

AN ORDINANCE

2009-10-29-0859

**AUTHORIZING AN AMENDMENT TO A PUBLIC HEALTH EMERGENCY RESPONSE GRANT CONTRACT WITH THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES FOR ADDITIONAL FUNDS IN THE AMOUNT OF \$3,083,831.00 TO AUGMENT SUPPORT FOR LOCAL RESPONSE EFFORTS AGAINST NOVEL INFLUENZA A (H1N1); AUTHORIZING CONTRACTS FOR PROFESSIONAL HEALTHCARE SERVICES FROM ANGEL STAFFING, MAXIM HEALTHCARE AND MILLENIA MEDICAL STAFFING WITH A TOTAL AMOUNT FOR ALL CONTRACTS NOT TO EXCEED \$2,589,956.00; AUTHORIZING AN AGREEMENT WITH THE BEXAR COUNTY MEDICAL SOCIETY FOR REIMBURSEMENT UP TO \$12,350.00 FOR THE PURCHASE OF EQUIPMENT NECESSARY TO SUPPORT THE H1N1 RESPONSE AS A PUBLIC PURPOSE RELATED TO THE PUBLIC HEALTH AND SAFETY OF THE CITY; AND AUTHORIZING AN AGREEMENT WITH THE SOUTHWEST TEXAS REGIONAL ADVISORY COMMITTEE FOR REIMBURSEMENT UP TO \$75,000.00 FOR THE PURCHASE OF A SYSTEM TO VERIFY CREDENTIALS AND BADGE MEDICAL PROFESSIONALS IN EMERGENCY EVENTS AS A PUBLIC PURPOSE RELATED TO THE PUBLIC HEALTH AND SAFETY OF THE CITY.**

\* \* \* \* \*

**WHEREAS**, on April 26, 2009 the Acting Secretary of Health and Human Services declared a public health emergency as a result of the detection of known cases of individuals infected by swine-origin influenza A virus, now known as novel influenza A (H1N1), in the United States; and

**WHEREAS**, on June 11, 2009, the World Health Organization declared the first pandemic in over 40 years in recognition of widespread, sustained human-to-human transmission of the virus in multiple regions around the globe; and

**WHEREAS**, in light of the threat the pandemic poses to the nation's public health and security, Congress appropriated funding for the "Public Health and Social Services Emergency Fund" to protect the public health, accelerate efforts in responding to the current global influenza pandemic, and prepare for additional waves of the current pandemic or outbreaks of other avian, swine, and human influenza viruses; and

**WHEREAS**, these funds, provided through the 2009 Supplemental Appropriations Act, are intended to bolster the nations' preparedness and response capabilities in order to decrease morbidity and mortality associated with an influenza pandemic; and

**WHEREAS**, on September 17, 2009, City Council ratified the submission of two Public Health Emergency Response (PHER) grants and authorized acceptance of funds up to \$1,624,665.00 to support local efforts in response to the influenza outbreak; and

**WHEREAS**, one of the grants in the amount of \$1,399,582.00 supported community preparedness; and

**WHEREAS**, the other grant in the amount of \$225,083.00 was provided to expand laboratory capacity; and

**WHEREAS**, the Texas Department of State Health Services has now offered additional funding for the PHER Community Preparedness grant in the amount of \$3,083,831.00 to increase public health capacity and vaccination surge capabilities aimed at the delivery and implementation of response activities to ongoing and emerging outbreaks of novel influenza A (H1N1); and

**WHEREAS**, the funds provide for the purchase and upgrade of equipment and supplies as well as contractual services for the delivery and support of novel influenza A (H1N1) vaccinations; and

**WHEREAS**, specifically, contractual services encompass the areas of surge capacity and tracking and reporting services, providing nursing services for response teams and mass vaccination clinics, and data entry support; **NOW THEREFORE**:

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

**SECTION 1.** The City Manager or her designee or the Director of the San Antonio Metropolitan Health District or his designee, is hereby authorized to execute an amendment to a Public Health Emergency Response (PHER) grant contract with the Texas Department of State Health Services (TDSHS) for additional funds in the amount of \$3,083,831.00 to augment support for local response efforts against novel influenza A (H1N1). A copy of the contract in substantially final form is attached hereto and incorporated herein for all purposes as **Attachment I**.

**SECTION 2.** The City Manager or her designee or the Director of the San Antonio Metropolitan Health District or his designee, is hereby authorized to execute contracts for professional healthcare services with Angel Staffing, Maxim Healthcare and Millenia Medical Staffing with a cumulative total for all contracts not to exceed \$2,589,956.00. A copy of each respective contract in substantially final form is attached hereto and incorporated herein for all purposes as **Attachments III, IV and V**.

**SECTION 3.** The City Manager or her designee or the Director of the San Antonio Metropolitan Health District or his designee, is hereby authorized to execute an agreement with the Bexar County Medical Society for reimbursement up to an amount not to exceed \$12,350.00 for the purchase of equipment necessary to support the response to H1N1 as a public purpose related to the public health and safety of the City. A copy of the contract in substantially final form is attached hereto and incorporated herein for all purposes as **Attachment VI**.

**SECTION 4.** The City Manager or her designee or the Director of the San Antonio Metropolitan Health District or his designee, is hereby authorized to execute an agreement with the Southwest Texas Regional Advisory Committee for reimbursement up to an amount not to exceed \$75,000.00 for the purchase of a system to verify credentials and provide security badges to medical professionals responding to emergency events as a public purpose related to the public health and safety of the City. A copy of the contract in substantially final form is attached hereto and incorporated herein for all purposes as **Attachment VII**.

**SECTION 5.** The City Manager, or her designee or the Director of the San Antonio Metropolitan Health District or his designee is further authorized to negotiate and execute any and all necessary documents and contracts to effectuate the delivery of services and to execute contract amendments pertaining to these contracts to include a) line item budget revisions authorized by the funding agency up to 20% of the total dollar amount of the program budget; b) modifications to the performance measures authorized by the funding agency and listed in the contracts so long as the terms of the amendment stay within the general parameters of the grant's intention; c) changes in state or federal regulations mandated by the funding agency; and d) initiation, negotiation and award of supplemental funding if available through PHER funding mechanisms.

**SECTION 6.** Fund 2601636046 entitled "Public Hlth Emerg Response - Focus Area1" and internal order 136000000457 are hereby designated for use in the accounting for the fiscal transaction in the acceptance of this amendment. The sum of \$3,083,831.00 from the TDSHS will be appropriated in said fund. The budget, which is attached hereto and incorporated herein for all purposes as **Attachment II** is approved and adopted for entry in the City books.

**SECTION 7.** 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.

EG/mgc  
10/29/09  
Item #18

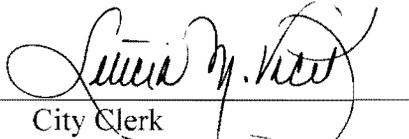
**SECTION 8.** This ordinance shall become effective immediately upon passage by eight (8) or more affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND APPROVED this 29<sup>th</sup> day of October 2009.

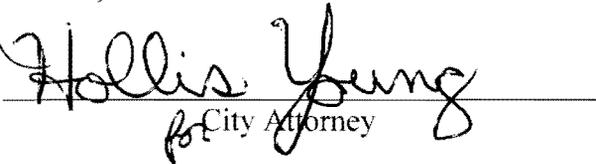


M A Y O R  
JULIÁN CASTRO

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
for City Attorney

<b>Agenda Item:</b>	<b>18</b>						
<b>Date:</b>	10/29/2009						
<b>Time:</b>	09:57:09 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing an amendment to a Public Health Emergency Response grant contract for additional funds in the amount of \$3,083,831.00 to augment support for local response efforts against novel influenza A (H1N1); and approving contracts for related services and equipment. [Sharon De La Garza, Assistant City Manager; Dr. Fernando A Guerra, Director, Health]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				x
Justin Rodriguez	District 7		x			x	
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				

DEPARTMENT OF STATE HEALTH SERVICES



Amendment  
To

**CC COPY**

The Department of State Health Services (DSHS) and SAN ANTONIO METROPOLITAN HEALTH DISTRICT (Contractor) agree to amend the Program Attachment # 001 (Program Attachment) to Contract # 2010-033620 (Contract) in accordance with this Amendment No. 001A: Community Preparedness Section / Public Health Emergency Response (PHER), effective 10/01/2009.

This Amendment is necessary because: Amending contract to incorporate PHER Focus Area 1, Phase 3 funds to support H1N1 mass vaccination implementation and activities related to implementation of a mass vaccination campaigns.

This Amendment has a retroactive effective date because: The funds associated with this amendment are in support of H1N1 vaccine administration. It is critical that the funds are available to Contractors on 10/01/09 to ensure their ability to hold H1N1 vaccination clinics.

It is mutually agreed by and between the contracting parties to amend the terms and conditions of Document No. 2010-033620 as written below. All other terms and conditions not hereby amended are to remain in full force and effect. In the event of a conflict between the terms of this contract and the terms of this Amendment, this Amendment shall control.

Therefore, DSHS and Contractor agree as follows:

SECTION I. STATEMENT OF WORK: paragraph 1 is revised as follows:

Contractor shall perform activities in support of the Centers for Disease Control and Prevention (CDC) Cooperative Agreement Work Plan for Public Health Emergency Response (PHER) (Funding Opportunity CDC-RFA-TP09-902-H1N109) Focus Area I. ~~Contractor shall identify gaps related to mass vaccination planning and implementation, vaccine delivery, vaccine administration, and related communications planning and implementation. Contractor shall perform activities to remedy the identified gaps. The following activities are allowed:~~

SECTION I. STATEMENT OF WORK: following paragraph 1, the following paragraph is hereby added:

For PHER Focus Area I, Phases I and II, Contractor shall identify gaps related to mass vaccination planning and implementation, vaccine delivery, vaccine administration, and related communications planning and implementation. Contractor shall perform activities to remedy the identified gaps. The following activities are allowed:

SECTION I. STATEMENT OF WORK: paragraph 1, 3<sup>rd</sup> bulleted item is revised as follows:

- Purchasing supplies that will be needed during the event (e.g., storage space, cold chain supplies, ancillary supplies for vaccination, lab testing supplies, general supplies, personal protective equipment and antivirals for public health response workers in accordance with the Centers for Disease Control

(CDC) and the National Institute for Occupational Safety and Health guidelines, and non-pharmaceutical supplies).

SECTION I. STATEMENT OF WORK: paragraph 1, 4<sup>th</sup> bulleted item is revised as follows:

~~Purchasing the H1N1 vaccine.~~ In addition to the H1N1 vaccine, the state of Texas will receive from CDC and distribute (free of charge) to registered providers supplies including, but not limited to, syringes, needles, alcohol swabs, and needle disposal containers to administer the H1N1 vaccine during a clinic. Funds may be used to purchase additional supplies as needed.

SECTION I. STATEMENT OF WORK: after the bulleted items in paragraph 2, the following paragraph is hereby added:

For PHER Focus Area 1, Phase III, Contractor will address gaps in capabilities for mass vaccination implementation and to support activities related to the implementation of mass vaccination campaigns at the state, local, territorial, and tribal levels. Specifically, PHER Phase III is intended for vaccine administration at the state, local, tribal, and territorial levels as well as to enhance the capabilities of the private sector to administer vaccine.

SECTION I. STATEMENT OF WORK: following paragraph 4 from the original document the paragraphs below are hereby added:

Contractors must account for Phase III funds separately from Phase I and II funds. Contractors must distinguish Phase III funds separately from Phase I and II funds on all cost reimbursement invoices sent to DSHS for processing.

Contractors may not comingle Phase III funds with PHER Focus Area 1, Phase I and II funds or PHEP funds.

SECTION II. PERFORMANCE MEASURES: the numbered items under paragraph 1 are revised as follows and items 2, 11 and 12 are hereby added:

1. Complete and submit to DSHS the CDC gap analysis ~~and work plan templates~~ no later than October 15, 2009. The analysis ~~and work plan~~ shall be sent electronically to [PHP.Contracts@dshs.state.tx.us](mailto:PHP.Contracts@dshs.state.tx.us)
2. Complete and submit to DSHS a work plan in a format to be provided by DSHS. The work plan shall be due 15 days after the work plan template is provided to the Contractor.
- 2.3. Contractor must initiate contact with Tribal organizations within Contractor's boundaries no later than October 31, 2009. Contractor shall ensure that Tribal organizations have adequate vaccination information and a vaccination plan in place. Contractor shall ensure Tribal organizations have access to funding necessary to achieve this goal.
- 3.4. Complete a mid-year report and an end of year report as requested by and in a format to be provided by DSHS. DSHS will notify contractors when the Centers for Disease Control (CDC) has released the reporting formats for completion and will provide 15 days to complete the required reports.
- 4.5. Coordinate with DSHS immunizations program staff to assist with education of local providers about the ordering process for H1N1 vaccine when that process is made available.
- 5.6. Conduct mass H1N1 vaccination clinics within the Contractor's jurisdiction, ~~if mass vaccination clinics are deemed necessary by CDC. DSHS will notify Contractor of CDC mass vaccination declarations.~~

~~including the guidelines.~~

- 6.7. Coordinate vaccine planning with other local preparedness and response partners, including but not limited to local emergency management coordinator, trauma service area regional advisory councils, local hospitals, large medical clinics, federally qualified health centers, local Independent School Districts and other community schools, colleges or universities.
- 7.8. Coordinate with DSHS epidemiology and surveillance staff at regional and state wide levels on collection and submission of influenza surveillance data.
- 8.9. Collect and submit influenza surveillance and investigation data and specimens as part of state-wide influenza surveillance and local response and surveillance. Influenza surveillance and investigation data should be submitted to DSHS Infectious Disease Control Unit through the DSHS Health Services Region (HSR) as appropriate for the situation. Data from the novel H1N1 case report form for deaths may be submitted via the National Electronic Disease Surveillance System (NEDSS) Based System (NBS) or by fax as agreed upon with the Health Service Region (HSR) within one (1) working day of completing the investigation. Specimens should be submitted to the Laboratory Resource Network (LRN) or DSHS Laboratory according to the specimen collection criteria located at <http://www.dshs.state.tx.us/swineflu/Lab-Test-Protocol.shtm>.
- 9.10. Attend quarterly DSHS public health preparedness meetings.

11. Complete and submit monthly progress reports which summarize the H1N1 mass vaccination activities conducted. The CDC will develop the reporting template to include questions such as:

- a. Number of doses administered;
- b. Breakdown of the doses administered by private sector versus public sector (including those working on behalf of public health agencies);
- c. Number of provider sites enrolled as ship-to-sites;
- d. Other relevant mass vaccination data, and
- e. Promising practices and lessons learned.

Beginning November 5, 2009, monthly progress reports will be due for activities conducted during the preceding month. The reports are due on the 5<sup>th</sup> of each month or on the following Monday when the 5<sup>th</sup> falls on a Saturday or Sunday.

12. Complete and submit H1N1 Mass Vaccination After Action Reports (AAR), Improvement Plans (IP), and Corrective Action Programs (CAP). AARs, IPs, and CAPs are due by February 26, 2010, for Mass Vaccination activities that occur during the time period October 1, 2009 to December 31, 2009.

SECTION VI. BILLING INSTRUCTIONS: the following paragraph is hereby added:

Phase III funds shall be identified separately and distinctly on the State of Texas Purchase Voucher (Form B-13) from Phase I and II funds.

Department of State Health Services

\_\_\_\_\_  
Signature of Authorized Official

Date: \_\_\_\_\_

Adolfo M. Valadez, M.D., M.P.H.,  
Assistant Commissioner

Prevention and Preparedness Division

1100 WEST 49TH STREET  
AUSTIN, TEXAS 78756

(512) 458-7729

Adolfo.Valadez@dshs.state.tx.us

Contractor

  
\_\_\_\_\_  
Signature of Authorized Official

Date: 10/15/2009

Name: Fernando A. Guerra, M.D., M.P.H.

Title: Director of Health

Address: 332 W. Commerce St., Ste. 307

San Antonio, TX 78205

Phone: 210-207-8731

Email: fernando.guerra@sanantonio.gov

DEPARTMENT OF STATE HEALTH SERVICES



1100 WEST 49TH STREET  
AUSTIN, TEXAS 78756-3199

EQUIPMENT LIST CHANGE REQUEST

DSHS PROGRAM: Community Preparedness Section / Public Health Eme  
 CONTRACTOR: San Antonio Metropolitan Health District  
 CONTRACT TERM: 09/15/2009 THRU: 07/31/2010  
 BUDGET PERIOD: 09/15/2009 THRU: 07/31/2010  
 CONTRACT NO: 2010-033620 CHG: 001A

PREVIOUS EQUIPMENT LIST

Item#	Equipment Description	Units	Unit Cost	Total
1	Dell PowerEdge Energy smart 2950, RAID 5 server w/Microsoft Windows Server OS 2008. Installation included.	1	\$2,000.00	\$2,000.00
2	Dell Precision T3400 Tower computer 2.4 GHZ processor 6 glg ram (memory), 22" monitor, microsoft office small business edition.	1	\$1,850.00	\$1,850.00
3	Response Trailer 44'x8' Goose Neck, 2 A/C Units, Ramp Gate, 25kw three phase whisperwatt generator, smooth aluminum siding, one piece aluminum roof, 2-10,000lb axles, spare tire w/polished aluminum wheel, electric hydraulic brakes, insulated & lined walls.	1	\$80,000.00	\$80,000.00
4	SRR-72GD-MED; Refrigerator-61 cuft interior capacity w/ 3 double pane glass swing doors, microprocessor temp. control w/ settable range of -5C to +10C, audible & visual, high & low tracking temp. alarms, LED temp. display, auto door lighting.	1	\$6,421.00	\$6,421.00
5	Sentino Pro 1-1000, 1TB capacity license (4 SATA 500GB Frives-2TB).	1	\$7,500.00	\$7,500.00
6	WebCRA - Direct Attached Storage - Dell PowerVault MD1120 Storage; 12 x 73GB 15K RPM SAS in Raid 1/0 (Maybe RAID 5) for data files; 4 x 73GB 15K RPM SAS in RAID 1/0 for log files; 6 x 73GB 15K RPM SAS in RAID 1/0 for temp db; 2 x 73GB 15K RPM SAS in RAID	1	\$13,000.00	\$13,000.00
7	WebCRA - Load Balancer - Cisco 11501: load balancing small web server clusters, supporting eight 10/100 Ethernet ports and one Gigabit Ethernet port though an optional small-form-factor, pluggable gigabit interface converter (SFP GBIC).	3	\$4,000.00	\$12,000.00
8	WebCRA - Load Balancer-Cicso 11501: load balancing small web.	1	\$12,500.00	\$12,500.00

9	WebCRA - Web Server - Dell PowerEdge R710; Processor: Intel Xeon X5560 (2.8Ghz, 8MB Cache); Memory: 12GB RAM (3 x 41GB 1333 RDIMM Optimized); O/S: Windows Server 2003 Standard x64 (5CAL); Hard Drives: 2 x 73GB 10K in RAID 1 Configuration (OS and Swap	1	\$8,000.00	\$8,000.00
TOTAL			\$	\$143,271.00

#### NEW EQUIPMENT LIST

Item#	Equipment Description	Units	Unit Cost	Total
1	Dell PowerEdge Energy smart 2950, RAID 5 server w/Microsoft Windows Server OS 2008. Installation included.	1	\$2,000.00	\$2,000.00
2	Dell Precision T3400 Tower computer 2.4 GHZ processor 6 gig ram (memory), 22" monitor, microsoft office small business edition.	1	\$1,850.00	\$1,850.00
3	Response Trailer 44 ft Goose Neck, A/C Units, Ramp Gate (see specification sheet) The total cost listed is the remainder of the total of \$319,900. The difference of \$61,,550 was authorized in the PHEP Grant.	1	\$178,350.00	\$178,350.00
4	Response Trailer 44'x8' Goose Neck, 2 A/C Units, Ramp Gate, 25kw three phase whisperwatt generator, smooth aluminum siding, one piece aluminum roof, 2-10,000lb axles, spare tire w/polished aluminum wheel, electric hydraulic brakes, insulated & lined walls.	1	\$80,000.00	\$80,000.00
5	SRR-72GD-MED; Refrigerator-61 cuft interior capacity w/ 3 double pane glass swing doors, microprocessor temp. control w/ settable range of -5C to +10C, audible & visual, high & low tracking temp. alarms, LED temp. display, auto door lighting.	1	\$6,421.00	\$6,421.00
6	Sentino Pro 1-1000, 1TB capacity license (4 SATA 500GB Frives-2TB).	1	\$7,500.00	\$7,500.00
7	WebCRA - Direct Attached Storage - Dell PowerVault MD1120 Storage; 12 x 73GB 15K RPM SAS in Raid 1/0 (Maybe RAID 5) for data files; 4 x 73GB 15K RPM SAS in RAID 1/0 for log files; 6 x 73GB 15K RPM SAS in RAID 1/0 for temp db; 2 x 73GB 15K RPM SAS in RAID	1	\$13,000.00	\$13,000.00
8	WebCRA - Load Balancer - Cisco 11501: load balancing small web server clusters, supporting eight 10/100 Ethernet ports and one Gigabit Ethernet port though an optional small-form-factor, pluggable gigabit interface converter (SFP GBIC).	3	\$4,000.00	\$12,000.00
9	WebCRA - Load Balancer-Cisco 11501: load balancing small web.	1	\$12,500.00	\$12,500.00
10	WebCRA - Web Server - Dell PowerEdge R710; Processor: Intel Xeon X5560 (2.8Ghz, 8MB Cache); Memory: 12GB RAM (3 x 41GB 1333 RDIMM Optimized); O/S: Windows Server 2003 Standard x64 (5CAL); Hard Drives: 2 x 73GB 10K in RAID 1 Configuration (OS and Swap	1	\$8,000.00	\$8,000.00
TOTAL			\$	\$321,621.00

DEPARTMENT OF STATE HEALTH SERVICES



1100 WEST 49TH STREET  
AUSTIN, TEXAS 78756-3199

CATEGORICAL BUDGET CHANGE REQUEST

DSHS PROGRAM: Community Preparedness Section / Public Health Eme

CONTRATOR: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

CONTRACT NO: 2010-033620

CONTRACT TERM: 09/15/2009 THRU: 07/31/2010

BUDGET PERIOD: 09/15/2009 THRU: 07/31/2010

CHG: 001A

DIRECT COST (OBJECT CLASS CATEGORIES)			
	Current Approved Budget (A)	Revised Budget (B)	Change Requested
Personnel	\$0.00	\$0.00	\$0.00
Fringe Benefits	\$0.00	\$0.00	\$0.00
Travel	\$0.00	\$0.00	\$0.00
Equipment	\$143,271.00	\$321,621.00	\$178,350.00
Supplies	\$208,964.00	\$538,157.00	\$329,193.00
Contractual	\$998,796.00	\$3,561,176.00	\$2,562,380.00
Other	\$48,551.00	\$62,459.00	\$13,908.00
<b>Total Direct Charges</b>	<b>\$1,399,582.00</b>	<b>\$4,483,413.00</b>	<b>\$3,083,831.00</b>
INDIRECT COST			
Base (\$)	\$0.00	\$0.00	\$0.00
Rate (%)	0.00%	0.00%	0.00%
Indirect Total	\$0.00	\$0.00	\$0.00
PROGRAM INCOME			
Program Income	\$0.00	\$0.00	\$0.00
Other Match	\$0.00	\$0.00	\$0.00
Income Total	\$0.00	\$0.00	\$0.00
LIMITS/RESTRICTIONS			
Advance Limit	\$0.00	\$0.00	\$0.00
Restricted Budget	\$0.00	\$0.00	\$0.00
SUMMARY			
Cost Total	\$1,399,582.00	\$4,483,413.00	\$3,083,831.00
Performing Agency Share	\$0.00	\$0.00	\$0.00
Receiving Agency Share	\$1,399,582.00	\$4,483,413.00	\$3,083,831.00
Total Reimbursements Limit	\$1,399,582.00	\$4,483,413.00	\$3,083,831.00
JUSTIFICATION			
Budget adjustments incorporate PHER FA1, Phase 3 funds which will support H1N1 vaccine administration activities which may include Personnel, Travel, Equipment, Supplies, Contractual and Other costs. Phase 3 funds are in addition to Phase 1&2.			

Financial status reports are due: 12/30/2009, 03/30/2010, 06/30/2010, 09/29/2010

## DEPARTMENT OF STATE HEALTH SERVICES



1100 WEST 49TH STREET  
AUSTIN, TEXAS 78756-3199

## EQUIPMENT LIST CHANGE REQUEST

DSHS PROGRAM: Community Preparedness Section / Public Health Eme  
CONTRACTOR: San Antonio Metropolitan Health District  
CONTRACT TERM: 09/15/2009 THRU: 07/31/2010  
BUDGET PERIOD: 09/15/2009 THRU: 07/31/2010  
CONTRACT NO: 2010-033620 CHG: 001A

## PREVIOUS EQUIPMENT LIST

Item #	Equipment Description	Units	Unit Cost	Total
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2	Dell Precision T3400 Tower computer 2.4 GHZ processor 6 gig ram (memory), 22" monitor, microsoft office small business edition.	1	\$1,850.00	\$1,850.00
3	Response Trailer 44'x8' Goose Neck, 2 A/C Units, Ramp Gate, 25kw three phase whisperwatt generator, smooth aluminum siding, one piece aluminum roof, 2-10,000lb axles, spare tire w/polished aluminum wheel, electric hydraulic brakes, insulated & lined walls.	1	\$80,000.00	\$80,000.00
4	SRR-72GD-MED; Refrigerator-61 cuft interior capacity w/ 3 double pane glass swing doors, microprocessor temp. control w/ settable range of -5C to +10C, audible & visual, high & low tracking temp. alarms, LED temp. display, auto door lighting.	1	\$6,421.00	\$6,421.00
5	Sentino Pro 1-1000, 1TB capacity license (4 SATA 500GB Frives-2TB).	1	\$7,500.00	\$7,500.00
6	WebCRA - Direct Attached Storage - Dell PowerVault MD1120 Storage; 12 x 73GB 15K RPM SAS in Raid 1/0 (Maybe RAID 5) for data files; 4 x 73GB 15K RPM SAS in RAID 1/0 for log files; 6 x 73GB 15K RPM SAS in RAID 1/0 for temp db; 2 x 73GB 15K RPM SAS in RAID	1	\$13,000.00	\$13,000.00
7	WebCRA - Load Balancer - Cisco 11501: load balancing small web server clusters, supporting eight 10/100 Ethernet ports and one Gigabit Ethernet port though an optional small-form-factor, pluggable gigabit interface converter (SFP GBIC).	3	\$4,000.00	\$12,000.00
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TOTAL			\$	\$143,271.00

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5	SRR-72GD-MED; Refrigerator-61 cuft interior capacity w/ 3 double pane glass swing doors, microprocessor temp. control w/ settable range of -5C to +10C, audible & visual, high & low tracking temp. alarms, LED temp. display, auto door lighting.	1	\$6,421.00	\$6,421.00
6	Sentino Pro 1-1000, 1TB capacity license (4 SATA 500GB Frives-2TB).	1	\$7,500.00	\$7,500.00
7	WebCRA - Direct Attached Storage - Dell PowerVault MD1120 Storage; 12 x 73GB 15K RPM SAS in Raid 1/0 (Maybe RAID 5) for data files; 4 x 73GB 15K RPM SAS in RAID 1/0 for log files; 6 x 73GB 15K RPM SAS in RAID 1/0 for temp db; 2 x 73GB 15K RPM SAS in RAID	1	\$13,000.00	\$13,000.00
8	WebCRA - Load Balancer - Cisco 11501: load balancing small web server clusters, supporting eight 10/100 Ethernet ports and one Gigabit Ethernet port though an optional small-form-factor, pluggable gigabit interface converter (SFP GBIC).	3	\$4,000.00	\$12,000.00
9	WebCRA - Load Balancer-Cicso 11501: load balancing small web.	1	\$12,500.00	\$12,500.00
10	WebCRA - Web Server - Dell PowerEdge R710; Processor: Intel Xeon X5560 (2.8Ghz, 8MB Cache); Memory: 12GB RAM (3 x 41GB 1333 RDIMM Optimized); O/S: Windows Server 2003 Standard x64 (5CAL); Hard Drives: 2 x 73GB 10K in RAID 1 Configuration (OS and Swap	1	\$8,000.00	\$8,000.00
TOTAL			\$	\$321,621.00

DEPARTMENT OF STATE HEALTH SERVICES



1100 WEST 49TH STREET  
AUSTIN, TEXAS 78756-3199

CATEGORICAL BUDGET CHANGE REQUEST

DSHS PROGRAM: Community Preparedness Section / Public Health Eme

CONTRATOR: SAN ANTONIO METROPOLITAN HEALTH DISTRICT

CONTRACT NO: 2010-033620

CONTRACT TERM: 09/15/2009 THRU: 07/31/2010

BUDGET PERIOD: 09/15/2009 THRU: 07/31/2010

CHG: 001A

<b>DIRECT COST (OBJECT CLASS CATEGORIES)</b>			
	Current Approved Budget (A)	Revised Budget (B)	Change Requested
Personnel	\$0.00	\$0.00	\$0.00
Fringe Benefits	\$0.00	\$0.00	\$0.00
Travel	\$0.00	\$0.00	\$0.00
Equipment	\$143,271.00	\$321,621.00	\$178,350.00
Supplies	\$208,964.00	\$538,157.00	\$329,193.00
Contractual	\$998,796.00	\$3,561,176.00	\$2,562,380.00
Other	\$48,551.00	\$62,459.00	\$13,908.00
<b>Total Direct Charges</b>	<b>\$1,399,582.00</b>	<b>\$4,483,413.00</b>	<b>\$3,083,831.00</b>
<b>INDIRECT COST</b>			
Base (\$)	\$0.00	\$0.00	\$0.00
Rate (%)	0.00%	0.00%	0.00%
Indirect Total	\$0.00	\$0.00	\$0.00
<b>PROGRAM INCOME</b>			
Program Income	\$0.00	\$0.00	\$0.00
Other Match	\$0.00	\$0.00	\$0.00
Income Total	\$0.00	\$0.00	\$0.00
<b>LIMITS/RESTRICTIONS</b>			
Advance Limit	\$0.00	\$0.00	\$0.00
Restricted Budget	\$0.00	\$0.00	\$0.00
<b>SUMMARY</b>			
Cost Total	\$1,399,582.00	\$4,483,413.00	\$3,083,831.00
Performing Agency Share	\$0.00	\$0.00	\$0.00
Receiving Agency Share	\$1,399,582.00	\$4,483,413.00	\$3,083,831.00
Total Reimbursements Limit	\$1,399,582.00	\$4,483,413.00	\$3,083,831.00
<b>JUSTIFICATION</b>			
Budget adjustments incorporate PHER FA1, Phase 3 funds which will support H1N1 vaccine administration activities which may include Personnel, Travel, Equipment, Supplies, Contractual and Other costs. Phase 3 funds are in addition to Phase 1&2.			

Financial status reports are due: 12/30/2009, 03/30/2010, 06/30/2010, 09/29/2010

STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR   §

CITY OF SAN ANTONIO  
PROFESSIONAL HEALTH CARE  
SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as City), and Angel Staffing (hereinafter referred to as "Contractor" or "Angel" herein), both of which may be referred to herein collectively as the "Parties".

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

**I. DEFINITIONS**

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

- "City" is defined in the preamble of this Agreement and includes its successors and assigns.
- "Contractor" is defined in the preamble of this Agreement and includes its successors.
- "Director" shall mean the director of City's San Antonio Metropolitan Health District (SAMHD).

**II. TERM**

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence upon the effective date of the ordinance awarding the contract and terminate on September 30, 2012.

2.2 The City shall have the option to renew and extend the term of this Agreement for two periods, with each period being one year in length.

2.3 Contractor agrees and understands that City has projected costs for this Agreement and that City expects to pay all obligations of this Agreement from projected revenue sources, including grant funds, but that all obligations of City are subject to annual appropriation by City Council in future years, after September 30, 2010. Accordingly, if City shall fail to appropriate sums to pay any of City's obligations under the terms of this Agreement, and due to the unavailability and/or failure to appropriate funds City shall not have the funds to pay such obligations the City may terminate this Agreement after providing Angel thirty (30) days written notice that City is terminating on such grounds of budget underfunding and such termination shall be effective no sooner than thirty (30) days after Angel's receipt of such written notice. City's termination on such grounds shall terminate this Agreement after such notice and neither Contractor nor City shall have any further obligations hereunder. Lack of funding is not and shall not be considered a breach of this Agreement as to any services performed by Angel subsequent



to 60 days after being provided notice of termination based on underfunding. Payment for services performed by Contractor through the effective date of termination shall be made pursuant to Article 7.6 herein.

2.4 It is expressly understood and agreed by the City and Contractor that if City does not receive adequate funds to meet the City's liability under this Agreement, City may terminate this Agreement per Paragraph 7.2 (without cause) and City's obligations under this Agreement are limited to the services provided through the date of termination. Lack of funding is not and shall not be considered a breach of this Agreement by the City.

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

3.1 Contractor shall provide trained and professional personnel for medical staffing services in accordance with the specifications listed herein. The contractor will be primarily responsible for assisting in providing medical and public health services personnel that will be deployed at various sites identified by San Antonio Metropolitan Health District (SAMHD).

3.2 Contractor shall support an effective health and medical response to an emergency, disaster, or public health event for the City of San Antonio and/or Bexar County. In cooperation with, and at the direction of the San Antonio Metropolitan Health District (SAMHD), the Contractor shall provide trained medical and professional personnel, deployed at sites identified by the SAMHD, for the purposes of assisting in providing medical and public health services. These services may include, but are not limited to, triage and medical screening, vaccination, dispensation of medications or medical supplies and provision of first aid.

3.3 Contractor shall use its best efforts to provide one or more of the following types of health related professionals as requested by the City licensed physicians, licensed physician assistants, licensed nurses (registered nurses, licensed vocational nurses, and advanced practice nurses), certified respiratory care practitioners, licensed paramedics, certified emergency medical technicians (EMTs), licensed pharmacists, registered pharmacy technicians, certified nurse aides, and mental health professionals such as licensed professional counselors, licensed social workers, and licensed psychologists in accordance with this Contract. Other state licensed, certified, or registered professionals will be provided by Contractor at the request of the SAMHD, subject to agreement of the Parties on the costs or rates to be reimbursed by SAMHD for those other professionals under this Contract. The term "Professionals" means the individuals described in this paragraph that may be or are deployed to provide services to the SAMHD under this Contract in a disaster, emergency, or public health event.

3.4 Specific duties and responsibilities under the contract shall include:

3.4.1 Contractor agrees that it shall use its best efforts to provide the number of Professionals requested by SAMHD. The maximum number of Professionals shown in the Price Schedule, of this Contract, is the maximum number that Contractor may provide at the request of SAMHD. SAMHD does not guarantee that it will request the maximum number of Professionals for any disaster, emergency or public health event. Contractor will make a reasonable effort to provide additional Professionals, over the maximum amounts, at the request of SAMHD. If the contractor cannot guarantee a specific number of one or more of the listed professional types, the contractor should

enter "0" but still fill in the hourly rate. The hourly rate, upon acceptance by SAMHD, will lock in that hourly rate for whatever number of professionals is provided for that professional type.

3.4.2 This Contract also describes administrative staff (referred to as "Other Staff") that Contractor agrees to provide at the request of SAMHD. Professionals and Other Staff are collectively referred to as "Contractor Staff" in this Contract. See paragraph 3.4.25.

3.4.3 SAMHD may request a specialized team of professionals under this contract that could be deployed for a specific purpose as a team rather than as individuals. For example, SAMHD may request a strike team consisting of physician, nurses, and paramedics to serve as a medical strike team that supports a shelter medical clinic. There will be no deployments of personnel outside Bexar County.

3.4.4 The term "disaster" means the occurrence of imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military paramilitary action, other public calamity requiring emergency action, or energy emergency. An executive order or proclamation from the Governor of the State of Texas declaring a state of disaster may or may not exist at the time that SAMHD may activate the deployment provisions of this Contract.

3.4.5 The term "emergency" means an event or series of events that require SAMHD response to a public health need including evacuation, sheltering, or public health emergency.

3.4.6 The term "deployment" means the time beginning when SAMHD officially notifies Contractor of the need for Contractor Staff under this Contract until the individual returns home after demobilization. The term includes the time for Contractor to locate available Contractor Staff after notification from SAMHD and travel time addressed in this Contract.

3.4.7 The term "license" includes a license, certification, registration or other evidence of authority to practice the individual's profession issued by a state.

3.4.8 The Professionals provided by Contractor shall be licensed by the State of Texas in the appropriate professional field. Professionals who are not licensed in Texas but hold a license in the appropriate field from another state may be provided to the SAMHD under the following circumstances: a) all provisions of this contract relating to Professionals must be met, other than the requirement for the individual to hold a Texas license unless provision c) of this paragraph applies; b) Contractor must inform each Professional that is deployed that the individual is not being deployed pursuant to the Emergency Management Assistance Compact, Health and Safety Code, Chapter 778 (EMAC) and therefore is not deemed to be licensed in the State of Texas under EMAC or subject to the limitations on liability in EMAC; and c) if an executive order or

proclamation from the Governor declaring a state of disaster is not in effect, each Professional must be licensed in Texas if licensure is required by Texas law or the Professional must work under the delegated authority of a physician licensed in the State of Texas. Contractor shall be responsible for providing a physician licensed in the State of Texas to provide the delegated authority under provision c). If Contractor is a nonprofit professional association composed primarily of members of a specific profession who are not physicians, the requirement for Contractor to provide a physician for delegated authority shall not apply.

3.4.9 Contractor shall establish and implement policies and procedures to provide for credentialing of its Professionals who may be deployed to provide services under this Contract. The policies and procedures shall include verification of licensure, licensure status (e.g., license is in good standing), specialties, and privileges at hospitals or other health care facilities at the time a Professional signs up with the Contractor but no later than the time of deployment. The policies and procedures shall include periodic re-verification of these matters. Contractor shall keep written records on each Professional that may be deployed under this Contract. Contractor shall obtain all of this information at a time that will not cause delay in responding to a deployment notification.

3.4.10 Contractor shall also obtain a criminal background check on each Contractor Staff that may be deployed under this Contract. The check shall be obtained from the individual's state of residence. Any individual with a felony conviction shall not be utilized under this Contract. Contractor shall obtain the criminal background check at the time the individual signs up with the Contractor but no later than the time of deployment. Contractor shall obtain each check at a time that will not cause delay in responding to a deployment notification. If necessary, SAMHD reserves the right to waive this requirement and will notify the contractor in writing, or via email, of this change.

3.4.11 Contractor shall obtain and maintain professional liability insurance to cover each Professional providing service to the SAMHD during a disaster or emergency at any location within the State of Texas, or shall require the Professionals to maintain and provide proof of professional liability insurance that will cover the Professional at any location in the State of Texas to which the Professional may be deployed by SAMHD in a disaster or emergency. Contractor shall use its best efforts to maintain copies of each insurance policy in its records.

3.4.12 Contractor acknowledges that SAMHD has provided information concerning federal and state laws relating to protection from liability that may apply to the Contractor Staff. Contractor understands that SAMHD is not providing legal advice to Contractor or to the Contractor Staff on the application of these laws and that Contractor and each Contractor Staff has an obligation to ensure that each one is informed by its own legal counsel of laws, regulations, and rules that may apply to either the Contractor's business or the Contractor Staff's services.

3.4.13 Under the Civil Practice and Remedies Code, Chapter 79, Liability of Persons Assisting in Hazardous or Dangerous Situations, the Parties consider Contractor, its employees, and the Contractor Staff to be giving care, assistance, or advice with

respect to the management of an incident that is a disaster that endangers or threatens to endanger individuals, property or the environment; and in which the care, assistance, or advice is provided at the request of an authorized representative of a local, state, or federal agency. There is no expectation of compensation from or on behalf of the recipients of the care, assistance, or advice in excess of reimbursement for expenses incurred. The Parties consider the "recipients" to be the individuals who have been subject to evacuation or the provision of medical special needs shelter services during a disaster or emergency.

3.4.14 The Parties also acknowledge that each Contractor Staff may be considered a private individual under the Health and Safety Code, Section 81.007 and subject to the limitation on liability in that section if he or she is performing duties in compliance with orders or instructions of the SAMHD or a health authority under the Health and Safety Code, Chapter 81, Communicable Disease Prevention and Control Act.

3.4.15 If a Professional provided under this Contract is a physician or psychiatrist, the State of Texas shall indemnify the Professional in accordance with the Texas Civil Practice and Remedies Code, Chapter 104, State Liability for Conduct of Public Servants and the Professional's liability is limited under the Texas Civil Practice and Remedies Code, Chapter 108, Limitation of Liability for Public Servant. This applies only to a physician or psychiatrist licensed in the State of Texas.

3.4.16 The Professionals shall be deployed to provide professional services during a disaster, emergency or public health event; for medical special needs shelter support during a disaster or emergency; and/or for medical and health care at other locations, such as evacuation comfort stations, fuel stations, or on evacuation buses or medical transport, during a disaster or emergency. Other Staff may be deployed under the same circumstances except that Other Staff shall not be providing medical or health care. It is the Parties intent that Contractor Staff be provided to supplement local community needs and/or SAMHD-established shelters or other SAMHD responsibilities. In addition the State of Texas State Emergency Management Plan, Annex II, Health and Medical Services, including its appendix, particularly Appendix 7, Pandemic Influenza Response, and the Hurricane Evacuation and Mass Care Plan, including its attachments, particularly Attachment 5, Medical Special Needs, describe the responsibilities of SAMHD and the medical and health care services for which Contractor Staff may be requested. The Plan is available at <http://www.txdps.state.tx.us/dem/pages/downloadableforms.htm#stateplan>.

3.4.17 On-site management of Contractor Staff at each response location shall be provided by SAMHD, a designee of SAMHD, or by federal, state, or local government employees or officials.

3.4.18 SAMHD shall provide a deployment notification to Contractor.

3.4.19 SAMHD may give Contractor a verbal or written alert of a possible deployment request but the timeframes in the preceding paragraph shall not start to run from that alert.

3.4.20 SAMHD may make multiple requests to Contractor during a single disaster or emergency. A subsequent request will not change the timeframes for an earlier request as set forth in the preceding paragraph unless SAMHD expressly states in the subsequent request that the earlier timeframes are increased.

3.4.21 Each Contractor Staff shall serve no more than a twelve hour shift on each of the days of actual service at the discretion of SAMHD. In addition each Contractor Staff shall report thirty (30) minutes prior to the start of each of the individual's shifts and remain for up to thirty (30) minutes after the end of each of the individual's shifts in order to provide for transitioning between shifts. Each Contractor Staff shall receive orientation from SAMHD or its designee prior to the individual's first shift. Each Contractor Staff shall remain after the individual's last shift for up to two (2) hours of demobilization activities unless waived by SAMHD. The 30 minutes transition, orientation, and demobilization times are not part of the individual's shift.

3.4.22 Contractor shall use its best efforts to ensure that each Professional has current American Heart Association cardiopulmonary resuscitation training prior to the Professional's deployment.

3.4.23 Upon the request of SAMHD, Contractor shall make a reasonable effort to provide one or more staffing specialists/liaisons/coordinators (Liaison) who shall be considered to be part of Other Staff. Each Liaison shall assist SAMHD to assess and make recommendations on staffing. Each Liaison shall be an individual with appropriate knowledge of professional licensure, credentials, and experience to meet possible needs during a disaster or emergency. During a disaster or emergency each Liaison shall be available twenty-four (24) hours/seven (7) days a week by telephone or on-site at a response location at the request of SAMHD. Time at the response location will not exceed a twelve (12) hour shift for seven (7) consecutive days. Each Liaison also shall participate in planning meetings, conference calls, training, and exercises prior to deployment to the extent that SAMHD provides at least three (3) business day's written notice to Contractor of the meeting, call, training, or exercise. The following are examples of the type of Liaison that may be requested: (A) Staffing Specialist Coordinator: A person with the capability to perform high level work and remain the overall responsible person for Contractor's response to work with SAMHD to provide consultative services for requests generated, needs assessments and high level management of Contractor and SAMHD interaction during planning of a response, real time response and after-action process. Person shall be expected to be available within 2 hours of activation via conference call and within 8 hours on site if requested. (B) On-Site Staffing Consultant: A person who will remain on-site at major medical response site where Contractor has deployed Professionals. He or she shall be skilled at real-time assessments of medical staffing needs, have the ability to anticipate needs based on event, be able to trouble shoot issues with deployed staff, have quick contact to SAMHD to manage rapidly changing needs to best serve the SAMHD response during an event. Acts as on-site point of contact for SAMHD command and control structure for medical staffing needs; will assure deployed staff needs are fully addressed, including scheduling of shifts; will be the point of contact for any spontaneous medical volunteers who appear at the response site to engage them in appropriate process; and, will remain on site and on

call at night until services are no longer requested by SAMHD as determined by on-site SAMHD command staff or its designee.

3.4.24 SAMHD shall provide a daily verbal or written report to the Contractor on situational awareness during a disaster or emergency.

3.4.25 Contractor and Contractor Staff shall comply with written policies and procedures provided to Contractor prior to deployment to a disaster or emergency. Contractor shall use its best efforts to provide these written policies and procedures to its Contractor Staff prior to deployment to a disaster or emergency. Contractor shall document when it gave each policy(ies) and procedure(s) to each Contractor Staff.

3.4.26 Additional policies and procedures may be established by SAMHD during a disaster or emergency including after deployment of Contractor Staff. Contractor shall be subject to the additional policies and procedures that are shared, verbally or in writing, by SAMHD with Contractor. Each Contractor Staff shall be subject to the additional policies and procedures to the extent that the policies and procedures are provided to the Contractor Staff by SAMHD or Contractor.

3.4.27 Contractor is not required to provide equipment or supplies to be utilized by its Contractor Staff during a disaster or emergency. Equipment and supplies will be provided or obtained by SAMHD; state, local or federal government; or other sources.

3.4.28 Contractor shall make all travel arrangements for Contractor Staff's deployment, including transportation to the response location and lodging near the response location. SAMHD shall have no responsibility to make such arrangements. There will be no deployments of personnel outside Bexar County. Contractor agrees that SAMHD will be provided with notice two (2) business days prior to assigning personnel that will be required to travel more than 50 miles a day. Upon receiving such notice, SAMHD may choose to reject the use of personnel that will require travel reimbursement prior to their deployment. If any one Contractor Staff exceeds 50 miles of travel a day in connection with a deployment under this Agreement, Angel shall also be reimbursed for reasonable mileage to reimburse its Contractor Staff, which rates shall not exceed any mileage rate for state employees, which can be found at <http://fmx.cpa.state.tx.us/fm/travel/travelrates.php>. Contractor agrees that in deploying personnel that will require travel reimbursement, it will utilize and deploy personnel that are closest to the deployment site to minimize travel costs.

3.4.29 In connection with deployment for disaster or emergency events only, SAMHD shall provide food and water for each Contractor Staff during the individual's shift or ensure that another entity, other than Contractor, is providing such food and water.

3.4.30 Contractor, its employees, its agents, its Contractor Staff shall not bill third parties, clients, patients or other persons for the services provided under this Contract unless authorized by SAMHD in writing.

3.4.31 Contractor shall provide reports to SAMHD on potential Contractor Staff before deployment or on Contractor Staff activities during deployment as reasonably requested by SAMHD. The health and medical records created by Contractor Staff under this Contract shall remain in the care, custody and control of SAMHD. Contractor and its Contractor Staff shall not remove or copy any of these records unless authorized by SAMHD.

3.4.32 The Contractor's primary point of contact is Shannon Ralston at

Shannon Ralston, RN, BSN  
President/CEO  
Angel Staffing, Inc.  
(O) 210.616.9526  
(F) 210.616.9501  
(C) 210.854.7656  
[shannonr@angelstaffing.net](mailto:shannonr@angelstaffing.net)

**Angel shall also provide SAMHD a secondary point of contact.** A point of contact shall be available 24-hours/7 days a week during the term of this Contract. SAMHD's primary point of contact is **Roger Pollock, phone (210) 207-8752, and email [roger.pollock@sanantonio.gov](mailto:roger.pollock@sanantonio.gov)**. SAMHD's secondary point of contact is **Francis Chance, phone (210) 207-2145 or email [francis.chance@sanantonio.gov](mailto:francis.chance@sanantonio.gov)**. Either Party may change its point of contact(s) with written notice to the other Party at least five (5) days before the change is effective. The five day requirement does not apply during deployment.

3.4.33 Contractor shall use reasonable efforts to ensure that the Contractor Staff has received the following minimum vaccines: Tdap (Pertussis), Varicella (Chickenpox vaccine or had Chickenpox), and MMR (Measles, mumps, rubella; or born before 1957) prior to deployment. A flu vaccine is recommended but not required. Contractor shall reasonably document in its records that it has verified that each Contractor Staff has met these minimum vaccine requirements prior to deployment. SAMHD will provide any additional vaccines or prophylaxis needed for a particular disaster or emergency at its expense.

3.4.34 Contractor shall use reasonable efforts to verify that each Contractor Staff is immuno-competent at the time of the individual's deployment, including that the individual is physically able to provide services in a high stress, austere, and extraordinary situation.

3.4.35 At the time of deployment Contractor and each Contractor Staff may be required to sign an agreement with SAMHD relating to issues such as verification of immunizations, then-current illnesses, special needs, confidentiality, safety, policies and procedures to be followed during the disaster or emergency, and other issues pertinent to the particular emergency or disaster. Contractor agrees that it shall reasonably cooperate with SAMHD in obtaining signatures from its Contractor Staff on any such agreement.

Contractor shall keep the signed agreements and provide copies to SAMHD upon SAMHD's request.

3.4.36 Contractor shall inform Contractor Staff that they may not provide medical or health care services during the individual's deployment other than to perform medical or health care services to Angel under the auspices of this Agreement.

3.4.37 The Contractor Staff shall not be considered to be employees of SAMHD, but are independent contractors. State laws relating to workers compensation do not apply to the Contractor Staff under this Contract.

3.4.38 The Professionals must provide usual and customary services of a medical or health professional in their field. The Professionals must have the ability to provide examinations, evaluations, consultations, and perform specific treatment as necessary. Services may be necessary after normal business hours or on holidays.

3.4.39 Contractor Staff will provide services at sites (response locations) designated by SAMHD. The Contracting Staff will provide reports on their services performed within guidelines established by SAMHD. Contracting Staff must interact with SAMHD staff, other contractors or consultants of SAMHD and other persons providing other services during a disaster or emergency in a cooperative manner and will consult with such persons regarding services provided as necessary.

3.4.40 Each Professional must be in good standing with the appropriate state regulatory agency with no current sanctions against their license or no sanctions within the previous three years from the time of deployment.

3.4.41 Each Professional must have demonstrated experience and/or knowledge within the scope of their licensed profession. Each Professional shall maintain his/her license required by state law in good standing during the term of any deployment under this Contract. Each Professional must inform Contractor and SAMHD immediately of any change to the Professional's license.

3.4.42 At the discretion of SAMHD, a Professional or Other Staff may be deemed to be unacceptable to SAMHD for any reason and SAMHD shall be authorized immediately to release that individual and end the individual's deployment. SAMHD shall notify Contractor as soon as possible before or after release. Contractor will use reasonable efforts to replace the released Professional or released Other Staff within twenty-four (24) hours of the notification from SAMHD if requested by SAMHD.

3.4.43 The Parties understand that the needs of the State of Texas or SAMHD cannot be accurately predicted for future disasters or emergencies. The Parties agree that they shall work together to address any issues that arise that are not adequately addressed in this Contract.

3.4.44 This Contract shall be effective from the date on which it is signed by both Parties until September 30, 2012. SAMHD reserves the right to renew this contract at its option for two (2) one year terms.



3.4.45 SAMHD may contract with more than one entity to provide similar services to this Contract. SAMHD may assign priority to one or more of the contracts at its discretion.

3.4.46 Each physician from Contractor Staff must understand broad primary care and triage principals and have confidence in clinical acumen in assessing persons of all ages in an acute, fast paced setting. He or she must understand and be able to practice medicine with limited on-site support systems for best effort of evaluation, diagnosis, treatment and stabilization of common ailments, conditions, and diseases in an effort to assure the health and well-being with limited morbidity and mortality of the population being served. He or she must be ready to accept the role of team leader of a multi-disciplinary medical team and be able to provide clear, concise, guidance to all members of the medical team within the scope of practice established by the Medical Director of the response effort.

Physicians who are board certified or board eligible in the following American Board of Medical Specialties is preferred Professionals:

- American Board of Family Medicine
- American Board of Preventive Medicine
- American Board of Emergency Medicine
- American Board of Internal Medicine
- American Board of Pediatrics

All Professionals must be skilled at working in an acute, ambulatory setting, without the expectation of a regular physical work environment or close direct supervision. Each one must have the ability to use professional experience to determine best care practices in their field with limited standing delegation orders, verbal orders, or written policies but able to ensure the best effort to limit morbidity or mortality of persons served. Each one must be able to function within a multidisciplinary medical team, remain flexible to a fast paced, changing environment with limited stability of daily operations. Each one must be willing to take medical orders from the designated team leader on site at the time of the response. Each one must be willing to serve in various subordinate roles but not to exceed their level of formal training. Each one must be able to serve all ages with a vast array of medical conditions, populations and special needs.

3.4.50 Contractor shall comply with all applicable federal and state laws, rules, and regulations including but not limited to, the following:

- Public Law 107-188, Public Health Security and Bioterrorism Preparedness and Response Act of 2002;
- Public Law 109-417, The Pandemic and All-Hazards Preparedness Act of 2006; and
- Chapter 81, Texas Health and Safety Code.



3.4.51 Contractor shall comply with all applicable regulations, standards and guidelines in effect on the beginning date of this contract.

The following documents are incorporated by reference and made a part of this contract Attachment:

- Department of Health and Human Services Centers for Disease Control and prevention Public Health Emergency Preparedness Continuation Announcement

(Funding Opportunity AA14)

<https://www.dshs.state.tx.us/comp/comp/CDC%20FY%2007.doc>

- Pandemic Influenza Guidance Supplement to the 2006 Public Health Emergency Preparedness Cooperative Agreement Phase II (dated July 10, 2006)

<http://www.bt.cdc.gov/planning/coopagreement/pdf/phase2-pandflu-guidance.pdf>

3.4.52 Contractor shall complete activities and performance measures as specified in this document. However, if Angel should fail to materially comply with any activities or performance measures specified in this Agreement, Angel shall be provided written notice and a 10-day opportunity to cure any breach of this Agreement before it can be considered to be in breach of this Agreement as set forth in Paragraph 7.4.

3.4.53 Contractor promptly shall provide SAMHD written policies and procedures to its Professionals who may be deployed to provide services under this Contract.

3.4.54 Contractor shall use its best efforts to ensure that Contractor Staff report to each one's assigned response location in Bexar County and the City of San Antonio within forty-eight (48) hours of the deployment notification given by SAMHD to the Contractor. In the event a deployment must be cancelled or reduced, City shall provide Contractor with notice no later than twelve (12) hours prior to such deployment.

3.4.55 Contractor shall use its best efforts to ensure that its Professionals have the experience, knowledge and license to provide usual and customary services of a medical or health professional in their field. The Professional must have the ability to provide examinations, evaluations, consultations, and perform specific treatment as necessary. Services may be necessary after normal business hours or on holidays.

3.4.56 Contractor shall use its best efforts to ensure that each Professional shall maintain his/her license required by state law in good standing during the term of any deployment under this Contract. Each Professional must inform Contractor and SAMHD immediately of any change to the Professional's license.

3.4.57 Contractor shall provide reports as reasonably requested by SAMHD to satisfy information-sharing requirements set forth in Texas Government Code, Sections 421.071 and 421.072 (b) and (c) located at:

<http://lo2.hc.state.tx.us/statutes/doc/GV/content/word/vs.004.00.000421.00.doc>

3.5 City shall have the right to terminate this Agreement, in accordance with Article VII should Contractor's work not be satisfactory to Director; however, City shall have no obligation to terminate.

3.6 Contractor and the Director of Health, or his designee, shall engage in an annual quality assurance evaluation for the purpose of: 1) maintaining high standards of clinical care, appropriate for the public health program; 2) ensuring compliance with clinical licensure regulations and Medicaid guidelines and recommendations; and 3) other matters of interest raised by Contractor or the Director of Health.

3.7 City may contract with more than one entity to provide similar services and may assign priority to one or more of the contracts at its discretion. Contractor understands and agrees that nothing in this Agreement shall limit this ability.

**IV. COMPENSATION TO CONTRACTOR**

4.1 In consideration of City's promise to pay and perform as set forth herein, and in consideration of Contractor's promises to perform under this Agreement herein, the parties have agreed to the terms herein. Specifically, City agrees to pay Contractor a fee, of what is stated in the following table per hour per title for the term of this Agreement as follows:

Item	Titles of Deployed Staff	Hourly Rate	Guaranteed Maximum Number Available to be Deployed	Flat Rate for Physician On-Call
1.	Licensed Physician*	\$180.00	20	\$500.00 24/hr
2.	Licensed Physician Assistant	95.00	20	
3.	Registered Nurse	62.00	500	
4.	Licensed Vocational Nurse	51.00	600	
5.	Advanced Practice Nurse	95.00	20	
6.	Certified Nurse Aide	35.00	200	
7.	Certified Respiratory Care Practitioner	60.00	25	
8.	Licensed Paramedic	60.00	25	
9.	Licensed Pharmacist	125.00	10	
10.	Registered Pharmacy Technician	40.00	30	
11.	Licensed Social Worker	75.00	10	
12.	Licensed Professional Counselor	80.00	10	
13.	Licensed Psychologist	150.00	5	
14.	Emergency Medical Technician	60.00	50	
15.	Epidemiologist	80.00	25	
16.	Staffing Specialist Coordinator	90.00	30	
17.	On-site Staffing Consultant	75.00	30	

18.	Administrative Staff (specify, e.g., medical records clerk)	35.00	100	
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4.2 Angel may direct its periodic billing to  
San Antonio Metropolitan Health District  
Fiscal Planning Manager  
332 W. Commerce, Suite 300  
San Antonio, Texas 78205

or at another location and to any other billing contact as the City may hereafter direct in writing to Angel.

4.3 Angel shall keep reasonably detailed time logs or timesheets to support such billings, which documentation shall be made available to the City upon reasonable request from the City.

4.4. City shall pay Angel within 30 days from the submission of Angel's invoices for the supply of nursing or other professional medical services. Any arrearages (unpaid invoices after 30 days) shall accrue interest at the annual rate approved for late payments by the State in effect at the time of the arrearage, but in no event to be more than an annual rate of 8%, until paid in full to Angel. The parties agree that Angel will not be billed or assessed fees or backcharges or offsets with any claims of damages or alleged breach of this Agreement. Any such claims by SAMHD shall be independently asserted and not used to hold up or offset billings.

4.5 Contractor will be paid an hourly rate for each deployed Contractor Staff at the rate specified for the particular Contractor Staff title listed above.

4.6 Contractor may offer rates and guaranteed maximum available number on one or more of the above types of health professionals.

4.7 Hourly rates may vary depending on specialty, certifications, and experience. The hourly rates include all expenses associated with the Contractor's or Contractor's Staff compliance with this contract, including professional liability insurance, unless stated otherwise in this Contract. The hourly rate will be based on the work time of each Contractor Staff.

4.8 For a physician, the flat rate set forth shall be paid for the physician's on-call time when on-call status is designated by SAMHD. If an on-call physician is called into a response location when he or she is not on a shift, the hourly rate shall apply.

4.9 City and Contractor agree that reimbursement for eligible services shall be made within thirty (30) days after the date on which City receives an invoice, with appropriate documentation as reasonably required by City, from Contractor for said services.

4.10 City and Contractor agree that the City will provide the clinical staff support and supplies necessary for contractor to manage patient care.

4.11 City and Contractor understand and agree that all Medicaid and third party insurances will be billed by the SAMHD for clinical services at SAMHD facilities and that all revenues received by the SAMHD for said billing shall be the property of City.

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

4.13 The Contractor further agrees to accept reimbursement from the City as set forth in Article 4.1 above as payment in full for the services provided and shall seek no additional reimbursement for the services from the patient.

4.14 City agrees to pay Contractor for hours that Contractor is scheduled to work if said scheduled hours are cancelled by City with less than twenty-four (24) hours notice.

4.15 No additional fees or expenses of Contractor shall be charged by Contractor nor be payable by City other than as specified or authorized in above.

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

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

5.2 Contractor 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. Contractor agrees to comply with the Health Insurance Portability and Accountability Act (HIPAA). Contractor has entered into a Business Associate Agreement with the City that is attached hereto as Attachment 1 and incorporated herein as a part of this Agreement for all purposes.

#### **VI. RECORD REQUESTS**

6.1 Contractor shall notify City, immediately, in the event Contractor receives any requests for information from a third party, which pertain to the documentation and records referenced in Article V herein. Contractor understands and agrees that City will process and handle all such requests, regarding records that are owned or possessed by the City.

#### **VII. TERMINATION**

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

7.2 Termination Without Cause. This Agreement may be terminated by City or by Contractor upon thirty (30) calendar day's written notice to the other party, which notice shall be provided in accordance with Article VIII.



7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII, 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 XI.

7.4 Defaults With Opportunity for Cure. Should Contractor materially default in the performance of this Agreement in a manner stated in Articles 7.4.1 and 7.4.2 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have ten (10) calendar days after receipt of the written notice, in accordance with Article VIII, to cure such default. If Contractor fails to cure the default within such ten (10) day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement.

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

7.4.2 Performing unsatisfactorily as to material obligations in this Agreement

7.4.a However, as set forth in 3.4.52 above, while any breach of the Agreement by Angel may result in termination of Angel by SAMHD should Angel fail to timely cure a default and SAMHD elect to terminate, no alleged or actual breach by Angel forfeits payment for services billed to SAMHD under this Agreement and SAMHD may not use any breach as a right of offset against monies owed to Angel for services provided to SAMHD before the termination of this Agreement, it being understood that Angel's payroll and vendor obligations depend on the timely payment of its bills by the City for services rendered by Contractor Staff. Nothing herein, however, shall preclude City from having an independent claim for actual damages, if any, against Contractor should Contractor materially breach any term of this Agreement for which Contractor failed to cure in 10 days, and such breach proximately causes damages to City.

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

7.6 Contractor must submit any claims for monies owed by City for services performed under this Agreement through the effective date of termination within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement. Failure by Contractor to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a Waiver by Contractor of any and all right or claims to collect moneys that Contractor may rightfully be otherwise entitled to for services performed pursuant to this Agreement. Prior to termination, billing to the City by Angel shall be periodically during deployment. Payment of such bills by the City is due within 30 days.

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



7.8 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 actual damages from or otherwise pursue Contractor for any default hereunder or other action. No punitive damages will be sought by any party against the other.

#### VIII. NOTICE

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

If intended for City, to:

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

AND

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

If intended to Contractor, to:

Angel Staffing  
1202 E. Sonterra Blvd., Suite #501  
San Antonio, TX 78258

#### IX. INSURANCE REQUIREMENTS

9.1 Prior to the commencement of any work under this Agreement, Contractor shall furnish an original completed Certificate(s) of Insurance to the City's San Antonio Metropolitan Health District, Attn: Director, and shall be clearly labeled "Medical Staffing Services for Metro Health", which 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 San Antonio Metropolitan Health District, Attn: Director, 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 Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types an amount not less than the amount listed:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
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
5. Medical Malpractice Liability	\$200,000 per claim /\$600,000 aggregate; 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.

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 reasonable deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Contractor shall be required to comply with any such reasonable requests and shall submit a copy of the replacement certificate of insurance to City at the address provided in Article 9.6 herein within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes.

9.5 Contractor agrees that with respect to the above required insurance, Angel will use its best efforts to secure insurance contracts and Certificate(s) of Insurance that will contain the following required provisions:

9.5.1 Name the City and its officers, employees, volunteers, and elected representatives as additional insured's by endorsement with respect to non-medical activities over which Contractor directs or controls operations and activities, with the exception of the workers' compensation and professional liability policies;

9.5.2 Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

9.6 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by City, Contractor shall notify the City of such change in insurance coverage and shall give such notices not less than thirty (30) days prior to the change, if Contractor knows of said change in advance, or ten (10) days notice after the change, if the Contractor 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  
San Antonio Metropolitan Health District, Attn: Director  
P.O. Box 839966  
San Antonio, Texas 78283-3966

9.7 If Contractor fails to maintain the aforementioned insurance, the City may provide notice of default to Angel and opportunity to cure as with any other material term of this Agreement. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

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

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

#### X. INDEMNIFICATION

10.1 Contractor covenants and agrees to **FULLY INDEMNIFY and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Contractor's activities**



under this Agreement, including any acts or omissions of Contractor, any agent, officer, director, representative, employee, consultant or subcontractor of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers, or employees, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT Contractor AND City ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE City UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

10.2 The City and SAMHD, not Contractor, shall determine what vaccine, if any, to be administered, and the costs of procurement of such supplies shall be borne by City. Angel shall not charge for such product to those to whom the vaccine is administered per any deployment under this Agreement.

10.3 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.

10.4 Both parties shall promptly advise the other in writing of any claim or demand against them related to or arising out of their activities under this Agreement.

#### XI. ASSIGNMENT AND SUBCONTRACTING

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

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

#### XII. INDEPENDENT CONTRACTOR

12.1 Contractor covenants and agrees and the City acknowledges that Angel is an independent Contractor and not an officer, agent, servant or employee of City; that Contractor



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

### **XIII. CONFLICT OF INTEREST**

13.1 Contractor acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any Contract with the City or any City agency such as City owned utilities. An officer or employee has a "prohibited financial interest" in a Contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the Contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City Contract, a partner or a parent or subsidiary business entity.

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

### **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 Contractor, and subject to approval by the City Council, as evidenced by passage of an ordinance.

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

#### **XVII. COMPLIANCE**

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

#### **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, as described in Article XIV. 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 Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

## 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. ENTIRE CONTRACT

23.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire Contract between the parties hereto and contain all of the terms and conditions agreed upon. No other Contracts, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same is in writing, dated subsequent to the date hereto and duly executed by the parties, in accordance with Article XIV. This Agreement shall supersede any and all prior written and oral agreements between the City and Contractor.

## XXIV. DISPUTE RESOLUTION

24. Mediation. Before any party would initiate any litigation against the other arising out of or relating to this Agreement, unless seeking emergency injunctive relief, the party with a grievance will first seek to resolve any dispute by pre-suit mediation.

## XXV. COUNTERPARTS

25. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

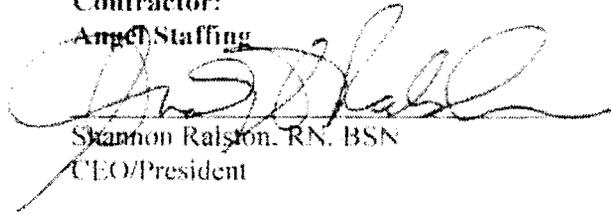


EXECUTED and AGREED to this the 21 day of October, 2009.

City:  
CITY OF SAN ANTONIO

\_\_\_\_\_  
Fernando A. Guerra, MD, MPH  
Director of Health

Contractor:  
Angel Staffing

  
\_\_\_\_\_  
Shannon Ralston, RN, BSN  
CEO/President

ATTEST:

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

\_\_\_\_\_  
Date

Approved as to Form Only:

\_\_\_\_\_  
Michael D. Bernard  
City Attorney

\_\_\_\_\_  
Peter Kilpatrick  
Langley & Banack,  
Attorney for Angel Staffing, Inc.

## Attachment I - Business Associate Agreement

This Business Associate Agreement ("Agreement") dated October 6, 2009 (the "Effective Date"), is entered into by and between the City of San Antonio ("Health Care Provider") and Angel Staffing ("Business Associate").

WHEREAS, Health Care Provider is receiving and Business Associate is providing services ("Business Arrangement") that may require Business Associate to access health information that is protected by state and/or federal law;

WHEREAS, Business Associate and Health Care Provider desire that Business Associate obtain access to such information in accordance with the terms specified herein;

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise specified in this Business Associate Agreement, all capitalized terms not otherwise defined shall have the meanings established for purposes of Title 45, Parts 160 and 164, of the United States Code of Federal Regulations, as amended from time to time. For purposes of clarification, the following terms shall have the definitions as set forth herein below:

"Privacy Standards" shall mean the Standards for Privacy of Individually Identifiable Health Information as codified in 45 CFR Parts 160 and 164.

"Security Standards" shall mean the Security Standards for the Protection of Electronic Protected Health Information as codified in 45 CFR Parts 160 and 164.

"Protected Health Information" or "PHI" shall mean any information, whether oral or recorded in any form or medium; (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual, or with respect to which there is reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term in the Privacy Standards and in the Security Standards.

2. **Business Associate Obligations.** Business Associate may receive from Health Care Provider health information that is protected under applicable state and/or federal law, including without limitation, Protected Health Information. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards or the Security Standards if the PHI were used or disclosed by Health Care Provider in the same manner. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement.

3. **Use of PHI.** Business Associate may use PHI only (i) for the purpose of performing services for Health Care Provider as such services are defined in Business Arrangement, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Health Care Provider shall retain all rights in the PHI not granted herein.

4. **Disclosure of PHI.** Business Associate may disclose PHI as necessary to perform its obligations under the Business Arrangement and as permitted by law, provided that Business Associate shall in such



case: (a) obtain reasonable assurances from any person to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law or for the purpose for which it was disclosed to the person or entity; (b) agree to immediately notify Health Care Provider of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the Privacy Standards or the Security Standards; and (c) obtain reasonable assurances that all disclosures of PHI are subject to the principle of "minimum necessary use and disclosure," i.e., only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed. In addition, Business Associate may disclose PHI as required by law. If Business Associate discloses PHI received from Health Care Provider, or created or received by Business Associate on behalf of Health Care Provider, to agents, including a subcontractor (collectively, "Recipients"), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Health Care Provider any use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within five (5) days of the Business Associate becoming aware of such use or disclosure. Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Health Care Provider in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI in violation of this Agreement.

5. **Individual Rights.** If Business Associate maintains a Designated Record Set on behalf of Health Care Provider, Business Associate shall (a) permit an individual to inspect or copy PHI contained in that set about the individual under conditions and limitations required under 45 CFR § 164.524, as it may be amended from time to time, and (b) amend PHI maintained by Business Associate as requested by Health Care Provider. Business Associate shall respond to any request from Health Care Provider for access by an individual within five (5) days of such request and shall make any amendment requested by Health Care Provider within ten (10) days of such request. The information shall be provided in the form or format requested, if it is readily producible in such form or format, or in summary, if the individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying PHI may be charged. Business Associate shall accommodate an individual's right to have access to PHI about the individual in a Designated Record Set in accordance with the Privacy Standards set forth at 45 CFR § 164.526, as it may be amended from time to time, unless the regulation provides for a denial or an exception expressly applies. Health Care Provider shall determine whether a denial is appropriate or an exception applies. Business Associate shall notify Health Care Provider within five (5) days of receipt of any request for access or amendment by an individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set.

6. **Accounting of Disclosures.** Business Associate shall make available to Health Care Provider in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFR § 164.528, as it may be amended from time to time, incorporating exceptions to such accounting designated under the regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within thirty (30) days of Health Care Provider's request. Such accounting must be provided without cost to the individual or to Health Care Provider if it is the first accounting requested by an individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Health Care Provider and the Health Care Provider informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting shall be provided as long as Business Associate maintains PHI.

7. **Withdrawal of Consent or Authorization.** If the use or disclosure of PHI in this Agreement is based upon an individual's specific consent or authorization for the use of his or her PHI, and (i) the individual revokes such consent or authorization in writing, (ii) the effective date of such authorization

has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid. Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Standards expressly applies.

8. **Records and Audit.** Business Associate shall make available to Health Care Provider and to the United States Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Health Care Provider for the purpose of determining Health Care Provider's compliance with the Privacy Standards and the Security Standards or any other health oversight agency, in a timely a manner designated by Health Care Provider or the Secretary. Except to the extent prohibited by law, Business Associate agrees to notify Health Care Provider immediately upon receipt by Business Associate of any and all requests served upon Business Associate for information or documents by or on behalf of any and all government authorities.

9. **Notice of Privacy Practices.** Health Care Provider shall provide to Business Associate its Notice of Privacy Practices ("Notice") when adopted and any amendments thereafter. Business Associate agrees that it will abide by the limitations of any Notice published by Health Care Provider of which it has knowledge. An amended Notice shall not affect permitted uses and disclosures on which Business Associate has relied prior to the receipt of such Notice.

10. **Confidentiality.** Business Associate shall take any steps required to (i) protect PHI from unauthorized uses or disclosures and (ii) maintain the confidentiality and integrity of PHI. Prior to any permitted disclosure of PHI, Business Associate shall require the person or entity to which it intends to disclose PHI to assume all of the same duties with respect to PHI that Business Associate has under this Agreement.

11. **Security.** Business Associate will: (i) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Health Care Provider; (ii) ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect the information; and, (iii) report any security incidents to the Health Care Provider, in accordance with the Security Standards.

12. **Term and Termination.**

12.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this Section 12, provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.

12.2 Health Care Provider shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Business Associate.

12.3 Health Care Provider, at its sole discretion, may immediately terminate this Agreement and shall have no further obligations to Business Associate hereunder if any of the following events shall have occurred and be continuing:

(a) Business Associate shall fail to observe or perform any material covenant or agreement contained in this Agreement for ten (10) days after written notice thereof has been given to Business Associate by Health Care Provider; or



(b) A violation by Business Associate of any provision of the Privacy Standards, Security Standards, or other applicable federal or state privacy law.

12.4 Upon the termination of the Business Arrangement, either party may terminate this Agreement by providing written notice to the other party.

12.5 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Health Care Provider or to destroy all PHI received from Health Care Provider or otherwise through the performance of services for Health Care Provider, that is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy," Business Associate shall continue to comply with the covenants in this Agreement with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this Agreement shall be cause for Health Care Provider to terminate the Business Arrangement.

13. **Notice.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; or (c) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below:

Health Care Provider:	Business Associate
City Clerk	Angel Staffing
City of San Antonio	1202 E. Sonterra Blvd., Suite #501
P.O. Box 839966	San Antonio, Texas 78258
San Antonio, Texas 78283-3966	
AND	
City of San Antonio San Antonio Metropolitan Health District, Director 332 W. Commerce, Suite 307 San Antonio, Texas 78205	

14. **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

15. **Assignment.** Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Health Care Provider shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Health Care Provider, without the prior approval of Business Associate.

16. **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Health Care Provider relating to the matters specified in this Agreement, and supercedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangement or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangement comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for

the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

17. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

19. **Indemnification.** BUSINESS ASSOCIATE WILL INDEMNIFY, DEFEND AND HOLD HEALTH CARE PROVIDER AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BUSINESS ASSOCIATE OR SIMILAR BREACH BY RECIPIENTS ("CLAIM"). IF BUSINESS ASSOCIATE ASSUMES THE DEFENSE OF A CLAIM, HEALTH CARE PROVIDER SHALL HAVE THE RIGHT, AT ITS EXPENSE, TO PARTICIPATE IN THE DEFENSE OF SUCH CLAIM, AND BUSINESS ASSOCIATE SHALL NOT TAKE ANY FINAL ACTION WITH RESPECT TO SUCH CLAIM WITHOUT THE PRIOR WRITTEN CONSENT OF HEALTH CARE PROVIDER.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Health Care Provider:  
CITY OF SAN ANTONIO  
San Antonio Metropolitan Health District

Business Associate:  
Angel Staffing

\_\_\_\_\_  
Fernando A. Guerra, MD, MPH  
Director of Health

  
Shannon Ralston, RN, BSN  
CEO/President

ATTEST:

27 Oct, 2009  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
Michael D. Bernard  
City Attorney

STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR   §

**CITY OF SAN ANTONIO  
PROFESSIONAL HEALTH CARE  
SERVICES AGREEMENT**

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as City), and Maxim Healthcare Services, Inc. dba Maxim Staffing Solutions (hereinafter referred to as "Contractor"), both of which may be referred to herein collectively as the "Parties".

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

**I. DEFINITIONS**

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

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

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

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

**II. TERM**

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence upon the effective date of the ordinance awarding the contract and terminate on September 30, 2012.

2.2 The City shall have the option to renew and extend the term of this Agreement for two periods, with each period being one year in length.

2.3 Contractor agrees and understands that City has projected costs for this Agreement and that City expects to pay all obligations of this Agreement from projected revenue sources, including grant funds, but that all obligations of City are subject to annual appropriation by City Council in future years, after September 30, 2010. Accordingly, if City shall fail to appropriate sums to pay any of City's obligations under the terms of this Agreement, and due to the unavailability and/or failure to appropriate funds City shall not have the funds to pay such obligations, following City's failure to pay such obligations due to lack of funding shall terminate this Agreement and neither Contractor nor City shall have any further obligations hereunder. Lack of funding is not and shall not be considered a breach of this Agreement. Payment for services performed by Contractor through the effective date of termination shall be made pursuant to Article 7.6 herein.

2.4 It is expressly understood and agreed by the City and Contractor that City's obligations under this Agreement are contingent upon the actual receipt of adequate funds to meet the City's liability hereunder. Lack of funding is not and shall not be considered a breach of this Agreement. If City does not receive adequate funds to pay obligations under this Agreement, then this Agreement shall terminate and neither Contractor nor City shall have any further obligations hereunder.

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

3.1 Contractor shall provide trained and professional personnel for medical staffing services in accordance with the specifications listed herein. The contractor will be primarily responsible for assisting in providing medical and public health services personnel that will be deployed at various sites identified by San Antonio Metropolitan Health District (SAMHD).

3.2 Contractor shall support an effective health and medical response to an emergency, disaster, or public health event for the City of San Antonio and/or Bexar County. In cooperation with, and at the direction of the San Antonio Metropolitan Health District (SAMHD), the Contractor shall provide trained medical and professional personnel, deployed at sites identified by the SAMHD, for the purposes of assisting in providing medical and public health services. These services may include, but are not limited to, triage and medical screening, vaccination, dispensation of medications or medical supplies and provision of first aid.

3.3 Contractor will provide one or more of the following types of health related professionals: licensed physicians, licensed physician assistants, licensed nurses (registered nurses, licensed vocational nurses, and advanced practice nurses), certified respiratory care practitioners, licensed paramedics, certified emergency medical technicians (EMTs), licensed pharmacists, registered pharmacy technicians, certified nurse aides, and mental health professionals such as licensed professional counselors, licensed social workers, and licensed psychologists in accordance with this Contract. Other state licensed, certified, or registered professionals will be provided by Contractor at the request of the SAMHD, subject to agreement of the Parties on the costs or rates to be reimbursed by SAMHD for those other professionals under this Contract. If Contractor is a nonprofit professional association composed primarily of members of a specific profession, only Professionals in that profession shall be subject to this Contract. The term "Professionals" means the individuals described in this paragraph that may be or are deployed to provide services to the SAMHD under this Contract in a disaster, emergency, or public health event.

3.4 Specific duties and responsibilities under the contract shall include:

3.4.1 Contractor agrees that it will provide the required number of Professionals in the required professions described in the following requirements at the request of the SAMHD. The maximum number of Professionals shown in the Price Schedule, of this Contract, is the maximum number that Contractor must provide at the request of SAMHD. SAMHD does not guarantee that it will request the maximum number of Professionals for any disaster, emergency or public health event. Contractor will make a reasonable effort to provide additional Professionals, over the maximum amounts, at the

request of SAMHD. If the contractor cannot guarantee a specific number of one or more of the listed professional types, the contractor should enter "0" but still fill in the hourly rate. The hourly rate, upon acceptance by SAMHD, will lock in that hourly rate for whatever number of professionals is provided for that professional type.

3.4.2 This Contract also describes administrative staff (referred to as "Other Staff") that Contractor agrees to provide at the request of SAMHD. Professionals and Other Staff are collectively referred to as "Contractor Staff" in this Contract. See paragraph 3.4.25.

3.4.3 SAMHD may request a specialized team of professionals under this contract that could be deployed for a specific purpose as a team rather than as individuals. For example, SAMHD may request a strike team consisting of physician, nurses, and paramedics to serve as a medical strike team that supports a shelter medical clinic.

3.4.4 The term "disaster" means the occurrence of imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military paramilitary action, other public calamity requiring emergency action, or energy emergency. An executive order or proclamation from the Governor of the State of Texas declaring a state of disaster may or may not exist at the time that SAMHD may activate the deployment provisions of this Contract.

3.4.5 The term "emergency" means an event or series of events that require SAMHD response to a public health need including evacuation, sheltering, or public health emergency.

3.4.6 The term "deployment" means the time beginning when SAMHD officially notifies Contractor of the need for Contractor Staff under this Contract until the individual returns home after demobilization. The term includes the time for Contractor to locate available Contractor Staff after notification from SAMHD and travel time addressed in this Contract.

3.4.7 The term "license" includes a license, certification, registration or other evidence of authority to practice the individual's profession issued by a state.

3.4.8 The Professionals provided by Contractor shall be licensed by the State of Texas in the appropriate professional field. Professionals who are not licensed in Texas but hold a license in the appropriate field from another state may be provided to the SAMHD under the following circumstances: a) all provisions of this contract relating to Professionals must be met, other than the requirement for the individual to hold a Texas license unless provision c) of this paragraph applies; b) Contractor must inform each Professional that is deployed that the individual is not being deployed pursuant to the Emergency Management Assistance Compact, Health and Safety Code, Chapter 778

(EMAC) and therefore is not deemed to be licensed in the State of Texas under EMAC or subject to the limitations on liability in EMAC; and c) if an executive order or proclamation from the Governor declaring a state of disaster is not in effect, each Professional must be licensed in Texas if licensure is required by Texas law or the Professional must work under the delegated authority of a physician licensed in the State of Texas. Contractor shall be responsible for providing a physician licensed in the State of Texas to provide the delegated authority under provision c). If Contractor is a nonprofit professional association composed primarily of members of a specific profession who are not physicians, the requirement for Contractor to provide a physician for delegated authority shall not apply.

3.4.9 Contractor shall establish and implement written policies and procedures to provide for credentialing of its Professionals who may be deployed to provide services under this Contract. The policies and procedures shall include verification of licensure, licensure status (e.g., license is in good standing), specialties, and privileges at hospitals or other health care facilities at the time a Professional signs up with the Contractor but no later than the time of deployment. The policies and procedures shall include periodic re-verification of these matters. Contractor shall keep written records of its findings on each Professional that may be deployed under this Contract. Contractor shall obtain all of this information at a time that will not cause delay in responding to a deployment notification.

3.4.10 Contractor shall also obtain a criminal background check on each Contractor Staff that may be deployed under this Contract. The check shall be obtained from the individual's state of residence. Any individual with a felony conviction shall not be utilized under this Contract. Contractor shall obtain the criminal background check at the time the individual signs up with the Contractor but no later than the time of deployment. Contractor shall obtain each check at a time that will not cause delay in responding to a deployment notification. If necessary, SAMHD reserves the right to waive this requirement and will notify the contractor in writing, or via email, of this change.

3.4.11 Contractor shall obtain and maintain professional liability insurance to cover each Professional providing service to the SAMHD during a disaster or emergency at any location within the State of Texas. If Contractor is unable to obtain such insurance and with the further approval of SAMHD, Contractor shall require each Professional who may be subject to deployment to provide services to SAMHD to have professional liability insurance that will cover the Professional at any location in the State of Texas to which the Professional may be deployed by SAMHD in a disaster or emergency. If Contractor is a nonprofit professional association composed primarily of members of a specific profession, Contractor shall require each Professional to have the professional liability insurance described in this paragraph. Contractor shall maintain copies of each insurance policy in its records.

3.4.12 Contractor acknowledges that SAMHD has provided information concerning federal and state laws relating to protection from liability that may apply to

the Contractor Staff. Contractor understands that SAMHD is not providing legal advice to Contractor or to the Contractor Staff on the application of these laws and that Contractor and each Contractor Staff has an obligation to ensure that each one is informed by its own legal counsel of laws, regulations, and rules that may apply to either the Contractor's business or the Contractor Staff's services.

3.4.13 Under the Civil Practice and Remedies Code, Chapter 79, Liability of Persons Assisting in Hazardous or Dangerous Situations, the Parties consider Contractor, its employees, and the Contractor Staff to be giving care, assistance, or advice with respect to the management of an incident that is a disaster that endangers or threatens to endanger individuals, property or the environment; and in which the care, assistance, or advice is provided at the request of an authorized representative of a local, state, or federal agency. There is no expectation of compensation from or on behalf of the recipients of the care, assistance, or advice in excess of reimbursement for expenses incurred. The Parties consider the "recipients" to be the individuals who have been subject to evacuation or the provision of medical special needs shelter services during a disaster or emergency.

3.4.14 The Parties also acknowledge that each Contractor Staff may be considered a private individual under the Health and Safety Code, Section 81.007 and subject to the limitation on liability in that section if he or she is performing duties in compliance with orders or instructions of the SAMHD or a health authority under the Health and Safety Code, Chapter 81, Communicable Disease Prevention and Control Act.

3.4.15 If a Professional provided under this Contract is a physician or psychiatrist, the State of Texas shall indemnify the Professional in accordance with the Texas Civil Practice and Remedies Code, Chapter 104, State Liability for Conduct of Public Servants and the Professional's liability is limited under the Texas Civil Practice and Remedies Code, Chapter 108, Limitation of Liability for Public Servant. This applies only to a physician or psychiatrist licensed in the State of Texas.

3.4.16 The Professionals shall be deployed to provide professional services during a disaster, emergency or public health event; for medical special needs shelter support during a disaster or emergency; and/or for medical and health care at other locations, such as evacuation comfort stations, fuel stations, or on evacuation buses or medical transport, during a disaster or emergency. Other Staff may be deployed under the same circumstances except that Other Staff shall not be providing medical or health care. It is the Parties intent that Contractor Staff be provided to supplement local community needs and/or SAMHD-established shelters or other SAMHD responsibilities. In addition the State of Texas State Emergency Management Plan, Annex H, Health and Medical Services, including its appendix, particularly Appendix 7, Pandemic Influenza Response, and the Hurricane Evacuation and Mass Care Plan, including its attachments, particularly Attachment 5, Medical Special Needs, describe the responsibilities of SAMHD and the medical and health care services for which Contractor Staff may be requested. The Plan is available at <http://www.txdps.state.tx.us/dem/pages/downloadableforms.htm#stateplan>.

3.4.17 On-site management of Contractor Staff at each response location shall be provided by SAMHD, a designee of SAMHD, or by federal, state, or local government employees or officials.

3.4.18 SAMHD shall provide a deployment notification in writing to Contractor.

3.4.19 SAMHD may give Contractor a verbal or written alert of a possible deployment request but the timeframes in the preceding paragraph shall not start to run from that alert.

3.4.20 SAMHD may make multiple requests to Contractor during a single disaster or emergency. A subsequent request will not change the timeframes for an earlier request as set forth in the preceding paragraph unless SAMHD expressly states in the subsequent request that the earlier timeframes are increased.

3.4.21 Each Contractor Staff shall serve no more than a twelve hour shift on each of the days of actual service at the discretion of SAMHD. In addition each Contractor Staff shall report thirty (30) minutes prior to the start of each of the individual's shifts and remain for up to thirty (30) minutes after the end of each of the individual's shifts in order to provide for transitioning between shifts. Each Contractor Staff shall receive orientation from SAMHD or its designee prior to the individual's first shift. Each Contractor Staff shall remain after the individual's last shift for up to two (2) hours of demobilization activities unless waived by SAMHD. The 30 minutes transition, orientation, and demobilization times are not part of the individual's shift.

3.4.22 Contractor shall ensure that each Professional has current American Heart Association cardiopulmonary resuscitation training prior to the Professional's deployment.

3.4.23 Upon the request of SAMHD, Contractor shall make a reasonable effort to provide one or more staffing specialists/liaisons/coordinators (Liaison) who shall be considered to be part of Other Staff. Each Liaison shall assist SAMHD to assess and make recommendations on staffing. Each Liaison shall be an individual with appropriate knowledge of professional licensure, credentials, and experience to meet possible needs during a disaster or emergency. During a disaster or emergency each Liaison shall be available twenty-four (24) hours/seven (7) days a week by telephone or on-site at a response location at the request of SAMHD. Time at the response location will not exceed a twelve (12) hour shift for seven (7) consecutive days. Each Liaison also shall participate in planning meetings, conference calls, training, and exercises prior to deployment to the extent that SAMHD provides at least three (3) business day's written notice to Contractor of the meeting, call, training, or exercise. If Contractor is a nonprofit professional association composed primarily of members or a specific profession, each Liaison must be a Professional in that profession. The following are examples of the type of Liaison that may be requested: (A) Staffing Specialist Coordinator: A person with the capability to perform high level work and remain the overall responsible person for

Contractor's response to work with SAMHD to provide consultative services for requests generated, needs assessments and high level management of Contractor and SAMHD interaction during planning of a response, real time response and after-action process. Person will be available within 2 hours of activation via conference call and within 8 hours on site if requested. (B) On-Site Staffing Consultant: A person who will remain on-site at major medical response site where Contractor has deployed Professionals. He or she shall be skilled at real-time assessments of medical staffing needs, have the ability to anticipate needs based on event, be able to trouble shoot issues with deployed staff, have quick contact to SAMHD to manage rapidly changing needs to best serve the SAMHD response during an event. Acts as on-site point of contact for SAMHD command and control structure for medical staffing needs. Will assure deployed staff needs are fully addressed, including scheduling of shifts. Will be the point of contact for any spontaneous medical volunteers who appear at the response site to engage them in appropriate process. Will remain on site and on call at night until services are no longer requested by SAMHD as determined by on-site SAMHD command staff or its designee.

3.4.24 SAMHD shall provide a daily verbal or written report to the Contractor on situational awareness during a disaster or emergency.

3.4.25 Contractor and Contractor Staff shall comply with written policies and procedures provided to Contractor prior to deployment to a disaster or emergency. Contractor shall ensure that it provides these written policies and procedures to its Contractor Staff prior to deployment to a disaster or emergency. Contractor shall document when it gave each policy (ies) and procedure(s) to each Contractor Staff.

3.4.26 Additional policies and procedures may be established by SAMHD during a disaster or emergency including after deployment of Contractor Staff. Contractor shall be subject to the additional policies and procedures that are shared, verbally or in writing, by SAMHD with Contractor. Each Contractor Staff shall be subject to the additional policies and procedures to the extent that the policies and procedures are provided to the Contractor Staff by SAMHD or Contractor.

3.4.27 Contractor is not required to provide equipment or supplies to be utilized by its Contractor Staff during a disaster or emergency. Equipment and supplies will be provided or obtained by SAMHD; state, local or federal government; or other sources.

3.4.28 Contractor shall make all travel arrangements for Contractor Staff's deployment, including transportation to the response location and lodging near the response location. SAMHD shall have no responsibility to make such arrangements or to pay or reimburse the Contractor Staff directly for such arrangements.

3.4.29 SAMHD shall provide food and water for each Contractor Staff during the individual's shift or ensure that another entity, other than Contractor, is providing such food and water.

3.4.30 Contractor, its employees, its agents, its Contractor Staff shall not bill

third parties, clients, patients or other persons for the services provided under this Contract unless authorized by SAMHD in writing.

3.4.31 Contractor shall provide reports to SAMHD on potential Contractor Staff before deployment or on Contractor Staff activities during deployment at the request of SAMHD. The health and medical records created by Contractor Staff under this Contract shall remain in the care, custody and control of SAMHD. Contractor and its Contractor Staff shall not remove or copy any of these records unless authorized by SAMHD.

3.4.32 The Contractor's primary point of contact is (**contractor primary contact name, address, phone, fax, email**). The Contractor's secondary point of contact is (**contractor secondary contact name, address, phone, fax, email**). A point of contact shall be available 24-hours/7 days a week during the term of this Contract. SAMHD' primary point of contact is Roger Pollock, phone (210) 207-8752, and email [roger.pollock@sanantonio.gov](mailto:roger.pollock@sanantonio.gov). SAMHD' secondary point of contact is Francis Chance, phone (210) 207-2145 or email [francis.chance@sanantonio.gov](mailto:francis.chance@sanantonio.gov). Either Party may change it point of contact(s) with written notice to the other Party at least five (5) days before the change is effective. The five day requirement does not apply during deployment.

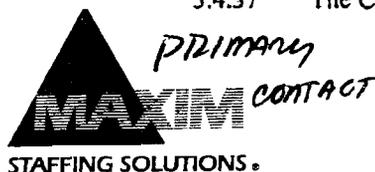
3.4.33 Contractor shall ensure that the Contractor Staff has received the following minimum vaccines: Tdap (Pertussis), Varicella (Chickenpox vaccine or had Chickenpox), and MMR (Measles, mumps, rubella; or born before 1957) prior to deployment. A flu vaccine is recommended but not required. Contractor shall include in its records proof that it has verified that each Contractor Staff has met these minimum vaccine requirements prior to deployment. SAMHD will provide any additional vaccines or prophylaxis needed for a particular disaster or emergency at its expense.

3.4.34 Contractor shall verify that each Contractor Staff is immuno-competent at the time of the individual's deployment, including verifying that the individual is physically able to provide services in a high stress, austere, and extraordinary situation.

3.4.35 At the time of deployment Contractor and each Contractor Staff may be required to sign an agreement with SAMHD relating to issues such as verification of immunizations, then-current illnesses, special needs, confidentiality, safety, policies and procedures to be followed during the disaster or emergency, and other issues pertinent to the particular emergency or disaster. Contractor agrees that it shall cooperate with SAMHD in obtaining signatures from its Contractor Staff on any such agreement. Contractor shall keep the signed agreements and provide copies to SAMHD upon SAMHD' request.

3.4.36 Contractor shall ensure that Contractor Staff understands that they may not be employed or provide medical or health care services in other settings during the individual's deployment.

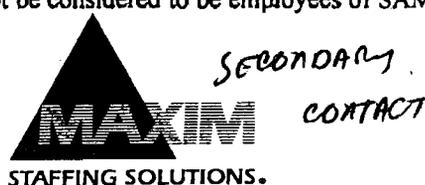
3.4.37 The Contractor Staff shall not be considered to be employees of SAMHD,



**CHRISTIAN TEAGUE**  
ACCOUNTS MANAGER

5372 FREDERICKSBURG RD. STE 125  
SAN ANTONIO, TX 78229  
E-mail: [chteague@maxhealth.com](mailto:chteague@maxhealth.com)

TEL: 210 ▲ 377 ▲ 0800  
FAX: 210 ▲ 524 ▲ 0123  
TOLL FREE: 877 ▲ 996 ▲ 2345



**MATTHEW LANGSTON**  
HEALTHCARE RECRUITER

5372 FREDERICKSBURG RD. STE 125  
SAN ANTONIO, TX 78229  
Website: [www.maximnurses.com](http://www.maximnurses.com)

TEL: 210 ▲ 377 ▲ 0800  
FAX: 210 ▲ 524 ▲ 0123  
TOLL FREE: 877 ▲ 996 ▲ 2345

but are independent contractors. State laws relating to workers compensation do not apply to the Contractor Staff under this Contract.

3.4.38 The Professionals must provide usual and customary services of a medical or health professional in their field. The Professionals must have the ability to provide examinations, evaluations, consultations, and perform specific treatment as necessary. Services may be necessary after normal business hours or on holidays.

3.4.39 Contractor Staff will provide services at sites (response locations) designated by SAMHD. The Contracting Staff will provide reports on their services performed within guidelines established by SAMHD. Contracting Staff must interact with SAMHD staff, other contractors or consultants of SAMHD and other persons providing other services during a disaster or emergency in a cooperative manner and will consult with such persons regarding services provided as necessary.

3.4.40 Each Professional must be in good standing with the appropriate state regulatory agency with no current sanctions against their license or no sanctions within the previous three years from the time of deployment.

3.4.41 Each Professional must have demonstrated experience and/or knowledge within the scope of their licensed profession. Each Professional shall maintain his/her license required by state law in good standing during the term of any deployment under this Contract. Each Professional must inform Contractor and SAMHD immediately of any change to the Professional's license.

3.4.42 At the discretion of SAMHD, a Professional or Other Staff may be deemed to be unacceptable to SAMHD for any reason and SAMHD shall be authorized immediately to release that individual and end the individual's deployment. SAMHD shall notify Contractor as soon as possible before or after release. Contractor shall replace the released Professional or released Other Staff within twenty-four (24) hours of the notification from SAMHD if requested by SAMHD.

3.4.43 The Parties understand that the needs of the State of Texas or SAMHD cannot be accurately predicted for future disasters or emergencies. The Parties agree that they shall work together to address any issues that arise that are not adequately addressed in this Contract.

3.4.44 This Contract shall be effective from the date on which it is signed by both Parties until September 30, 2012. SAMHD reserves the right to renew this contract at its option for two (2) one year terms.

3.4.45 SAMHD may contract with more than one entity to provide similar services to this Contract. SAMHD may assign priority to one or more of the contracts at its discretion.

3.4.46 Each physician from Contractor Staff must understand broad primary care

and triage principals and have confidence in clinical acumen in assessing persons of all ages in an acute, fast paced setting. He or she must understand and be able to practice medicine with limited on-site support systems for best effort of evaluation, diagnosis, treatment and stabilization of common ailments, conditions, and diseases in an effort to assure the health and well-being with limited morbidity and mortality of the population being served. He or she must be ready to accept the role of team leader of a multi-disciplinary medical team and be able to provide clear, concise, guidance to all members of the medical team within the scope of practice established by the Medical Director of the response effort.

Physicians who are board certified or board eligible in the following American Board of Medical Specialties is preferred Professionals:

- American Board of Family Medicine
- American Board of Preventive Medicine
- American Board of Emergency Medicine
- American Board of Internal Medicine
- American Board of Pediatrics

All Professionals must be skilled at working in an acute, ambulatory setting, without the expectation of a regular physical work environment or close direct supervision. Each one must have the ability to use professional experience to determine best care practices in their field with limited standing delegation orders, verbal orders, or written policies but able to ensure the best effort to limit morbidity or mortality of persons served. Each one must be able to function within a multidisciplinary medical team, remain flexible to a fast paced, changing environment with limited stability of daily operations. Each one must be willing to take medical orders from the designated team leader on site at the time of the response. Each one must be willing to serve in various subordinate roles but not to exceed their level of formal training. Each one must be able to serve all ages with a vast array of medical conditions, populations and special needs.

3.4.50 Contractor shall comply with all applicable federal and state laws, rules, and regulations including but not limited to, the following:

- Public Law 107-188, Public Health Security and Bioterrorism Preparedness and Response Act of 2002;
  - Public Law 109-417, The Pandemic and All-Hazards Preparedness Act of 2006;
- and
- Chapter 81, Texas Health and Safety Code.

3.4.51 Contractor shall comply with all applicable regulations, standards and guidelines in effect on the beginning date of this contract.

The following documents are incorporated by reference and made a part of this contract Attachment:

- Department of Health and Human Services Centers for Disease Control and prevention Public Health Emergency Preparedness Continuation Announcement

(Funding Opportunity AA14)

<https://www.dshs.state.tx.us/compreg/CDC%20FY%2007.doc>;

- Pandemic Influenza Guidance Supplement to the 2006 Public Health Emergency Preparedness Cooperative Agreement Phase II (dated July 10, 2006)  
<http://www.bt.cdc.gov/planning/coopagreement/pdf/phase2-panflu-guidance.pdf>.

3.4.52 Contractor shall complete activities and performance measures as specified in this document.

3.4.53 Contractor promptly shall provide SAMHD written policies and procedures to its Professionals who may be deployed to provide services under this Contract.

3.4.54 Contractor shall ensure that Contractor Staff report to each one's assigned response location in Bexar County and the City of San Antonio within forty-eight (48) hours of the deployment notification given by SAMHD to the Contractor.

3.4.55 Contractor must ensure that its Professionals have the experience, knowledge and license to provide usual and customary services of a medical or health professional in their field. The Professional must have the ability to provide examinations, evaluations, consultations, and perform specific treatment as necessary. Services may be necessary after normal business hours or on holidays.

3.4.56 Contractor must ensure that each Professional shall maintain his/her license required by state law in good standing during the term of any deployment under this Contract. Each Professional must inform Contractor and SAMHD immediately of any change to the Professional's license.

3.4.57 Contractor shall provide reports as requested by SAMHD to satisfy information-sharing requirements set forth in Texas Government Code, Sections 421.071 and 421.072 (b) and (c) located at  
<http://tlo2.tlc.state.tx.us/statutes/doc/GV/content/word/vs.004.00.000421.00.doc>.

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

3.6 Contractor and the Director of Health, or his designee, shall engage in an annual quality assurance evaluation for the purpose of: 1) maintaining the highest standards of clinical care, appropriate for the public health program; 2) ensuring compliance with clinical licensure

regulations and Medicaid guidelines and recommendations; and 3) other matters of interest raised by Contractor or the Director of Health.

**IV. COMPENSATION TO CONTRACTOR**

4.1 In consideration of Contractor's performance in a satisfactory and efficient manner, as determined solely by Director, of all services, activities, duties and responsibilities set forth in this Agreement, City agrees to pay Contractor a fee, of what is stated below in table, per hour per title for the term of this Agreement.

Item	Titles of Deployed Staff	Hourly Rate	Guaranteed Maximum Number Available to be Deployed	Flat Rate for Physician On-Call
1	Licensed Physician*	\$ 130	10	\$ 90
2	Licensed Physician Assistant	\$ 90	5	
3	Registered Nurse	\$ 59	20	
4	Licensed Vocational Nurse	\$ 48	20	
5	Advanced Practice Nurse	\$ 90	7	
6	Certified Nurse Aide	\$ 27	25	
7	Certified Respiratory Care Practitioner	\$ 50	10	
8	Licensed Paramedic	\$ 35	7	
9	Licensed Pharmacist	\$ 90	3	
10	Registered Pharmacy Technician	\$ 30	15	
11	Licensed Social Worker	\$ 45	5	
12	Licensed Professional Counselor	\$ 55	5	
13	Licensed Psychologist	\$ 80	1	
14	Emergency Medical Technician	\$ 25	15	
15	Epidemiologist	\$ 90	1	
16	Staffing Specialist Coordinator	\$ 35	2	
17	On-site Staffing Consultant	\$ 40	2	
18	Administrative Staff (specify, e.g., medical records clerk)	\$ 26	25	

4.2 Contractor will be paid an hourly rate for each deployed Contractor Staff at the rate specified for the particular Contractor Staff title listed above.

4.3 Contractor may offer rates and guaranteed maximum available number on one or more of the above types of health professionals.

4.4 Hourly rates may vary depending on specialty, certifications, and experience. The hourly rates include all expenses associated with the Contractor's or Contractor's Staff compliance with this contract, including professional liability insurance, unless stated otherwise in this Contract. The hourly rate will be based on the work time of each Contractor Staff.

4.5 For a physician, the flat rate set forth shall be paid for the physician's on-call time when on-call status is designated by SAMHD. If an on-call physician is called into a response location when he or she is not on a shift, the hourly rate shall apply.

4.6 City and Contractor agree that reimbursement for eligible services shall be made within thirty (30) days after the date on which City receives an invoice, with appropriate documentation as required by City, from Contractor for said services.

4.7 City and Contractor agree that the City will provide the clinical staff support and supplies necessary for contractor to manage patient care.

4.8 City and Contractor understand and agree that all Medicaid and third party insurances will be billed by the SAMHD for clinical services at SAMHD facilities and that all revenues received by the SAMHD for said billing shall be the property of City.

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

4.10 The Contractor further agrees to accept reimbursement from the City as set forth in Article 4.1 above as payment in full for the services provided and shall seek no additional reimbursement for the services from the patient.

4.11 City agrees to pay Contractor for hours that Contractor is scheduled to work if said scheduled hours are cancelled by City with less than twenty-four (24) hours notice.

4.12 No additional fees or expenses of Contractor shall be charged by Contractor nor be payable by City other than as specified in Article 4.1 or 4.7 above.

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

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

5.2 Contractor 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. Contractor agrees to comply with the Health Insurance Portability and Accountability Act (HIPAA). Contractor has entered into a Business Associate Agreement with the City that is attached hereto as Attachment I and incorporated herein as a part of this Agreement for all purposes.

#### **VI. RECORD REQUESTS**

6.1 Contractor shall notify City, immediately, in the event Contractor receives any

requests for information from a third party, which pertain to the documentation and records referenced in Article V herein. Contractor understands and agrees that City will process and handle all such requests, regarding records that are owned or possessed by the City.

## VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by City or by Contractor upon thirty (30) calendar day's written notice to the other party, which notice shall be provided in accordance with Article VIII.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII, 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 XI.

7.4 Defaults With Opportunity for Cure. Should Contractor default in the performance of this Agreement in a manner stated in Articles 7.4.1 and 7.4.2 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have five (5) calendar days after receipt of the written notice, in accordance with Article VIII, to cure such default. If Contractor fails to cure the default within such five-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement.

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

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

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

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

### VIII. NOTICE

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

If intended for City, to:

City Clerk	<b>AND</b>	City of San Antonio
City of San Antonio		San Antonio Metropolitan Health District, Director
P.O. Box 839966		332 W. Commerce, Suite 307
San Antonio, Texas 78283-3966		San Antonio, Texas 78205

If intended for Contractor, to:

Maxim Healthcare Services, Inc. dba Maxim Staffing Solutions  
5372 Fredericksburg Road, Suite 125  
San Antonio, TX 78229

### IX. INSURANCE REQUIREMENTS

9.1 Prior to the commencement of any work under this Agreement, Contractor shall furnish an original completed Certificate(s) of Insurance to the City's San Antonio Metropolitan Health District, Attn: Director, and shall be clearly labeled "Medical Staffing Services for Metro Health", which 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 San

Antonio Metropolitan Health District, Attn: Director, 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 Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on a claims-made basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types an amount not less than the amount listed:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
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. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>C</u> ombined <u>S</u> ingle <u>L</u> imit for <u>B</u> odily <u>I</u> njury and <u>P</u> roperty <u>D</u> amage of \$1,000,000 per occurrence
5. Medical Malpractice Liability	\$200,000 per claim /\$600,000 aggregate; 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.

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). Contractor shall be required to comply with any such requests and shall submit a copy of the replacement

certificate of insurance to City at the address provided in Article 9.6 herein within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes.

9.5 Contractor 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;

9.5.3 Workers' compensation policies will provide a waiver of subrogation in favor of the City.

9.6 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by City, Contractor shall notify the City of such change in insurance coverage and shall give such notices not less than thirty (30) days prior to the change, if Contractor knows of said change in advance, or ten (10) days notice after the change, if the Contractor 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  
San Antonio Metropolitan Health District, Attn: Director  
P.O. Box 839966  
San Antonio, Texas 78283-3966

9.7 If Contractor 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 Contract; 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 Contractor to maintain said insurance or secure such endorsement. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

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

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

#### **X. INDEMNIFICATION**

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

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

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

#### **XI. ASSIGNMENT AND SUBCONTRACTING**

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

11.2 Any attempt to transfer, pledge, or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should

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

#### **XII. INDEPENDENT CONTRACTOR**

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

#### **XIII. CONFLICT OF INTEREST**

13.1 Contractor acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any Contract with the City or any City agency such as City owned utilities. An officer or employee has a "prohibited financial interest" in a Contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the Contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City Contract, a partner or a parent or subsidiary business entity.

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

#### **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 Contractor, and subject to approval by the City Council, as evidenced by passage of an ordinance.

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

#### **XVII. COMPLIANCE**

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

#### **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, as described in Article XIV. 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 Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

**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. ENTIRE CONTRACT**

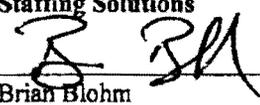
23.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire Contract between the parties hereto and contain all of the terms and conditions agreed upon. No other Contracts, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same is in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XIV. This Agreement shall supercede any and all prior written and oral agreements between the City and Contractor.

EXECUTED and AGREED to this the 9 day of October, 2009.

City:  
CITY OF SAN ANTONIO

\_\_\_\_\_  
Fernando A. Guerra, MD, MPH  
Director of Health

Contractor:  
Maxim Healthcare Services, Inc. dba Maxim  
Staffing Solutions

  
\_\_\_\_\_  
Brian Blohm  
Assistant Controller.

ATTEST:

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

\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
Michael D. Bernard  
City Attorney

#### Attachment I - Business Associate Agreement

This Business Associate Agreement ("Agreement") dated October 6, 2009 (the "Effective Date"), is entered into by and between the City of San Antonio ("Health Care Provider") and Maxim Healthcare Services, Inc. dba Maxim Staffing Solutions ("Business Associate").

**WHEREAS**, Health Care Provider is receiving and Business Associate is providing services ("Business Arrangement") that may require Business Associate to access health information that is protected by state and/or federal law;

**WHEREAS**, Business Associate and Health Care Provider desire that Business Associate obtain access to such information in accordance with the terms specified herein;

**NOW THEREFORE**, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise specified in this Business Associate Agreement, all capitalized terms not otherwise defined shall have the meanings established for purposes of Title 45, Parts 160 and 164, of the United States Code of Federal Regulations, as amended from time to time. For purposes of clarification, the following terms shall have the definitions as set forth herein below:

"Privacy Standards" shall mean the Standards for Privacy of Individually Identifiable Health Information as codified in 45 CFR Parts 160 and 164.

"Security Standards" shall mean the Security Standards for the Protection of Electronic Protected Health Information as codified in 45 CFR Parts 160 and 164.

"Protected Health Information" or "PHI" shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual, or with respect to which there is reasonable basis to believe the information can be used to identify the

individual, and shall have the meaning given to such term in the Privacy Standards and in the Security Standards.

2. **Business Associate Obligations.** Business Associate may receive from Health Care Provider health information that is protected under applicable state and/or federal law, including without limitation, Protected Health Information. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards or the Security Standards if the PHI were used or disclosed by Health Care Provider in the same manner. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement.

3. **Use of PHI.** Business Associate may use PHI only (i) for the purpose of performing services for Health Care Provider as such services are defined in Business Arrangement, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Health Care Provider shall retain all rights in the PHI not granted herein.

4. **Disclosure of PHI.** Business Associate may disclose PHI as necessary to perform its obligations under the Business Arrangement and as permitted by law, provided that Business Associate shall in such case: (a) obtain reasonable assurances from any person to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law or for the purpose for which it was disclosed to the person or entity; (b) agree to immediately notify Health Care Provider of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the Privacy Standards or the Security Standards; and (c) obtain reasonable assurances that all disclosures of PHI are subject to the principle of "minimum necessary use and disclosure," i.e., only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed. In addition, Business Associate may disclose PHI as required by law. If Business Associate discloses PHI received from Health Care Provider, or created or received by Business Associate on behalf of Health Care Provider, to agents, including a subcontractor (collectively, "Recipients"), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Health Care Provider any use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within five (5) days of the Business Associate becoming aware of such use or disclosure. Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Health Care Provider in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI in violation of this Agreement.

5. **Individual Rights.** If Business Associate maintains a Designated Record Set on behalf of Health Care Provider, Business Associate shall (a) permit an individual to inspect or copy PHI contained in that set about the individual under conditions and limitations required under 45 CFR § 164.524, as it may be amended from time to time, and (b) amend PHI maintained by Business Associate as requested by Health Care Provider. Business Associate shall respond to any request from Health Care Provider for access by an individual within five (5) days of such request and shall make any amendment requested by Health Care Provider within ten (10) days of such request. The information shall be provided in the form or format requested, if it is readily producible in such form or format, or in summary, if the individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying PHI may be charged. Business Associate shall accommodate an individual's right to have access to PHI about the individual in a Designated Record Set in accordance with the Privacy Standards set forth at 45 CFR § 164.526, as it may be amended from time to time, unless the regulation provides for a denial or an exception expressly applies. Health Care Provider shall determine whether a denial is appropriate or an exception applies. Business Associate shall notify Health Care Provider within five (5) days of receipt of

any request for access or amendment by an individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set.

6. **Accounting of Disclosures.** Business Associate shall make available to Health Care Provider in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFR § 164.528, as it may be amended from time to time, incorporating exceptions to such accounting designated under the regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within thirty (30) days of Health Care Provider's request. Such accounting must be provided without cost to the individual or to Health Care Provider if it is the first accounting requested by an individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Health Care Provider and the Health Care Provider informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting shall be provided as long as Business Associate maintains PHI.

7. **Withdrawal of Consent or Authorization.** If the use or disclosure of PHI in this Agreement is based upon an individual's specific consent or authorization for the use of his or her PHI, and (i) the individual revokes such consent or authorization in writing, (ii) the effective date of such authorization has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Standards expressly applies.

8. **Records and Audit.** Business Associate shall make available to Health Care Provider and to the United States Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Health Care Provider for the purpose of determining Health Care Provider's compliance with the Privacy Standards and the Security Standards or any other health oversight agency, in a timely a manner designated by Health Care Provider or the Secretary. Except to the extent prohibited by law, Business Associate agrees to notify Health Care Provider immediately upon receipt by Business Associate of any and all requests served upon Business Associate for information or documents by or on behalf of any and all government authorities.

9. **Notice of Privacy Practices.** Health Care Provider shall provide to Business Associate its Notice of Privacy Practices ("Notice") when adopted and any amendments thereafter. Business Associate agrees that it will abide by the limitations of any Notice published by Health Care Provider of which it has knowledge. An amended Notice shall not affect permitted uses and disclosures on which Business Associate has relied prior to the receipt of such Notice.

10. **Confidentiality.** Business Associate shall take any steps required to (i) protect PHI from unauthorized uses or disclosures and (ii) maintain the confidentiality and integrity of PHI. Prior to any permitted disclosure of PHI, Business Associate shall require the person or entity to which it intends to disclose PHI to assume all of the same duties with respect to PHI that Business Associate has under this Agreement.

11. **Security.** Business Associate will: (i) implement administrative, physical, and technical safeguards that reasonably and appropriate protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Health Care Provider; (ii) ensure that any agent, including a subcontractor, to whom it provides such

information agrees to implement reasonable and appropriate safeguards to protect the information; and, (iii) report any security incidents to the Health Care Provider, in accordance with the Security Standards.

12. **Term and Termination.**

12.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this Section 12, provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.

12.2 Health Care Provider shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Business Associate.

12.3 Health Care Provider, at its sole discretion, may immediately terminate this Agreement and shall have no further obligations to Business Associate hereunder if any of the following events shall have occurred and be continuing:

- (a) Business Associate shall fail to observe or perform any material covenant or agreement contained in this Agreement for ten (10) days after written notice thereof has been given to Business Associate by Health Care Provider; or
- (b) A violation by Business Associate of any provision of the Privacy Standards, Security Standards, or other applicable federal or state privacy law.

12.4 Upon the termination of the Business Arrangement, either party may terminate this Agreement by providing written notice to the other party.

12.5 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Health Care Provider or to destroy all PHI received from Health Care Provider or otherwise through the performance of services for Health Care Provider, that is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy," Business Associate shall continue to comply with the covenants in this Agreement with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this Agreement shall be cause for Health Care Provider to terminate the Business Arrangement.

13. **Notice.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; or (c) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below:

<b>Health Care Provider:</b>	<b>Business Associate</b>
City Clerk	Maxim Healthcare Services, Inc. dba Maxim Staffing Solutions
City of San Antonio	5372 Fredericksburg Road, Suite 125
P.O. Box 839966	San Antonio, Texas 78229
San Antonio, Texas 78283-3966	

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

14. **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

15. **Assignment.** Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Health Care Provider shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Health Care Provider, without the prior approval of Business Associate.

16. **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Health Care Provider relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangement or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangement comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

17. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

19. **Indemnification.** BUSINESS ASSOCIATE WILL INDEMNIFY, DEFEND AND HOLD HEALTH CARE PROVIDER AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BUSINESS ASSOCIATE OR SIMILAR BREACH BY RECIPIENTS ("CLAIM"). IF BUSINESS ASSOCIATE ASSUMES THE DEFENSE OF A CLAIM, HEALTH CARE PROVIDER SHALL HAVE THE RIGHT, AT ITS EXPENSE, TO PARTICIPATE IN THE DEFENSE OF SUCH CLAIM, AND BUSINESS ASSOCIATE SHALL NOT TAKE ANY FINAL ACTION WITH RESPECT TO SUCH CLAIM WITHOUT THE PRIOR WRITTEN CONSENT OF HEALTH CARE PROVIDER.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Health Care Provider:  
CITY OF SAN ANTONIO  
San Antonio Metropolitan Health District

\_\_\_\_\_  
Fernando A. Guerra, MD, MPH  
Director of Health

ATTEST:

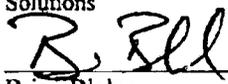
\_\_\_\_\_  
Leticia M. Vacek  
City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bernard  
City Attorney

Business Associate:  
Maxim Healthcare Services, Inc. dba Maxim Staffing  
Solutions

  
\_\_\_\_\_  
Brian Blohm  
Assistant Controller

  
\_\_\_\_\_  
Date

STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR    §

CITY OF SAN ANTONIO  
PROFESSIONAL HEALTH CARE  
SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as City), and Millenia Medical Staffing (hereinafter referred to as "Contractor"), both of which may be referred to herein collectively as the "Parties".

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

**I. DEFINITIONS**

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

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

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

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

**II. TERM**

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence upon the effective date of the ordinance awarding the contract and terminate on September 30, 2012.

2.2 The City shall have the option to renew and extend the term of this Agreement for two periods, with each period being one year in length.

2.3 Contractor agrees and understands that City has projected costs for this Agreement and that City expects to pay all obligations of this Agreement from projected revenue sources, including grant funds, but that all obligations of City are subject to annual appropriation by City Council in future years, after September 30, 2010. Accordingly, if City shall fail to appropriate sums to pay any of City's obligations under the terms of this Agreement, and due to the unavailability and/or failure to appropriate funds City shall not have the funds to pay such obligations, following City's failure to pay such obligations due to lack of funding shall terminate this Agreement and neither Contractor nor City shall have any further obligations hereunder. Lack of funding is not and shall not be considered a breach of this Agreement. Payment for services performed by Contractor through the effective date of termination shall be made pursuant to Article 7.6 herein.

2.4 It is expressly understood and agreed by the City and Contractor that City's obligations under this Agreement are contingent upon the actual receipt of adequate funds to meet the City's liability hereunder. Lack of funding is not and shall not be considered a breach of this Agreement. If City does not receive adequate funds to pay obligations under this Agreement, then this Agreement shall terminate and neither Contractor nor City shall have any further obligations hereunder.

### III. SCOPE OF SERVICES

3.1 Contractor shall provide trained and professional personnel for medical staffing services in accordance with the specifications listed herein. The contractor will be primarily responsible for assisting in providing medical and public health services personnel that will be deployed at various sites identified by San Antonio Metropolitan Health District (SAMHD).

3.2 Contractor shall support an effective health and medical response to an emergency, disaster, or public health event for the City of San Antonio and/or Bexar County. In cooperation with, and at the direction of the San Antonio Metropolitan Health District (SAMHD), the Contractor shall provide trained medical and professional personnel, deployed at sites identified by the SAMHD, for the purposes of assisting in providing medical and public health services. These services may include, but are not limited to, triage and medical screening, vaccination, dispensation of medications or medical supplies and provision of first aid.

3.3 Contractor will provide one or more of the following types of health related professionals: licensed physicians, licensed physician assistants, licensed nurses (registered nurses, licensed vocational nurses, and advanced practice nurses), certified respiratory care practitioners, licensed paramedics, certified emergency medical technicians (EMTs), licensed pharmacists, registered pharmacy technicians, certified nurse aides, and mental health professionals such as licensed professional counselors, licensed social workers, and licensed psychologists in accordance with this Contract. Other state licensed, certified, or registered professionals will be provided by Contractor at the request of the SAMHD, subject to agreement of the Parties on the costs or rates to be reimbursed by SAMHD for those other professionals under this Contract. If Contractor is a nonprofit professional association composed primarily of members of a specific profession, only Professionals in that profession shall be subject to this Contract. The term "Professionals" means the individuals described in this paragraph that may be or are deployed to provide services to the SAMHD under this Contract in a disaster, emergency, or public health event.

3.4 Specific duties and responsibilities under the contract shall include:

3.4.1 Contractor agrees that it will provide the required number of Professionals in the required professions described in the following requirements at the request of the SAMHD. The maximum number of Professionals shown in the Price Schedule, of this Contract, is the maximum number that Contractor must provide at the request of SAMHD. SAMHD does not guarantee that it will request the maximum number of Professionals for any disaster, emergency or public health event. Contractor will make a reasonable effort to provide additional Professionals, over the maximum amounts, at the

request of SAMHD. If the contractor cannot guarantee a specific number of one or more of the listed professional types, the contractor should enter "0" but still fill in the hourly rate. The hourly rate, upon acceptance by SAMHD, will lock in that hourly rate for whatever number of professionals is provided for that professional type.

3.4.2 This Contract also describes administrative staff (referred to as "Other Staff") that Contractor agrees to provide at the request of SAMHD. Professionals and Other Staff are collectively referred to as "Contractor Staff" in this Contract. See paragraph 3.4.25.

3.4.3 SAMHD may request a specialized team of professionals under this contract that could be deployed for a specific purpose as a team rather than as individuals. For example, SAMHD may request a strike team consisting of physician, nurses, and paramedics to serve as a medical strike team that supports a shelter medical clinic.

3.4.4 The term "disaster" means the occurrence of imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military paramilitary action, other public calamity requiring emergency action, or energy emergency. An executive order or proclamation from the Governor of the State of Texas declaring a state of disaster may or may not exist at the time that SAMHD may activate the deployment provisions of this Contract.

3.4.5 The term "emergency" means an event or series of events that require SAMHD response to a public health need including evacuation, sheltering, or public health emergency.

3.4.6 The term "deployment" means the time beginning when SAMHD officially notifies Contractor of the need for Contractor Staff under this Contract until the individual returns home after demobilization. The term includes the time for Contractor to locate available Contractor Staff after notification from SAMHD and travel time addressed in this Contract.

3.4.7 The term "license" includes a license, certification, registration or other evidence of authority to practice the individual's profession issued by a state.

3.4.8 The Professionals provided by Contractor shall be licensed by the State of Texas in the appropriate professional field. Professionals who are not licensed in Texas but hold a license in the appropriate field from another state may be provided to the SAMHD under the following circumstances: a) all provisions of this contract relating to Professionals must be met, other than the requirement for the individual to hold a Texas license unless provision c) of this paragraph applies; b) Contractor must inform each Professional that is deployed that the individual is not being deployed pursuant to the Emergency Management Assistance Compact, Health and Safety Code, Chapter 778

(EMAC) and therefore is not deemed to be licensed in the State of Texas under EMAC or subject to the limitations on liability in EMAC; and c) if an executive order or proclamation from the Governor declaring a state of disaster is not in effect, each Professional must be licensed in Texas if licensure is required by Texas law or the Professional must work under the delegated authority of a physician licensed in the State of Texas. Contractor shall be responsible for providing a physician licensed in the State of Texas to provide the delegated authority under provision c). If Contractor is a nonprofit professional association composed primarily of members of a specific profession who are not physicians, the requirement for Contractor to provide a physician for delegated authority shall not apply.

3.4.9 Contractor shall establish and implement written policies and procedures to provide for credentialing of its Professionals who may be deployed to provide services under this Contract. The policies and procedures shall include verification of licensure, licensure status (e.g., license is in good standing), specialties, and privileges at hospitals or other health care facilities at the time a Professional signs up with the Contractor but no later than the time of deployment. The policies and procedures shall include periodic re-verification of these matters. Contractor shall keep written records of its findings on each Professional that may be deployed under this Contract. Contractor shall obtain all of this information at a time that will not cause delay in responding to a deployment notification.

3.4.10 Contractor shall also obtain a criminal background check on each Contractor Staff that may be deployed under this Contract. The check shall be obtained from the individual's state of residence. Any individual with a felony conviction shall not be utilized under this Contract. Contractor shall obtain the criminal background check at the time the individual signs up with the Contractor but no later than the time of deployment. Contractor shall obtain each check at a time that will not cause delay in responding to a deployment notification. If necessary, SAMHD reserves the right to waive this requirement and will notify the contractor in writing, or via email, of this change.

3.4.11 Contractor shall obtain and maintain professional liability insurance to cover each Professional providing service to the SAMHD during a disaster or emergency at any location within the State of Texas. If Contractor is unable to obtain such insurance and with the further approval of SAMHD, Contractor shall require each Professional who may be subject to deployment to provide services to SAMHD to have professional liability insurance that will cover the Professional at any location in the State of Texas to which the Professional may be deployed by SAMHD in a disaster or emergency. If Contractor is a nonprofit professional association composed primarily of members of a specific profession, Contractor shall require each Professional to have the professional liability insurance described in this paragraph. Contractor shall maintain copies of each insurance policy in its records.

3.4.12 Contractor acknowledges that SAMHD has provided information concerning federal and state laws relating to protection from liability that may apply to

the Contractor Staff. Contractor understands that SAMHD is not providing legal advice to Contractor or to the Contractor Staff on the application of these laws and that Contractor and each Contractor Staff has an obligation to ensure that each one is informed by its own legal counsel of laws, regulations, and rules that may apply to either the Contractor's business or the Contractor Staff's services.

3.4.13 Under the Civil Practice and Remedies Code, Chapter 79, Liability of Persons Assisting in Hazardous or Dangerous Situations, the Parties consider Contractor, its employees, and the Contractor Staff to be giving care, assistance, or advice with respect to the management of an incident that is a disaster that endangers or threatens to endanger individuals, property or the environment; and in which the care, assistance, or advice is provided at the request of an authorized representative of a local, state, or federal agency. There is no expectation of compensation from or on behalf of the recipients of the care, assistance, or advice in excess of reimbursement for expenses incurred. The Parties consider the "recipients" to be the individuals who have been subject to evacuation or the provision of medical special needs shelter services during a disaster or emergency.

3.4.14 The Parties also acknowledge that each Contractor Staff may be considered a private individual under the Health and Safety Code, Section 81.007 and subject to the limitation on liability in that section if he or she is performing duties in compliance with orders or instructions of the SAMHD or a health authority under the Health and Safety Code, Chapter 81, Communicable Disease Prevention and Control Act.

3.4.15 If a Professional provided under this Contract is a physician or psychiatrist, the State of Texas shall indemnify the Professional in accordance with the Texas Civil Practice and Remedies Code, Chapter 104, State Liability for Conduct of Public Servants and the Professional's liability is limited under the Texas Civil Practice and Remedies Code, Chapter 108, Limitation of Liability for Public Servant. This applies only to a physician or psychiatrist licensed in the State of Texas.

3.4.16 The Professionals shall be deployed to provide professional services during a disaster, emergency or public health event; for medical special needs shelter support during a disaster or emergency; and/or for medical and health care at other locations, such as evacuation comfort stations, fuel stations, or on evacuation buses or medical transport, during a disaster or emergency. Other Staff may be deployed under the same circumstances except that Other Staff shall not be providing medical or health care. It is the Parties intent that Contractor Staff be provided to supplement local community needs and/or SAMHD-established shelters or other SAMHD responsibilities. In addition the State of Texas State Emergency Management Plan, Annex H, Health and Medical Services, including its appendix, particularly Appendix 7, Pandemic Influenza Response, and the Hurricane Evacuation and Mass Care Plan, including its attachments, particularly Attachment 5, Medical Special Needs, describe the responsibilities of SAMHD and the medical and health care services for which Contractor Staff may be requested. The Plan is available at <http://www.txdps.state.tx.us/dem/pages/downloadableforms.htm#stateplan>.

3.4.17 On-site management of Contractor Staff at each response location shall be provided by SAMHD, a designee of SAMHD, or by federal, state, or local government employees or officials.

3.4.18 SAMHD shall provide a deployment notification in writing to Contractor.

3.4.19 SAMHD may give Contractor a verbal or written alert of a possible deployment request but the timeframes in the preceding paragraph shall not start to run from that alert.

3.4.20 SAMHD may make multiple requests to Contractor during a single disaster or emergency. A subsequent request will not change the timeframes for an earlier request as set forth in the preceding paragraph unless SAMHD expressly states in the subsequent request that the earlier timeframes are increased.

3.4.21 Each Contractor Staff shall serve no more than a twelve hour shift on each of the days of actual service at the discretion of SAMHD. In addition each Contractor Staff shall report thirty (30) minutes prior to the start of each of the individual's shifts and remain for up to thirty (30) minutes after the end of each of the individual's shifts in order to provide for transitioning between shifts. Each Contractor Staff shall receive orientation from SAMHD or its designee prior to the individual's first shift. Each Contractor Staff shall remain after the individual's last shift for up to two (2) hours of demobilization activities unless waived by SAMHD. The 30 minutes transition, orientation, and demobilization times are not part of the individual's shift.

3.4.22 Contractor shall ensure that each Professional has current American Heart Association cardiopulmonary resuscitation training prior to the Professional's deployment.

3.4.23 Upon the request of SAMHD, Contractor shall make a reasonable effort to provide one or more staffing specialists/liasons/coordinators (Liaison) who shall be considered to be part of Other Staff. Each Liaison shall assist SAMHD to assess and make recommendations on staffing. Each Liaison shall be an individual with appropriate knowledge of professional licensure, credentials, and experience to meet possible needs during a disaster or emergency. During a disaster or emergency each Liaison shall be available twenty-four (24) hours/seven (7) days a week by telephone or on-site at a response location at the request of SAMHD. Time at the response location will not exceed a twelve (12) hour shift for seven (7) consecutive days. Each Liaison also shall participate in planning meetings, conference calls, training, and exercises prior to deployment to the extent that SAMHD provides at least three (3) business day's written notice to Contractor of the meeting, call, training, or exercise. If Contractor is a nonprofit professional association composed primarily of members or a specific profession, each Liaison must be a Professional in that profession. The following are examples of the type of Liaison that may be requested: (A) Staffing Specialist Coordinator: A person with the capability to perform high level work and remain the overall responsible person for

Contractor's response to work with SAMHD to provide consultative services for requests generated, needs assessments and high level management of Contractor and SAMHD interaction during planning of a response, real time response and after-action process. Person will be available within 2 hours of activation via conference call and within 8 hours on site if requested. (B) On-Site Staffing Consultant: A person who will remain on-site at major medical response site where Contractor has deployed Professionals. He or she shall be skilled at real-time assessments of medical staffing needs, have the ability to anticipate needs based on event, be able to trouble shoot issues with deployed staff, have quick contact to SAMHD to manage rapidly changing needs to best serve the SAMHD response during an event. Acts as on-site point of contact for SAMHD command and control structure for medical staffing needs. Will assure deployed staff needs are fully addressed, including scheduling of shifts. Will be the point of contact for any spontaneous medical volunteers who appear at the response site to engage them in appropriate process. Will remain on site and on call at night until services are no longer requested by SAMHD as determined by on-site SAMHD command staff or its designee.

3.4.24 SAMHD shall provide a daily verbal or written report to the Contractor on situational awareness during a disaster or emergency.

3.4.25 Contractor and Contractor Staff shall comply with written policies and procedures provided to Contractor prior to deployment to a disaster or emergency. Contractor shall ensure that it provides these written policies and procedures to its Contractor Staff prior to deployment to a disaster or emergency. Contractor shall document when it gave each policy (ies) and procedure(s) to each Contractor Staff.

3.4.26 Additional policies and procedures may be established by SAMHD during a disaster or emergency including after deployment of Contractor Staff. Contractor shall be subject to the additional policies and procedures that are shared, verbally or in writing, by SAMHD with Contractor. Each Contractor Staff shall be subject to the additional policies and procedures to the extent that the policies and procedures are provided to the Contractor Staff by SAMHD or Contractor.

3.4.27 Contractor is not required to provide equipment or supplies to be utilized by its Contractor Staff during a disaster or emergency. Equipment and supplies will be provided or obtained by SAMHD; state, local or federal government; or other sources.

3.4.28 Contractor shall make all travel arrangements for Contractor Staff's deployment, including transportation to the response location and lodging near the response location. SAMHD shall have no responsibility to make such arrangements or to pay or reimburse the Contractor Staff directly for such arrangements.

3.4.29 Contractor, its employees, its agents, its Contractor Staff shall not bill third parties, clients, patients or other persons for the services provided under this Contract unless authorized by SAMHD in writing.

3.4.30 Contractor shall provide reports to SAMHD on potential Contractor Staff

before deployment or on Contractor Staff activities during deployment at the request of SAMHD. The health and medical records created by Contractor Staff under this Contract shall remain in the care, custody and control of SAMHD. Contractor and its Contractor Staff shall not remove or copy any of these records unless authorized by SAMHD.

3.4.31 The Contractor's primary point of contact is (contractor primary contact name, address, phone, fax, email). The Contractor's secondary point of contact is (contractor secondary contact name, address, phone, fax, email). A point of contact shall be available 24-hours/7 days a week during the term of this Contract. SAMHD' primary point of contact is Roger Pollock, phone (210) 207-8752, and email [roger.pollock@sanantonio.gov](mailto:roger.pollock@sanantonio.gov). SAMHD' secondary point of contact is Francis Chance, phone (210) 207-2145 or email [francis.chance@sanantonio.gov](mailto:francis.chance@sanantonio.gov). Either Party may change its point of contact(s) with written notice to the other Party at least five (5) days before the change is effective. The five day requirement does not apply during deployment.

3.4.32 Contractor shall ensure that the Contractor Staff has received the following minimum vaccines: Tdap (Pertussis), Varicella (Chickenpox vaccine or had Chickenpox), and MMR (Measles, mumps, rubella; or born before 1957) prior to deployment. A flu vaccine is recommended but not required. Contractor shall include in its records proof that it has verified that each Contractor Staff has met these minimum vaccine requirements prior to deployment. SAMHD will provide any additional vaccines or prophylaxis needed for a particular disaster or emergency at its expense.

3.4.33 Contractor shall verify that each Contractor Staff is immuno-competent at the time of the individual's deployment, including verifying that the individual is physically able to provide services in a high stress, austere, and extraordinary situation.

3.4.34 At the time of deployment Contractor and each Contractor Staff may be required to sign an agreement with SAMHD relating to issues such as verification of immunizations, then-current illnesses, special needs, confidentiality, safety, policies and procedures to be followed during the disaster or emergency, and other issues pertinent to the particular emergency or disaster. Contractor agrees that it shall cooperate with SAMHD in obtaining signatures from its Contractor Staff on any such agreement. Contractor shall keep the signed agreements and provide copies to SAMHD upon SAMHD' request.

3.4.35 Contractor shall ensure that Contractor Staff understands that they may not be employed or provide medical or health care services in other settings during the individual's deployment.

3.4.36 The Contractor Staff shall not be considered to be employees of SAMHD, but are independent contractors. State laws relating to workers compensation do not apply to the Contractor Staff under this Contract.

3.4.37 The Professionals must provide usual and customary services of a medical

or health professional in their field. The Professionals must have the ability to provide examinations, evaluations, consultations, and perform specific treatment as necessary. Services may be necessary after normal business hours or on holidays.

3.4.38 Contractor Staff will provide services at sites (response locations) designated by SAMHD. The Contracting Staff will provide reports on their services performed within guidelines established by SAMHD. Contracting Staff must interact with SAMHD staff, other contractors or consultants of SAMHD and other persons providing other services during a disaster or emergency in a cooperative manner and will consult with such persons regarding services provided as necessary.

3.4.39 Each Professional must be in good standing with the appropriate state regulatory agency with no current sanctions against their license or no sanctions within the previous three years from the time of deployment.

3.4.40 Each Professional must have demonstrated experience and/or knowledge within the scope of their licensed profession. Each Professional shall maintain his/her license required by state law in good standing during the term of any deployment under this Contract. Each Professional must inform Contractor and SAMHD immediately of any change to the Professional's license.

3.4.41 At the discretion of SAMHD, a Professional or Other Staff may be deemed to be unacceptable to SAMHD for any reason and SAMHD shall be authorized immediately to release that individual and end the individual's deployment. SAMHD shall notify Contractor as soon as possible before or after release. Contractor shall replace the released Professional or released Other Staff within twenty-four (24) hours of the notification from SAMHD if requested by SAMHD.

3.4.42 The Parties understand that the needs of the State of Texas or SAMHD cannot be accurately predicted for future disasters or emergencies. The Parties agree that they shall work together to address any issues that arise that are not adequately addressed in this Contract.

3.4.43 This Contract shall be effective from the date on which it is signed by both Parties until September 30, 2012. SAMHD reserves the right to renew this contract at its option for two (2) one year terms.

3.4.44 SAMHD may contract with more than one entity to provide similar services to this Contract. SAMHD may assign priority to one or more of the contracts at its discretion.

3.4.45 Each physician from Contractor Staff must understand broad primary care and triage principals and have confidence in clinical acumen in assessing persons of all ages in an acute, fast paced setting. He or she must understand and be able to practice medicine with limited on-site support systems for best effort of evaluation, diagnosis, treatment and stabilization of common ailments, conditions, and diseases in an effort to

assure the health and well-being with limited morbidity and mortality of the population being served. He or she must be ready to accept the role of team leader of a multidisciplinary medical team and be able to provide clear, concise, guidance to all members of the medical team within the scope of practice established by the Medical Director of the response effort.

Physicians who are board certified or board eligible in the following American Board of Medical Specialties is preferred Professionals:

- American Board of Family Medicine
- American Board of Preventive Medicine
- American Board of Emergency Medicine
- American Board of Internal Medicine
- American Board of Pediatrics

All Professionals must be skilled at working in an acute, ambulatory setting, without the expectation of a regular physical work environment or close direct supervision. Each one must have the ability to use professional experience to determine best care practices in their field with limited standing delegation orders, verbal orders, or written policies but able to ensure the best effort to limit morbidity or mortality of persons served. Each one must be able to function within a multidisciplinary medical team, remain flexible to a fast paced, changing environment with limited stability of daily operations. Each one must be willing to take medical orders from the designated team leader on site at the time of the response. Each one must be willing to serve in various subordinate roles but not to exceed their level of formal training. Each one must be able to serve all ages with a vast array of medical conditions, populations and special needs.

3.4.50 Contractor shall comply with all applicable federal and state laws, rules, and regulations including but not limited to, the following:

- Public Law 107-188, Public Health Security and Bioterrorism Preparedness and Response Act of 2002;
  - Public Law 109-417, The Pandemic and All-Hazards Preparedness Act of 2006;
- and
- Chapter 81, Texas Health and Safety Code.

3.4.51 Contractor shall comply with all applicable regulations, standards and guidelines in effect on the beginning date of this contract.

The following documents are incorporated by reference and made a part of this contract Attachment:

- Department of Health and Human Services Centers for Disease Control and prevention Public Health Emergency Preparedness Continuation Announcement (Funding Opportunity AA14)  
<https://www.dshs.state.tx.us/comp/comp/CDC%20FY%2007.doc>

- Pandemic Influenza Guidance Supplement to the 2006 Public Health Emergency Preparedness Cooperative Agreement Phase II (dated July 10, 2006) <http://www.bt.cdc.gov/planning/coopagreement/pdf/phase2-panflu-guidance.pdf>.

3.4.52 Contractor shall complete activities and performance measures as specified in this document.

3.4.53 Contractor promptly shall provide SAMHD written policies and procedures to its Professionals who may be deployed to provide services under this Contract.

3.4.54 Contractor shall ensure that Contractor Staff report to each one's assigned response location in Bexar County and the City of San Antonio within forty-eight (48) hours of the deployment notification given by SAMHD to the Contractor.

3.4.55 Contractor must ensure that its Professionals have the experience, knowledge and license to provide usual and customary services of a medical or health professional in their field. The Professional must have the ability to provide examinations, evaluations, consultations, and perform specific treatment as necessary. Services may be necessary after normal business hours or on holidays.

3.4.56 Contractor must ensure that each Professional shall maintain his/her license required by state law in good standing during the term of any deployment under this Contract. Each Professional must inform Contractor and SAMHD immediately of any change to the Professional's license.

3.4.57 Contractor shall provide reports as requested by SAMHD to satisfy information-sharing requirements set forth in Texas Government Code, Sections 421.071 and 421.072 (b) and (c) located at <http://tlo2.tlc.state.tx.us/statutes/doc/GV/content/word/vs.004.00.000421.00.doc>.

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

3.6 Contractor and the Director of Health, or his designee, shall engage in an annual quality assurance evaluation for the purpose of: 1) maintaining the highest standards of clinical care, appropriate for the public health program; 2) ensuring compliance with clinical licensure regulations and Medicaid guidelines and recommendations; and 3) other matters of interest raised by Contractor or the Director of Health.

**IV. COMPENSATION TO CONTRACTOR**

4.1 In consideration of Contractor's performance in a satisfactory and efficient manner, as determined solely by Director, of all services, activities, duties and responsibilities set forth in this Agreement, City agrees to pay Contractor a fee, of what is stated below in table, per hour per title for the term of this Agreement.

Item	Titles of Deployed Staff	Hourly Rate	Guaranteed Maximum Number Available to be Deployed	Flat Rate for Physician On-Call
1	Licensed Physician*	\$250.00	2	
2	Licensed Physician Assistant	\$180.00	2	
3	Registered Nurse	\$75.00	30	
4	Licensed Vocational Nurse	\$65.00	35	
5	Advanced Practice Nurse	\$160.00	2	
6	Certified Nurse Aide	\$35.00	15	
7	Certified Respiratory Care Practitioner	\$65.00	25	
8	Licensed Paramedic			
9	Licensed Pharmacist			
10	Registered Pharmacy Technician			
11	Licensed Social Worker			
12	Licensed Professional Counselor			
13	Licensed Psychologist			
14	Emergency Medical Technician			
15	Epidemiologist			
16	Staffing Specialist Coordinator	\$45.00	3	
17	On-site Staffing Consultant	\$120.00	6	
18	Administrative Staff (specify, e.g., medical records clerk)	\$40.00	12	

4.2 Contractor will be paid an hourly rate for each deployed Contractor Staff at the rate specified for the particular Contractor Staff title listed above.

4.3 Contractor may offer rates and guaranteed maximum available number on one or more of the above types of health professionals.

4.4 Hourly rates may vary depending on specialty, certifications, and experience. The hourly rates include all expenses associated with the Contractor's or Contractor's Staff compliance with this contract, including professional liability insurance, unless stated otherwise in this Contract. The hourly rate will be based on the work time of each Contractor Staff.

4.5 For a physician, the flat rate set forth shall be paid for the physician's on-call time when on-call status is designated by SAMHD. If an on-call physician is called into a response location when he or she is not on a shift, the hourly rate shall apply.

4.6 City and Contractor agree that reimbursement for eligible services shall be made within thirty (30) days after the date on which City receives an invoice, with appropriate documentation as required by City, from Contractor for said services.

4.7 City and Contractor agree that the City will provide the clinical staff support and supplies necessary for contractor to manage patient care.

4.8 City and Contractor understand and agree that all Medicaid and third party insurances will be billed by the SAMHD for clinical services at SAMHD facilities and that all revenues received by the SAMHD for said billing shall be the property of City.

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

4.10 The Contractor further agrees to accept reimbursement from the City as set forth in Article 4.1 above as payment in full for the services provided and shall seek no additional reimbursement for the services from the patient.

4.11 City agrees to pay Contractor for hours that Contractor is scheduled to work if said scheduled hours are cancelled by City with less than twenty-four (24) hours notice.

4.12 No additional fees or expenses of Contractor shall be charged by Contractor nor be payable by City other than as specified in Article 4.1 or 4.7 above.

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

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

5.2 Contractor 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. Contractor agrees to comply with the Health Insurance Portability and Accountability Act (HIPAA). Contractor has entered into a Business Associate Agreement with the City that is attached hereto as Attachment I and incorporated herein as a part of this Agreement for all purposes.

#### **VI. RECORD REQUESTS**

6.1 Contractor shall notify City, immediately, in the event Contractor receives any

requests for information from a third party, which pertain to the documentation and records referenced in Article V herein. Contractor understands and agrees that City will process and handle all such requests, regarding records that are owned or possessed by the City.

## VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by City or by Contractor upon thirty (30) calendar day's written notice to the other party, which notice shall be provided in accordance with Article VIII.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII, 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 XI.

7.4 Defaults With Opportunity for Cure. Should Contractor default in the performance of this Agreement in a manner stated in Articles 7.4.1 and 7.4.2 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have five (5) calendar days after receipt of the written notice, in accordance with Article VIII, to cure such default. If Contractor fails to cure the default within such five-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement.

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

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

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

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

### VIII. NOTICE

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

If intended for City, to:

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

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

If intended for Contractor, to:

Millenia Medical Staffing  
9901 I-H 10 West, Suite 675  
San Antonio, TX 78230

### IX. INSURANCE REQUIREMENTS

9.1 Prior to the commencement of any work under this Agreement, Contractor shall furnish an original completed Certificate(s) of Insurance to the City's San Antonio Metropolitan Health District, Attn: Director, and shall be clearly labeled "Medical Staffing Services for Metro Health", which 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 San

Antonio Metropolitan Health District, Attn: Director, 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 Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types an amount not less than the amount listed:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
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 <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
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence
5. Medical Malpractice Liability	\$200,000 per claim /\$600,000 aggregate; 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.

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). Contractor shall be required to comply with any such requests and shall submit a copy of the replacement

certificate of insurance to City at the address provided in Article 9.6 herein within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes.

9.5 Contractor 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;

9.5.3 Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

9.6 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by City, Contractor shall notify the City of such change in insurance coverage and shall give such notices not less than thirty (30) days prior to the change, if Contractor knows of said change in advance, or ten (10) days notice after the change, if the Contractor 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  
San Antonio Metropolitan Health District, Attn: Director  
P.O. Box 839966  
San Antonio, Texas 78283-3966

9.7 If Contractor 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 Contract; 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 Contractor to maintain said insurance or secure such endorsement. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

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

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

#### X. INDEMNIFICATION

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

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

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

#### XI. ASSIGNMENT AND SUBCONTRACTING

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

11.2 Any attempt to transfer, pledge, or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Contractor assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part

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

#### **XII. INDEPENDENT CONTRACTOR**

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

#### **XIII. CONFLICT OF INTEREST**

13.1 Contractor acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any Contract with the City or any City agency such as City owned utilities. An officer or employee has a "prohibited financial interest" in a Contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the Contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City Contract, a partner or a parent or subsidiary business entity.

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

#### **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 Contractor, and subject to approval by the City Council, as evidenced by passage of an ordinance.

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

#### **XVII. COMPLIANCE**

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

#### **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, as described in Article XIV. 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 Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

**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. ENTIRE CONTRACT**

23.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire Contract between the parties hereto and contain all of the terms and conditions agreed upon. No other Contracts, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same is in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XIV. This Agreement shall supercede any and all prior written and oral agreements between the City and Contractor.

EXECUTED and AGREED to this the 14 day of October, 2009.

City:  
CITY OF SAN ANTONIO

\_\_\_\_\_  
Fernando A. Guerra, MD, MPH  
Director of Health

Contractor:  
Millenia Medical Staffing

\_\_\_\_\_  
Sylvia Flores

ATTEST:

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

\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
Michael D. Bernard  
City Attorney

#### Attachment I - Business Associate Agreement

This Business Associate Agreement ("Agreement") dated October 6, 2009 (the "Effective Date"), is entered into by and between the City of San Antonio ("Health Care Provider") and Millenia Medical Staffing ("Business Associate").

**WHEREAS**, Health Care Provider is receiving and Business Associate is providing services ("Business Arrangement") that may require Business Associate to access health information that is protected by state and/or federal law;

**WHEREAS**, Business Associate and Health Care Provider desire that Business Associate obtain access to such information in accordance with the terms specified herein;

**NOW THEREFORE**, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise specified in this Business Associate Agreement, all capitalized terms not otherwise defined shall have the meanings established for purposes of Title 45, Parts 160 and 164, of the United States Code of Federal Regulations, as amended from time to time. For purposes of clarification, the following terms shall have the definitions as set forth herein below:

"Privacy Standards" shall mean the Standards for Privacy of Individually Identifiable Health Information as codified in 45 CFR Parts 160 and 164.

"Security Standards" shall mean the Security Standards for the Protection of Electronic Protected Health Information as codified in 45 CFR Parts 160 and 164.

"Protected Health Information" or "PHI" shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual, or with respect to which there is reasonable basis to believe the information can be used to identify the

individual, and shall have the meaning given to such term in the Privacy Standards and in the Security Standards.

2. **Business Associate Obligations.** Business Associate may receive from Health Care Provider health information that is protected under applicable state and/or federal law, including without limitation, Protected Health Information. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards or the Security Standards if the PHI were used or disclosed by Health Care Provider in the same manner. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement.

3. **Use of PHI.** Business Associate may use PHI only (i) for the purpose of performing services for Health Care Provider as such services are defined in Business Arrangement, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Health Care Provider shall retain all rights in the PHI not granted herein.

4. **Disclosure of PHI.** Business Associate may disclose PHI as necessary to perform its obligations under the Business Arrangement and as permitted by law, provided that Business Associate shall in such case: (a) obtain reasonable assurances from any person to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law or for the purpose for which it was disclosed to the person or entity; (b) agree to immediately notify Health Care Provider of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the Privacy Standards or the Security Standards; and (c) obtain reasonable assurances that all disclosures of PHI are subject to the principle of "minimum necessary use and disclosure," i.e., only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed. In addition, Business Associate may disclose PHI as required by law. If Business Associate discloses PHI received from Health Care Provider, or created or received by Business Associate on behalf of Health Care Provider, to agents, including a subcontractor (collectively, "Recipients"), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Health Care Provider any use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within five (5) days of the Business Associate becoming aware of such use or disclosure. Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Health Care Provider in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI in violation of this Agreement.

5. **Individual Rights.** If Business Associate maintains a Designated Record Set on behalf of Health Care Provider, Business Associate shall (a) permit an individual to inspect or copy PHI contained in that set about the individual under conditions and limitations required under 45 CFR § 164.524, as it may be amended from time to time, and (b) amend PHI maintained by Business Associate as requested by Health Care Provider. Business Associate shall respond to any request from Health Care Provider for access by an individual within five (5) days of such request and shall make any amendment requested by Health Care Provider within ten (10) days of such request. The information shall be provided in the form or format requested, if it is readily producible in such form or format, or in summary, if the individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying PHI may be charged. Business Associate shall accommodate an individual's right to have access to PHI about the individual in a Designated Record Set in accordance with the Privacy Standards set forth at 45 CFR § 164.526, as it may be amended from time to time, unless the regulation provides for a denial or an exception expressly applies. Health Care Provider shall determine whether a denial is appropriate or an exception applies. Business Associate shall notify Health Care Provider within five (5) days of receipt of

any request for access or amendment by an individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set.

6. **Accounting of Disclosures.** Business Associate shall make available to Health Care Provider in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFR § 164.528, as it may be amended from time to time, incorporating exceptions to such accounting designated under the regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within thirty (30) days of Health Care Provider's request. Such accounting must be provided without cost to the individual or to Health Care Provider if it is the first accounting requested by an individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Health Care Provider and the Health Care Provider informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting shall be provided as long as Business Associate maintains PHI.

7. **Withdrawal of Consent or Authorization.** If the use or disclosure of PHI in this Agreement is based upon an individual's specific consent or authorization for the use of his or her PHI, and (i) the individual revokes such consent or authorization in writing, (ii) the effective date of such authorization has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Standards expressly applies.

8. **Records and Audit.** Business Associate shall make available to Health Care Provider and to the United States Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Health Care Provider for the purpose of determining Health Care Provider's compliance with the Privacy Standards and the Security Standards or any other health oversight agency, in a timely a manner designated by Health Care Provider or the Secretary. Except to the extent prohibited by law, Business Associate agrees to notify Health Care Provider immediately upon receipt by Business Associate of any and all requests served upon Business Associate for information or documents by or on behalf of any and all government authorities.

9. **Notice of Privacy Practices.** Health Care Provider shall provide to Business Associate its Notice of Privacy Practices ("Notice") when adopted and any amendments thereafter. Business Associate agrees that it will abide by the limitations of any Notice published by Health Care Provider of which it has knowledge. An amended Notice shall not affect permitted uses and disclosures on which Business Associate has relied prior to the receipt of such Notice.

10. **Confidentiality.** Business Associate shall take any steps required to (i) protect PHI from unauthorized uses or disclosures and (ii) maintain the confidentiality and integrity of PHI. Prior to any permitted disclosure of PHI, Business Associate shall require the person or entity to which it intends to disclose PHI to assume all of the same duties with respect to PHI that Business Associate has under this Agreement.

11. **Security.** Business Associate will: (i) implement administrative, physical, and technical safeguards that reasonably and appropriate protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Health Care Provider; (ii) ensure that any agent, including a subcontractor, to whom it provides such

information agrees to implement reasonable and appropriate safeguards to protect the information; and, (iii) report any security incidents to the Health Care Provider, in accordance with the Security Standards.

12. **Term and Termination.**

12.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this Section 12, provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.

12.2 Health Care Provider shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Business Associate.

12.3 Health Care Provider, at its sole discretion, may immediately terminate this Agreement and shall have no further obligations to Business Associate hereunder if any of the following events shall have occurred and be continuing:

- (a) Business Associate shall fail to observe or perform any material covenant or agreement contained in this Agreement for ten (10) days after written notice thereof has been given to Business Associate by Health Care Provider; or
- (b) A violation by Business Associate of any provision of the Privacy Standards, Security Standards, or other applicable federal or state privacy law.

12.4 Upon the termination of the Business Arrangement, either party may terminate this Agreement by providing written notice to the other party.

12.5 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Health Care Provider or to destroy all PHI received from Health Care Provider or otherwise through the performance of services for Health Care Provider, that is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy," Business Associate shall continue to comply with the covenants in this Agreement with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this Agreement shall be cause for Health Care Provider to terminate the Business Arrangement.

13. **Notice.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; or (c) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below:

<b>Health Care Provider:</b>	<b>Business Associate</b>
City Clerk	Millenia Medical Staffing
City of San Antonio	9901 I-H 10 West, Suite 675
P.O. Box 839966	San Antonio, Texas 78230
San Antonio, Texas 78283-3966	
AND	

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

14. **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

15. **Assignment.** Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Health Care Provider shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Health Care Provider, without the prior approval of Business Associate.

16. **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Health Care Provider relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangement or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangement comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

17. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

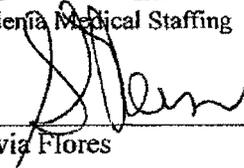
19. **Indemnification.** BUSINESS ASSOCIATE WILL INDEMNIFY, DEFEND AND HOLD HEALTH CARE PROVIDER AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BUSINESS ASSOCIATE OR SIMILAR BREACH BY RECIPIENTS ("CLAIM"). IF BUSINESS ASSOCIATE ASSUMES THE DEFENSE OF A CLAIM, HEALTH CARE PROVIDER SHALL HAVE THE RIGHT, AT ITS EXPENSE, TO PARTICIPATE IN THE DEFENSE OF SUCH CLAIM, AND BUSINESS ASSOCIATE SHALL NOT TAKE ANY FINAL ACTION WITH RESPECT TO SUCH CLAIM WITHOUT THE PRIOR WRITTEN CONSENT OF HEALTH CARE PROVIDER.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Health Care Provider:  
CITY OF SAN ANTONIO  
San Antonio Metropolitan Health District

\_\_\_\_\_  
Fernando A. Guerra, MD, MPH  
Director of Health

Business Associate:  
Millenia Medical Staffing

  
\_\_\_\_\_  
Sylvia Flores

ATTEST:

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

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bernard  
City Attorney

\_\_\_\_\_  
10-14-2009

Date

**Request for Taxpayer  
 Identification Number and Certification**

Give form to the requester. Do not send to the IRS.

Print or type  
 See Specific Instructions on page 2.

Name (as shown on your income tax return)  
**HILLENIA MEDICAL SERVICES - TEXAS PLLC**

Business name, if different from above  
**HILLENIA MEDICAL STAFFING**

Check appropriate box  Individual/  
 Sole proprietor  Corporation  Partnership  Other \_\_\_\_\_  Exempt from backup  
 withholding

Address (number, street, and apt. or suite no.)  
**109 RIVER LANDING DRIVE, SUITE 400**

City, state, and ZIP code  
**DAVIE ISLAND, SC 29492**

List account number(s) here (optional)

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 8. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 8.

Social security number  
 | | + | | | | | | |

or  
 Employer identification number  
**2102131519481**

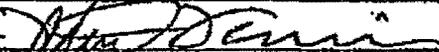
Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here Signature of U.S. person  Date \_\_\_\_\_

**Purpose of Form**

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding.
- Or
- Claim exemption from backup withholding if you are a U.S. exempt payee.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

• Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

- The treaty country. Generally, this must be the same treaty under which you claimed exemption from taxes as a nonresident alien.
- The treaty article addressing the income.
- The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/27/09

**PRODUCER**  
Wells Fargo Ins Serv USA- CH,SC  
176 Croghan Spur Road  
Suite 300  
Charleston, SC 29407

**INSURED**  
Millenia Medical Services Inc  
Millenia Medical Services-Texas Inc  
109 River Landing Dr., Ste 400  
Daniel Island, SC 29492

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Arch Specialty Insurance Company	21189
INSURER B: AIG Casualty Company	19402
INSURER C: Commerce and Industry Insurance Comp	19410
INSURER D:	
INSURER E:	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR. INFO	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	FLP001769203	08/30/09	08/30/10	EACH OCCURRENCE \$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Per occurrence) \$100,000
	<input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				MED EXP (Any one person) \$5,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PERSONAL & ADV INJURY \$1,000,000
	AUTOMOBILE LIABILITY				GENERAL AGGREGATE \$3,000,000
	ANY AUTO				PRODUCTS - COMPTOP AGG \$3,000,000
	ALL OWNED AUTOS				
	SCHEDULED AUTOS				
	HIRED AUTOS				
	NON-OWNED AUTOS				
	GARAGE LIABILITY				
	ANY AUTO				
	EXCESS/UMBRELLA LIABILITY				
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				
	DEDUCTIBLE				
	RETENTION \$				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC9873091 - AOS	08/30/09	08/30/10	<input checked="" type="checkbox"/> WC STAT-L-TORY LIMITS <input type="checkbox"/> OTH-ER
C	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC6785491 - CA EXCLUDES OH, ND WA & WY	08/30/09	08/30/10	E.L. EACH ACCIDENT \$1,000,000
					E.L. DISEASE - EA EMPLOYEE \$1,000,000
					E.L. DISEASE - POLICY LIMIT \$1,000,000
A	OTHER Medical Professional Liability	FLP001769203	08/30/09	08/30/10	\$1,000,000 Incident \$3,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

**CERTIFICATE HOLDER**

**CANCELLATION**

Blank space for Certificate Holder information.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE:  
*Robin B. Duckworth*

**AGREEMENT TO USE FUNDS**  
**of the City of San Antonio**

**THIS AGREEMENT** is entered into by and between the City of San Antonio, a Texas Municipal Corporation (City) acting by and through its City Manager, pursuant to Ordinance No. \_\_\_\_\_ passed and approved on \_\_\_\_\_, and the Bexar County Medical Society (hereinafter referred to as BCMS, or Recipient) by and through its Executive Director, **WITNESSETH:**

**WHEREAS**, the City of San Antonio by and through the San Antonio Metropolitan Health District (SAMHD) has received Public Health Emergency Response (PHER) grant funds for the H1N1 public health emergency; and

**WHEREAS**, SAMHD has identified that BCMS is positioned to identify and coordinate medical staff and volunteers for the City's response efforts to H1N1; and

**WHEREAS**, City Council hereby finds that such expenditure serves a municipal public purpose in that it will benefit the City's public health and safety; **NOW THEREFORE:**

For and in consideration of the following mutual promises and obligations, and for the benefit of the citizens of the City of San Antonio, the parties herein agree as follows:

1. This Agreement shall commence immediately upon execution and shall terminate on September 30, 2014.
2. In consideration of Recipient's performance, in a satisfactory and efficient manner as determined by City, of all services and activities set forth in this Agreement, City agrees to reimburse Recipient in an amount not to exceed \$12,350.00, for the purchase of the following equipment and incident services to be used for the purposes set out below:

	<b>Equipment</b>	<b>Purpose</b>
A	Sentino Pro 1-1000 Capacity License (4 SATA 500GB Drives – 2TB)	Data Storage, tracking , and gathering information for emergencies such as pandemic flu and hurricane information
B	Dell Computer (Database Administration) Dell Precision T3400 Tower computer 2.4GHZ Processor, 6 Gig RAM (memory), 22 inch Monitor Microsoft Office Small Business Edition	Administer physician and other licensed medical professional database for volunteer services
C	Dell PowerEdge Energy Smart 2950, Raid 5 Server with Microsoft Windows Server OS 2008. Installation included	Enhancement of web-based medical volunteer registry
D	Installation of the Dell Edge Power 2950	Installation required for
E	Brother HL-4040CDN – Printer – color – duplex – laser – Legal – 240 dpi x 600 dpi – up to 21 ppm (mono) / up to 21 ppm (color) – capacity: 300 sheets – USB, Ethernet	printer to use in conjunction with the Medical Volunteer Coordinating Committee to schedule medical professional volunteers

3. Recipient understands and agrees to abide by and adhere to all applicable federal, state and local, laws, rules and regulations in the use of the funds, including all bidding requirements that the City is required to perform pursuant to Chapter 252 of the Local Government Code. Recipient agrees to provide City with invoices for the expenditures under this Agreement no later than thirty (30) days from the date that Recipient makes such expenditures. All requests for reimbursement shall be submitted to the SAMHD at the address provided in Section 12.
4. Accounting records for all expenditures shall be maintained by Recipient in accordance with generally accepted accounting practices. Recipient further agrees to maintain records verifying the use of the equipment for *public health emergency preparedness and response support* purposes for each year throughout the term of this Agreement. All of the above-described records shall be subject to audit by the City or its contracted auditor.
5. Any literature, signs, or print advertising of any type appearing on any medium which refers to, or which is paid for by funds received as a result of this Agreement shall contain the words, "Paid for by The City of San Antonio."
6. This Agreement is not assignable and funds received as a result hereof shall only be used by the parties stated herein.
7. In the event that Recipient fails to meet any of its obligations under this Agreement, fails to use the funds for the purposes set out herein, or the Recipient no longer uses the equipment described in this Agreement in connection with Recipient's programs, Recipient shall refund to the City at the rate of \$2,470.00 for each year remaining on the term of this Agreement from the date of any of the above occurrences. Recipient shall pay City a prorated amount for any portion of a year remaining on this Agreement. Recipient shall pay City such funds no later than thirty (30) days from the date City requests such funds from Recipient.
8. None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.
9. **INSURANCE**  
Recipient shall be responsible for insuring its employees and sub-recipients for Worker's Compensation or Alternative Plan. If a Worker's Compensation Policy is maintained, then for the duration of this Agreement, Recipient will attach a waiver of subrogation in favor of the City. Recipient shall be responsible for insuring its own Property, Equipment, Autos and Legal Liability. In no event will the City be required to maintain any insurance coverage for Recipient.
10. **INDEMNITY**  
Any and all of the employees of Recipient, wherever located, while engaged in the performance of any work required by the City under this Agreement shall be considered employees of Recipient only, and not of the City, and any and all claims that may arise

from the Workers' Compensation Act on behalf of said employees while so engaged shall be the sole obligation and responsibility of Recipient.

Recipient indemnifies, saves, and holds harmless the City against all claims, demands, actions or causes of action of whatsoever nature or character, as permitted by law, arising out of or by reason of the execution or performance of the work provided for herein and further agrees to defend, at its sole cost and expense, any action or proceeding commenced for the purpose of asserting any Workers' Compensation claim of whatsoever character arising herein.

11. Recipient shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation.
12. For purposes of this Agreement, all official communications and notices between the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

City: Dr. Fernando A. Guerra, Director  
San Antonio Metropolitan Health District  
332 W. Commerce  
San Antonio, Texas 78205

Recipient: John Wisniewski, Executive Director  
Bexar County Medical Society  
6243 W. IH-10, Ste 600  
San Antonio, TX 78201

Notices of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of the change.

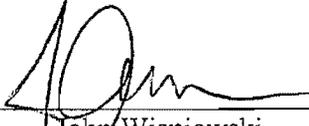
13. If any provision of this Agreement is for any reason held to be unconstitutional, void, or invalid, the remaining provisions or sections contained herein shall remain in effect and the section so held shall be reformed to reflect the intent of the parties.
14. The signer of this Agreement for Recipient represents, warrants, assures and guarantees he or she has full legal authority to execute this Agreement on behalf of Recipient and to bind Recipient to all of the terms, conditions, provisions and obligations herein contained.
15. This Agreement and its attachments, if any, constitute the entire and integrated Agreement between the parties hereto and contain all of the terms and conditions agreed upon, and supersede all prior negotiations, representations, or contracts, either oral or written.

IN WITNESS OF WHICH this Agreement has been executed on this \_\_\_\_ day of \_\_\_\_\_, 2009.

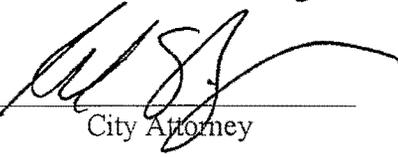
CITY OF SAN ANTONIO

BEXAR COUNTY MEDICAL SOCIETY

By: \_\_\_\_\_  
Dr. Fernando Guerra  
Director

By:  \_\_\_\_\_  
John Wisniewski  
Executive Director

APPROVED AS TO FORM:

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

**AGREEMENT TO USE FUNDS**  
**of the City of San Antonio**

**THIS AGREEMENT** is entered into by and between the City of San Antonio, a Texas Municipal Corporation (City) acting by and through its City Manager, pursuant to Ordinance No. \_\_\_\_\_ passed and approved on \_\_\_\_\_, and the Southwest Texas Regional Advisory Committee (hereinafter referred to as STRAC, or Recipient) by and through its Executive Director, **WITNESSETH:**

**WHEREAS**, the City of San Antonio by and through the San Antonio Metropolitan Health District (SAMHD) has received Public Health Emergency Response (PHER) grant funds for the H1N1 public health emergency; and

**WHEREAS**, SAMHD has identified that STRAC is positioned to coordinate and verify credentials for medical professionals participating in the City's response efforts to H1N1; and

**WHEREAS**, City Council hereby finds that such expenditure serves a municipal public purpose in that it will benefit the City's public health and safety; **NOW THEREFORE:**

For and in consideration of the following mutual promises and obligations, and for the benefit of the citizens of the City of San Antonio, the parties herein agree as follows:

1. This Agreement shall commence immediately upon execution and shall terminate on September 30, 2014.
2. In consideration of Recipient's performance, in a satisfactory and efficient manner as determined by City, of all services and activities set forth in this Agreement, City agrees to reimburse Recipient in an amount not to exceed \$75,000.00, for the purchase of equipment and incidental services for a system to verify credentials and provide security badges to medical professionals participating in the City's response efforts to H1N1 and subsequent emergency response efforts during the term of this Agreement
3. Recipient understands and agrees to abide by and adhere to all applicable federal, state and local, laws, rules and regulations in the use of the funds, including all bidding requirements that the City is required to perform pursuant to Chapter 252 of the Local Government Code. Recipient agrees to provide City with invoices for the expenditures under this Agreement no later than thirty (30) days from the date that Recipient makes such expenditures. All requests for reimbursement shall be submitted to the SAMHD at the address provided in Section 12.
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6. This Agreement is not assignable and funds received as a result hereof shall only be used by the parties stated herein.
7. In the event that Recipient fails to meet any of its obligations under this Agreement, fails to use the funds for the purposes set out herein, or the Recipient no longer uses the equipment described in this Agreement in connection with Recipient's programs, Recipient shall refund to the City at the rate of \$15,000.00 for each year remaining on the term of this Agreement from the date of any of the above occurrences. Recipient shall pay City a prorated amount for any portion of a year remaining on this Agreement. Recipient shall pay City such funds no later than thirty (30) days from the date City requests such funds from Recipient.
8. None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.
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Recipient indemnifies, saves, and holds harmless the City against all claims, demands, actions or causes of action of whatsoever nature or character, as permitted by law, arising out of or by reason of the execution or performance of the work provided for herein and further agrees to defend, at its sole cost and expense, any action or proceeding commenced for the purpose of asserting any Workers' Compensation claim of whatsoever character arising herein.
11. Recipient shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation.
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San Antonio Metropolitan Health District  
332 W. Commerce  
San Antonio, Texas 78205

Recipient: \_\_\_\_\_, Executive Director  
Southwest Texas Regional Advisory Committee  
  
\_\_\_\_\_  
San Antonio, TX 782\_\_\_\_

Notices of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of the change.

13. If any provision of this Agreement is for any reason held to be unconstitutional, void, or invalid, the remaining provisions or sections contained herein shall remain in effect and the section so held shall be reformed to reflect the intent of the parties.
14. The signer of this Agreement for Recipient represents, warrants, assures and guarantees he or she has full legal authority to execute this Agreement on behalf of Recipient and to bind Recipient to all of the terms, conditions, provisions and obligations herein contained.
15. This Agreement and its attachments, if any, constitute the entire and integrated Agreement between the parties hereto and contain all of the terms and conditions agreed upon, and supersede all prior negotiations, representations, or contracts, either oral or written.

**IN WITNESS OF WHICH** this Agreement has been executed on this \_\_\_\_ day of \_\_\_\_\_, 2009.

**CITY OF SAN ANTONIO**

**SOUTHWEST TEXAS ADVISORY COMMITTEE**

By: \_\_\_\_\_  
Dr. Fernando Guerra  
Director

By: \_\_\_\_\_  
\_\_\_\_\_  
Executive Director

**APPROVED AS TO FORM:** \_\_\_\_\_  
City Attorney