**The City supports legislation that facilitates the development and maintenance of public parks, trails, open space and natural areas, including:**

- Restored funding for the Local Parks Grant Program
- Dedication of sporting goods sales tax revenues for use in local and state parks

# TRANSPORTATION & INFRASTRUCTURE

*Objective: The City of San Antonio supports legislation that provides additional funding for transportation projects and initiatives in the San Antonio region dedicated to improved mobility and to maintain, expand and improve transportation infrastructure.*

**The City supports legislation that provides additional funding to the Texas Department of Transportation for transportation projects that would benefit cities, including:**

- Ending the diversion of transportation revenues for non-transportation purposes and dedicating all State Highway Fund revenues to transportation
- Dedicating vehicle sales tax revenue for transportation
- Creating additional long-term funding sources for transportation

**The City supports legislation that would provide additional local funding options for cities to address streets, sidewalks and other transportation needs that are not otherwise met by current funding sources.**

**The City opposes legislation that would mandate the transfer of maintenance responsibilities of state highways to cities and counties without provision of additional funding sources to offset the costs of the “turnback.”**

- The City supports legislation that codifies the strictly voluntary nature of the state highway turnback program.

**The City supports legislation that increases opportunities for the development of multimodal transportation, including:**

- Maintaining or increasing funding for transit and commuter rail
- Funding and policies that facilitate complete streets development to encourage walking and bicycling, including transportation and safety enhancements near schools.
- Capitalizing the Texas Rail Relocation and Improvement Fund

## **PUBLIC HEALTH**

*Objective: The City of San Antonio supports legislation and programs that help residents achieve and maintain a healthy lifestyle.*

**The City supports continuation of the Texas Transformation and Quality Improvement 1115 Medicaid Waiver to encourage further innovation in healthcare delivery system reforms and collaboration among local healthcare providers.**

**The City supports legislation that would add a syphilis test during the third trimester of pregnancy.**

**The City supports a statewide formula that distributes mental health funding on an equitable per capita basis system.**

## **PROTECTION OF MUNICIPAL INTERESTS**

*Objective: The City of San Antonio supports legislation that would clearly benefit the City and opposes legislation that would be detrimental to the City’s interests, including bills that meet one or more of the following criteria:*

- Undermine the principles of self government;
- Mandate increased cost to cities, including environmental mandates;
- Result in the loss of revenue to cities or negatively impacts the authority of the City to generate revenues; and
- Result in diminishing the fundamental authority of cities to operate in a manner consistent with the best interest of the health, safety and welfare of the general public.

**The City opposes legislation that would negatively expand appraisal caps and supports legislation that ensures that properties are appraised at true market value.**

**The City opposes legislation that would impose or negatively expand revenue caps of any type, inhibiting the City's ability to serve its growing population.**

**The City opposes legislation that imposes unnecessary burdens on the ability of a city to issue debt in any way.**

**The City opposes legislation that undermines the City's ability to adopt and/or enforce development ordinances, including tree preservation, in the City's extraterritorial jurisdiction.**

**The City opposes legislation that undermines the City's ability to regulate development, enforce zoning, annex property and adopt and enforce vested rights ordinances.**

**The City opposes legislation that would prohibit or restrict the City and other governmental entities from collaborating on joint broadband network projects.**

**The City opposes legislation limiting the City's authority to charge and collect franchise fee payments for use of the public right-of-way or otherwise diminishes local control over the regulation of utilities in the public right-of-way.**

**In the absence of comprehensive statewide regulation of payday and auto title lenders, the City opposes legislation that preempts municipal authority to provide adequate consumer protections.**

**The City opposes legislation with detrimental impact on SAWS and CPS Energy, including legislation that impacts the City's ability to maintain local control of its municipally-owned utilities.**

# PARTNERSHIPS

*Objective: The City of San Antonio coordinates with the following local partners in support of legislative efforts that enhance the health, safety and vitality of the community, provided it does not conflict with the City's own legislative agenda.*

- CPS Energy
- San Antonio Water System
- Brooks City Base
- Port San Antonio
- University of Texas at San Antonio
- University of Texas Health Science Center
- Texas A&M – San Antonio
- Alamo Colleges

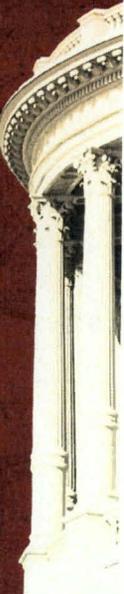


**Prepared by  
The Intergovernmental Relations Department**



CITY OF SAN ANTONIO  
**OFFICE OF INTERGOVERNMENTAL  
RELATIONS**

visit [sanantonio.gov/intergovernmental](http://sanantonio.gov/intergovernmental)



## **ATTACHMENT II**

**ATTACHMENT III**

**STATE OF TEXAS**  
**COUNTY OF BEXAR**

§  
§  
§

**EVENTS TRUST FUND**  
**CONSULTING SERVICES**

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City"), acting by and through its City Manager and Christopher S. Shields, P.C., with Christopher S. Shields as principal, (hereinafter referred to as "Consultant"), both of which may be referred to herein collectively as the "Parties."

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

### **I. DEFINITIONS**

As used in this Agreement, the following terms shall have meanings as set out below:

1.1 "City" is defined in the preamble of this Agreement and includes its successors and assigns.

1.2 "City Manager's Designee" is defined as a member or members of City staff designated by the City Manager's Office to oversee this Agreement.

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

1.4 "Department" is defined as City's Convention & Sports Facilities Department and/or Intergovernmental Relations/International Relations Department.

1.5 "Department Director or Director" is defined as City's Director, acting or interim, of the Convention & Sports Facilities Department and/or the Director of City's Intergovernmental Relations/International Relations Department.

### **II. TERM**

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on November 1, 2014, and terminate and terminate on September 30, 2015.

### **III. SCOPE OF SERVICES**

3.1 Consultant agrees to provide the services described in Exhibit A Scope of Services in exchange for the compensation described in Article IV. Compensation.

3.2 All work performed by Consultant hereunder shall be performed to the satisfaction of City Manager's Designee. The determination made by City Manager's Designee

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

#### **IV. COMPENSATION TO CONSULTANT**

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by City Manager's Designee, of all services and activities set forth in this Agreement, City agrees to pay Consultant a monthly amount not to exceed THREE THOUSAND DOLLARS (\$3,000.00) as total compensation, to be paid to Consultant as follows:

4.1.1 Consultant shall submit monthly invoices to the City.

4.1.2 This fee includes Special Legislative Sessions and interim session activity held within the term of this Agreement.

4.2 City shall pay Consultant's invoices no later than thirty (30) days following submission by Consultant and approval by City Department.

4.3 All reasonable and ordinary expenses incurred in performance of this Agreement shall be borne by Consultant. City may consider reimbursements to Consultant only for those extraordinary expenses, which are preapproved in writing by City Manager or City Manager's Designee.

4.4 No additional fees or expenses of Consultant shall be charged by Consultant nor be payable by City. The Parties hereby agree that all compensable expenses of Consultant have been provided for in the total payment to Consultant as specified in Section 4.1 above. Total payments to Consultant cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, evidenced in writing and approved by City Manager.

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

#### **V. OWNERSHIP OF DOCUMENTS**

5.1 Any and all writings, documents or information in whatsoever form and character produced by Consultant pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Consultant.

5.2 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

## VI. RECORDS RETENTION

6.1 Consultant and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Consultant shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Consultant shall retain the records until the resolution of such litigation or other such questions. Consultant acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Consultant to return said documents to City prior to or at the conclusion of said retention.

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

## VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 10 calendar days written notice, which notice shall be provided in accordance with Article VIII. Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement

without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.3.2 Failure to fulfill the provisions of Article III of this Agreement.

7.3.3 Actions taken by Consultant during the term of this Agreement that, in the sole determination of City, hinder Consultant's ability to fulfill the scope of services set forth in Article III of this Agreement.

7.4 Defaults With Opportunity for Cure. Should Consultant default in the performance of this Agreement in a manner stated in this Section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Consultant shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Consultant fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another consultant to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new consultant against Consultant's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Reserved.

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

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

7.4.4 Performing unsatisfactorily.

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

7.6 Termination for Convenience. Should Consultant be contracted by City for legislative consulting services other than those specified in this Agreement, this Agreement shall terminate. The effective date of termination shall be the day prior to the commencement date of any other contract for legislative consulting services between City and Consultant.

7.7 Regardless of how this Agreement is terminated, Consultant shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Consultant, or provided to Consultant, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Consultant in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a

written request by City and shall be completed at Consultant's sole cost and expense. Payment of compensation due or to become due to Consultant is conditioned upon delivery of all such documents, if requested.

7.8 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Consultant shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant or any of its subcontractors pursuant to this Agreement.

7.10 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

## VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio  
Intergovernmental Relations/International Relations  
Department  
P.O. Box 839966  
San Antonio, TX 78283-3966

If intended for Consultant, to:

Christopher S. Shields, P.C  
Attn: Chris Shields  
1005 Congress Ave., Ste. 480  
Austin, Texas 78701

## IX. INSURANCE

9.1 Prior to the commencement of any work under this Agreement, Consultant shall furnish an original completed Certificate(s) of Insurance to the City's Intergovernmental Relations/International Relations Director and City Clerk's Office, and which shall be clearly labeled "State Representation Services" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to City's Intergovernmental Relations/International Relations Manager and the Clerk's Office, and no officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

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

9.3 A Consultant's financial integrity is of interest to the City; therefore, subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by the City, Consultant shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated B+ or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types and amounts:

TYPE	AMOUNTS
1. Commercial General (public) Liability Insurance to include coverage for the following: <ul style="list-style-type: none"> <li>a. Premises operations</li> <li>* b. Independent contractors</li> <li>c. Products/completed operations</li> <li>d. Personal Injury</li> <li>e. Contractual Liability</li> <li>* f. Explosion, collapse, underground</li> <li>* g. Broad form property damage, to include fire legal liability</li> </ul>	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
2. Professional Liability (Claims Made Form)	\$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
- \*\* Alternate plans must be approved by Risk Management

9.4 The City shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). Consultant shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided in Section 9.6 herein within 10 days of the requested change. Consultant shall pay any costs incurred resulting from said changes.

9.5 Consultant agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

9.5.1 Name the City and its officers, employees, volunteers, and elected representatives as additional insureds 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;

9.5.2 Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

9.6 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by City, Consultant shall notify the City of such and shall give such notices not less than thirty (30) days prior to the change, if Consultant knows of said change in advance, or ten (10) days notice after the change, if the Consultant did not know of the change in advance. Such notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the City at the following address:

City of San Antonio  
Intergovernmental Relations/International Relations  
Department  
P.O. Box 839966  
San Antonio, Texas 78283-3966

City of San Antonio  
City Clerk's Office  
P.O. Box 839966  
San Antonio, Texas 78283-3966

9.7 If Consultant fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the City may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the agreement; however, procuring of said insurance by the City is an alternative to other remedies the City may have, and is not the exclusive remedy for failure of Consultant to maintain said insurance or secure such endorsement. In addition to any other remedies the City may have upon Consultant'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 Consultant to stop work

hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.

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

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

## **X. INDEMNIFICATION**

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

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

**CONSULTANT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONSULTANT known to CONSULTANT related to or arising out of CONSULTANT'S activities under this AGREEMENT.**

10.2 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Consultant in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Consultant shall retain City approved

defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Consultant fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Consultant shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

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

## **XI. COPYRIGHT USAGE**

11.1 Consultant shall pay all royalties and licensing fees necessary for the utilization of copyrighted materials in the provision of under this Agreement. Consultant shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, materials and methods used in the project. Consultant shall defend all suits for infringement of any Intellectual Property rights.

## **XII. ASSIGNMENT AND SUBCONTRACTING**

12.1 Consultant 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 Consultant. Consultant, its employees or its subcontractors shall perform all necessary work.

12.2 Any subcontracting of the services to be provided under this Agreement shall be approved by the City Council, as evidenced by passage of an ordinance, prior to the provision of any services by said subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Consultant. City shall in no event be obligated to any third party, including any subcontractor of Consultant, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

12.4 Except as otherwise stated herein, Consultant may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such

consent is granted, Consultant shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Consultant, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Consultant assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of Consultant shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Consultant shall in no event release Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release Consultant from the payment of any damages to City, which City sustains as a result of such violation.

### **XIII. INDEPENDENT CONTRACTOR**

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

### **XIV. RESERVED**

### **XV. CONFLICT OF INTEREST**

15.1 Consultant 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 the terms "officer" and "employee" are defined in Part B, Section 10 of City's Ethics Code, as may be amended from time to time, from having a financial interest in any contract with City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his or her parent, child or spouse; a business entity in which the officer or employee, or his or her parent, child or spouse owns ten (10%) percent or more of the voting stock or shares of the business entity, or ten (10%) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity. Consultant warrants and certifies, and this Agreement is made in reliance thereon, that Consultant, Consultant's officers, employees and agents are neither officers nor employees of City. Consultant further warrants and certifies that,

if required to do so, is has tendered to City a Discretionary Contracts Disclosure Statement in compliance with City's Ethics Code.

15.2 Consultant shall not represent any other parties in state initiatives on matters which involve direct competition with City, without the prior written consent of City Manager. Consultant shall be responsible for monitoring and informing City of any potential conflicts. The determination of whether a conflict exists shall be reserved solely to City.

15.3 Consultant shall disclose all new lobbying clients, including the issues Consultant shall work on for such clients that retain Consultant's services during the Term and renewal option, if any, of this Agreement.

15.4 Consultant shall not directly participate in the political campaign of any candidate for Mayor, City Council or work on behalf of or in opposition to local referendums.

## **XVI. AMENDMENTS**

16.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Consultant, and subject to approval by the City Council, as evidenced by passage of an ordinance.

## **XVII. SEVERABILITY**

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

## **XVIII. LICENSES/CERTIFICATIONS**

18.1 Consultant warrants and certifies that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

## **XIX. COMPLIANCE**

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

## **XX. NONWAIVER OF PERFORMANCE**

20.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

## **XXI. LAW APPLICABLE**

**21.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

## **XXII. LEGAL AUTHORITY**

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

## **XXIII. PARTIES BOUND**

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

## **XXIV. CAPTIONS**

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

**XXV. INCORPORATION OF EXHIBITS**

25.1 The exhibits listed below are an essential part of the Agreement, which govern the rights and duties of the Parties, and are incorporated herein for all purposes:

25.1.1 EXHIBIT A Scope of Services

**XXVI. ENTIRE AGREEMENT**

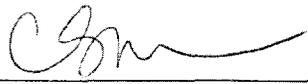
26.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the Parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the Parties, in accordance with Article XVI. Amendments.

**EXECUTED** and **AGREED** to this the 8<sup>th</sup> day of October, 2014.

**CITY:**  
**CITY OF SAN ANTONIO**

**CONSULTANT:**  
**CHRISTOPHER S. SHIELDS, P.C.**

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

  
\_\_\_\_\_  
Christopher S. Shields  
Principal

ATTEST:

ATTEST:

\_\_\_\_\_  
Leticia M. Vacek  
City Clerk

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

Exhibit A Scope of Services

## **Exhibit A: Scope of Services for the 84<sup>th</sup> Texas Legislative Session**

1. Consultant shall represent Department's interests on all matters relating to the Events Trust Fund as set forth in Article 5190.14, et seq, Texas Revised Civil Statutes during the 83<sup>rd</sup> Texas legislative session. This shall include the monitoring of all legislative activity related to the statute.
2. Consultant shall attend meetings with City staff, when requested, and provide written reports on the status of Consultant's activities and progress, and other relevant legislative activities.
3. Consultant shall draft testimony, briefs, legislative alerts, bill language, and bill analysis, as necessary, on the Events Trust Fund and Major Events Trust Fund, and providing reports to City staff on activities, upon request.
4. Consultant shall be available for regular meetings with City Manager's Designee and City personnel and/or City Council Intergovernmental Relations Committee. Consultant shall also confer with the City Manager, through City Manager's Designee, and other City personnel, on all organizational planning and activities, which have a bearing on the Program.
5. Consultant shall advise, consult and represent City's interest with the Executive and Legislative branches of the State government, and with any State agencies, departments and commissions as may be necessary to the performance of its obligations hereunder.
6. Consultant shall organize participation during any legislation interim hearings related to the Events Trust Fund or Major Events Trust Fund to manage any negative proposals that might come forth in the 84<sup>th</sup> legislative session.
7. Consultant shall assist and advise Department with respect to rule-makings, the applications process, related interactions with the State's comptroller's office, and generally with efforts to qualify events and maximize rebates received by City upon application under the Events Trust Fund legislation as set forth in Article 5190.14, et seq, Texas Revised Civil Statutes.
8. Consultant shall support the City's reimbursement collection efforts by providing guidance, program interpretation, and clarity to the reimbursement effort by attending meetings and interacting with Comptroller's Office to process payments due to the City.

**Christopher S. Shields: 2015 State Representation Service Agreement (Major Events Trust Fund & Events Trust Fund)**

Contract Element	Reviewer/ Acceptance	Frequency / Timing	Measure	Notes
<b>Activities</b>				
<ul style="list-style-type: none"> <li>Analyze, monitor, identify, and as directed, respond to all matters related to the Events Trust Fund and Major Events Trust Fund</li> </ul>	Convention & Sports Facilities	On-going	Goal attained.	
<ul style="list-style-type: none"> <li>Provide technical and strategic advice; prepare testimony and assist with scheduling of witnesses before Legislative Committees, as requested.</li> </ul>	Convention & Sports Facilities	On-going	Witnesses are well-prepared for committee hearings.	
<b>Deliverables</b>				
<ul style="list-style-type: none"> <li>Draft bill and bill amendments and testimony as requested on issues related to the Events Trust Fund and Major Events Trust Fund; solicit sponsorship of such measures, as necessary.</li> </ul>	Convention & Sports Facilities	Regular session; any specially called sessions	Assigned bills drafted and achieve sponsorship.	
<ul style="list-style-type: none"> <li>Advocate against legislation that negatively impacts the City as it relates to the Events Trust Fund and Major Events Trust Fund.</li> </ul>	Convention & Sports Facilities	Regular session; any specially called sessions	Bills deemed detrimental to the City/Major Events Trust Fund do not pass.	
<ul style="list-style-type: none"> <li>Submit written reports to Convention &amp; Sports Facilities and attend meetings with City staff, as requested.</li> </ul>	Convention & Sports Facilities	Regular session; any specially called sessions	(1) Plan execution/status updates (2) Recommend plan modifications (3) Provide timely updates on "hot issues."	

**ATTACHMENT IV**

**PROFESSIONAL SERVICES AGREEMENT  
FOR  
STATE REPRESENTATION SERVICES**

STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as “City”) acting by and through its City Manager, as authorized by Ordinance No. 2014-\_\_-\_\_-\_\_, and Snapper Carr, Focused Advocacy (hereinafter referred to as “Consultant”), both of which may be referred to herein collectively as the “Parties”.

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

**I. DEFINITIONS**

As used in this Agreement, the following terms shall have meanings as set out below:

“City” is defined in the preamble of this Agreement and includes its successors and assigns.

“Consultant” is defined in the preamble of this Agreement and includes its successors.

“Director” shall mean the director of City’s Intergovernmental Relations Department.

**II. TERM**

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence effective November 1, 2014 and shall continue through the 84<sup>th</sup> State of Texas Legislative Session, including any called special sessions.

**III. SCOPE OF SERVICES**

3.1 Consultant shall be responsible for the services and tasks set forth in this Agreement and/or as directed by Director. City reserves the right to engage additional consultants to provide state legislative services during the terms of this Agreement should the need arise.

Specifically, Consultant shall:

3.2 Provide counsel to the City regarding transportation policy, planning and funding initiatives. Take affirmative steps (in consultation with the Director) to develop and implement strategies to negotiate, support or defeat such items, as appropriate;

3.3 Upon City's request, Consultant shall advocate before state agencies on municipally-related agency actions and when City grant applications are under consideration by such agencies. Counsel City as to the appropriate steps necessary for obtaining the most favorable consideration of such applications.

3.4 Represent City during the interim period before the 84<sup>th</sup> State Legislative Session and advocate on the City's behalf through the following:

3.4.1 Monitor and respond to municipally-related interim charges and hearings, proposed administrative rules and regulations and other state developments and analyze their potential impact on the City. For each, take affirmative steps (in consultation with the Director) to develop and implement strategies to support or defeat such items, as appropriate;

3.4.2 Identify opportunities for communication regarding legislative and agency activities to Bexar County Delegation and other key members of the Legislature, especially members of relevant committees;

3.4.3 Consult with the Director regarding appearances by members of the City Council or City personnel before legislative committees and administrative agencies and arrange for appointments, as necessary. Consultant shall also prepare testimony and assist with the scheduling of witnesses before legislative committees; and

3.5 Consultant shall, when specifically directed by City, assist in coordinating issues with the other consultants hired by the City, Texas Municipal League and other groups.

3.6 At the direction of the Director, Consultant shall coordinate all work under this Agreement with the City's lead State Consultant, Marc A. Rodriguez.

3.7 Consultant shall be available for meetings with the Director and City personnel and/or the City Council Intergovernmental Relations Committee. Upon request, Consultant should also attend and assist in presentations at meetings of the City Council.

3.8 In fulfilling its responsibilities, Consultant shall act under the supervision and at the direction of the Director. Consultant is prohibited from contacting any other City staff without prior coordination with the Director.

3.9 Consultant shall advise and consult on behalf of City's interests with the Executive and Legislative branches of the State government and with any State agencies, departments and commissions as may be necessary to the performance of its obligations hereunder. However, Consultant will not be required to act as legal counsel or represent City in any administrative or legal proceeding except as may be otherwise agreed upon in a separate agreement.

3.10 This Agreement shall provide City with access to other members of Consultant's firm, at no additional cost, should their services be necessary to fulfill the work required under this Agreement.

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

3.12 Performance measures. A matrix indicating performance measures which will be utilized in evaluating the performance of Consultant is attached hereto and incorporated herein as Exhibit I. Some measures may require the mutual agreement by Consultant and City during the term of this Agreement. Such measures, once agreed to by the Parties, will be incorporated into this Agreement as an addendum without the necessity of any further action.

#### **IV. COMPENSATION TO CONSULTANT**

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay Consultant an amount not to exceed \$72,000.00 as follows:

4.1.1 Consultant shall invoice City in the amount of \$9,000.00 on a monthly basis for the first eight months of this Agreement. Said invoices shall include a statement of all work performed under this Agreement during the period covered by the invoice.

4.1.2 City shall pay Consultant within fifteen (15) days of the receipt of an invoice under Subsection 4.1.1, subject to the provisions of Section 3.10.

4.1.3 It is the understanding and intent of the parties that the compensation set forth in Section 4.1 shall cover services for the entire 84<sup>th</sup> State Legislative Session, including any special sessions.

4.2 All reasonable and ordinary expenses incurred in performance of this Agreement shall be borne by Consultant. City will reimburse Consultant only for those extraordinary expenses, which are first approved by City.

4.3 No additional fees or expenses of Consultant shall be charged by Consultant nor be payable by City. The Parties hereby agree that all compensable expenses of Consultant have been provided for in the total payment to Consultant as specified in Section 4.1 above. Total payments to Consultant cannot exceed that amounts set forth in Sections 4.1 and 4.2 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, if required.

4.4 In the event this Agreement is terminated under Article VII. Termination, Consultant shall refund any unearned compensation paid under Section 4.1.

4.4 City shall not be obligated or liable under this Agreement to any party, other than Consultant, for the payment of any monies or the provision of any goods or services.

#### **V. OWNERSHIP OF DOCUMENTS**

5.1 Any and all writings, documents or information in whatsoever form and character produced by Consultant pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Consultant.

5.2 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

#### **VI. RECORDS RETENTION**

6.1 Consultant and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Consultant shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Consultant shall retain the records until the resolution of such litigation or other such questions. Consultant acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Consultant to return said documents to City prior to or at the conclusion of said retention.

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

## VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 10 calendar days written notice, which notice shall be provided in accordance with Article VIII. Notice. If the City terminates this Agreement without cause, City shall only be liable for payment for services rendered up to the date of termination.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.3.2 Actions taken by Consultant during the term of this Agreement that, in the sole determination of City, hinder Consultant's ability to fulfill the scope of services set forth in Article III of this Agreement.

7.4 Defaults With Opportunity for Cure. Should Consultant default in the performance of this Agreement in a manner stated in this Section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Consultant shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Consultant fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another consultant to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new consultant against Consultant's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Bankruptcy or selling substantially all of company's assets.

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

7.4.3 Performing unsatisfactorily.

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

7.6 Regardless of how this Agreement is terminated, Consultant shall effect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Consultant, or provided to Consultant, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Consultant in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at Consultant's sole cost and expense. Payment of compensation due or to become due to Consultant is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Consultant shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

## VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio  
Attn: Jeff Coyle  
Intergovernmental Relations Department  
P.O. Box 839966  
San Antonio, Texas 78283-3966

If intended for Consultant, to:

Snapper Carr

## IX. INDEMNIFICATION

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

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

**CONSULTANT** shall advise the **CITY** in writing within 24 hours of any claim or demand against the **CITY** or **CONSULTANT** known to **CONSULTANT** related to or arising out of **CONSULTANT'S** activities under this **AGREEMENT** and shall see to the investigation and defense of such claim or demand at Consultant's cost. City shall have the right, at its option and at its own expense, to participate in such defense without relieving Consultant of any of its obligations under this Article.

9.2 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Consultant in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Consultant shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Consultant fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Consultant shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

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

## X. COPYRIGHT USAGE

10.1 Consultant shall pay all royalties and licensing fees necessary for the utilization of copyrighted materials in the provision of under this Agreement. **Consultant shall HOLD THE CITY HARMLESS and INDEMNIFY the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, materials and methods used in the project. Consultant shall defend all suits for infringement of any Intellectual Property rights.**

## XI. ASSIGNMENT AND SUBCONTRACTING

11.1 Consultant 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 Consultant. Consultant, its employees or its subcontractors shall perform all necessary work.

11.2 Any subcontracting of the services to be provided under this Agreement shall be approved by City and subject to the approval of City Council, as evidenced by passage of an ordinance, when required, prior to the provision of any services by said subcontractor.

11.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Consultant. City shall in no event be obligated to any third party, including any subcontractor of Consultant, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by City.

11.4 Except as otherwise stated herein, Consultant may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of City. As a condition of such consent, if such consent is granted, Consultant shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Consultant, assignee, transferee or subcontractor.

11.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said approval, shall be void ab initio and shall confer no rights upon any third person. Should Consultant assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and

all rights, titles and interest of Consultant shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Consultant shall in no event release Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release Consultant from the payment of any damages to City, which City sustains as a result of such violation.

## **XII. INDEPENDENT CONTRACTOR**

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

## **XIII. CONFLICT OF INTEREST**

13.1 Consultant 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 Section 2-52 of the Ethics Code, from having a financial interest in any contract with City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

13.2 Pursuant to the Section 13.1, Consultant warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of City. Consultant further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

## **XIV. AMENDMENTS**

14.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Consultant, and subject to approval by the City Council, as evidenced by passage of an ordinance, when required.

## **XV. SEVERABILITY**

15.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

## **XVI. LICENSES/CERTIFICATIONS**

16.1 Consultant warrants and certifies that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

## **XVII. COMPLIANCE**

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

17.2 Non-Discrimination. As a party to this Agreement, Consultant understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

## **XVIII. NONWAIVER OF PERFORMANCE**

18.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, when required. 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.

**XIX. LAW APPLICABLE**

19.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

19.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

**XX. LEGAL AUTHORITY**

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

**XXI. PARTIES BOUND**

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

**XXII. CAPTIONS**

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

**XXIII. INCORPORATION OF EXHIBITS**

23.1 The exhibits listed below are an essential part of the Agreement, which governs the rights and duties of the Parties, and are incorporated herein for all purposes.

Exhibit I: Performance Measures

**XXIV. ENTIRE AGREEMENT**

24.1 This Agreement, together with its exhibit, constitutes the final and entire agreement between the Parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the Parties, in accordance with Article XIV. Amendments or as otherwise provided for under this Agreement.

*Signatures on following page*

**EXECUTED and AGREED** to be effective November 1, 2014.

**CITY:**

**CITY OF SAN ANTONIO**

\_\_\_\_\_  
Sheryl Sculley  
City Manager

**CONSULTANT:**

**FOCUSED ADVOCACY**

  
\_\_\_\_\_  
Snapper Carr

Approved as to Form:

\_\_\_\_\_  
City Attorney

Exhibit I: Performance Measures

**Focused Advocacy: 2015 State Representation Service Agreement - Session Only**

<b>Contract Element</b>	<b>Reviewer/ Acceptance</b>	<b>Frequency / Timing</b>	<b>Measure</b>	<b>Notes</b>
<b>Activities</b>				
<ul style="list-style-type: none"> <li>Analyze, monitor, identify, and as directed, respond to municipally related legislation, proposed administrative rules and regulations detrimental to the City.</li> </ul>	IGR	On-going	Goal attained.	
<ul style="list-style-type: none"> <li>Provide technical and strategic advice; prepare testimony and assist with scheduling of witnesses before Legislative Committees, as requested.</li> </ul>	IGR	On-going	Witnesses are well-prepared for committee hearings.	
<b>Deliverables</b>				
<ul style="list-style-type: none"> <li>Draft bill and bill amendments, as requested on issues deemed important to the City; solicit sponsorship of such measures.</li> </ul>	IGR	Regular session; any specially called sessions	Assigned bills drafted and achieve sponsorship.	
<ul style="list-style-type: none"> <li>Advocate against legislation that negatively impacts the City.</li> </ul>	IGR	Regular session; any specially called sessions	Bills deemed detrimental to the City do not pass.	
<ul style="list-style-type: none"> <li>Help secure passage of COSA initiatives.</li> </ul>	IGR	Regular Session; any specially called sessions	Passage of specific legislation.	
<ul style="list-style-type: none"> <li>Submit weekly reports to the IGR Director and/or COSA leadership, as requested.</li> </ul>	IGR	Regular session; any specially called sessions	(1) Plan execution/status updates (2) Recommend plan modifications (3) Provide timely updates on "hot issues".	