

AN ORDINANCE 2014 - 10 - 02 - 0746

**AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT WITH NUTRITION THERAPY ASSOCIATES, INC. FOR NUTRITION CONSULTING, TRAINING, AND COUNSELING SERVICES FOR THE HEAD START PROGRAM THROUGH JANUARY 31, 2015, WITH THREE ONE-YEAR RENEWAL OPTIONS, FOR A TOTAL AMOUNT NOT TO EXCEED \$100,000.00.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio Head Start Program is an early childhood education and development program funded by the U.S. Department of Health and Human Services providing services to 3,020 children in 27 Head Start centers located in the San Antonio and Edgewood Independent School Districts; and

**WHEREAS**, in addition to high-quality early childhood education services, the program also connects families with comprehensive services such as medical, nutritional, dental, mental health and disability services; and

**WHEREAS**, the City issued a Request for Qualifications (RFQ) for Nutritional Educational Services on June 26, 2014 and received one response; **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 Department of Human Services (DHS) or her designee, is authorized to execute a professional services contract with Nutrition Therapy Associates, Inc. for nutrition consulting, training, and counseling services through January 31, 2015, with three one-year renewal options for a total amount not to exceed \$100,000.00. A copy of the contract in substantially final form is attached hereto and incorporated herein for all purposes as **Attachment I**.

**SECTION 2.** The sum of \$25,000.00 is hereby appropriated in fund 2602238015 and Internal Order 138000001231 and will be disbursed from GL 5201040. The remaining \$75,000.00 will be appropriated upon subsequent grant awards. Payment is authorized to Nutrition Therapy Associates, Inc. upon issuance of a Purchase Order.

**SECTION 3.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal

KD/vv  
10/02/14  
Item #22

Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

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

**PASSED AND APPROVED** this 2nd day of October, 2014.

  
M A Y O R  
Ivy R. Taylor

**ATTEST:**

  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
for Robert F. Greenblum, City Attorney

<b>Agenda Item:</b>	22 ( in consent vote: 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 )
<b>Date:</b>	10/02/2014
<b>Time:</b>	09:16:19 AM
<b>Vote Type:</b>	Motion to Approve
<b>Description:</b>	An Ordinance authorizing the execution of a professional services contract with Nutrition Therapy Associates, Inc. for nutrition consulting, training, and counseling sessions for the Head Start Program through January 31, 2015, with three one-year renewal options, for a total amount not to exceed \$100,000.00. [Gloria Hurtado, Assistant City Manager; Melody Woosley, Director, Human Services]
<b>Result:</b>	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Diego Bernal	District 1		x				
Keith Toney	District 2	x					
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Mari Aguirre-Rodriguez	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9	x					
Michael Gallagher	District 10		x				

Contract # \_\_\_\_\_

**PROFESSIONAL SERVICES CONTRACT  
WITH  
NUTRITION THERAPY ASSOCIATES, INC.**

This CONTRACT is made and entered into by and between the CITY OF SAN ANTONIO, a Texas municipal corporation (hereinafter referred to as "CITY"), acting by and through its Director of the Department of Human Services pursuant to Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_, 2014, and Nutrition Therapy Associates, Inc. (hereinafter referred to as "CONSULTANT"), both of which may be collectively referred to 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. TERM**

1.1 This CONTRACT shall commence upon execution and shall terminate on January 31, 2015 unless earlier termination shall occur pursuant to any provision hereof; City shall have the option to renew for an additional three (3) one (1) year periods upon the approval of the Director of the Department of Human Services (hereinafter referred to as "Director") and the satisfactory performance of CONSULTANT, as determined solely by Director.

**II. SCOPE OF SERVICES**

2.1 The CONSULTANT agrees to provide all services in compliance with the Statement of Work attached hereto as Attachment "A" in a manner satisfactory to Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. CITY shall have the right to terminate this CONTRACT, in whole or in part, in accordance with Article XIV, Termination, should CONSULTANT's work not be satisfactory to Director; however, CITY shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should CITY elect not to terminate.

**III. COMPENSATION TO CONSULTANT**

3.1 In consideration of CONSULTANT's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in Attachment A, CITY agrees to pay CONSULTANT an amount not to exceed \$25,000.00 as total compensation, to be paid to CONSULTANT at an hourly rate of \$65.00 per hour.

3.1.1 In consideration of CONSULTANT's driving costs directly between City locations for the services and activities set forth in Attachment A, CITY agrees to pay CONSULTANT at the current government reimbursement rate of \$0.56 per mile, to be included within the total compensation amount set forth in section 3.1.

3.1.2 In consideration of CONSULTANT's time spent while traveling directly between City locations for the services and activities set forth in Attachment A, City agrees to pay CONSULTANT an amount not to exceed \$5,000.00, to be included within the total compensation amount set forth in section 3.1, and to be paid to CONSULTANT at the reduced rate of \$40.00 per hour.

3.2 Beginning thirty (30) days after the execution date of the CONTRACT, CONSULTANT shall submit monthly invoices to CITY, in a form acceptable to CITY, and including copies of all receipts for supplies, which CITY shall pay within thirty (30) days of receipt and approval by Director. CONSULTANT shall include with the invoices City-approved documentation indicating the mileage and the amount of time spent driving between City locations. Invoices shall be submitted to: City of San Antonio, Department of Human Services, Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976.

- 3.3 The Parties hereby agree that all compensable expenses of CONSULTANT have been provided for in the total payment to CONSULTANT as specified in section 3.1 above. No additional fees or expenses of CONSULTANT shall be charged by CONSULTANT nor be payable by CITY, without prior approval and written agreement of the Parties.
- 3.4 Final payment due under the CONTRACT will not be paid until all the work, reports, data, documents and any other unfinished services necessary to complete performance under the CONTRACT have been received, performed and are approved by the CITY. The CITY shall not be liable for any payment under this CONTRACT for services which are unsatisfactory or which have not been approved by the CITY.
- 3.5 CITY shall not be obligated or liable under the CONTRACT to any party, other than CONSULTANT, including any subcontractors, for payment of any monies for provision of any goods or services.
- 3.6 If this CONTRACT is partially or wholly grant funded, and reduced funds are awarded to the CITY, the budget for this CONTRACT may be adjusted to correspond to the actual award received by the CITY.

#### **IV. INDEPENDENT CONTRACTOR**

- 4.1 CONSULTANT understands and agrees that CONSULTANT is and shall be deemed to be an independent contractor, and not an officer, agent, servant or employee of CITY, and that CONSULTANT is responsible for the acts or omissions of its officers, agents, employees, contractors, subcontractors and consultants, and that the CITY shall in no way be responsible therefor. Nothing contained herein shall be deemed or construed by the Parties hereto or by any third party as creating the relationship of employer-employee, principal-agent, partners, joint venture, or any other similar such relationship, between the Parties hereto. CONSULTANT understands and agrees that the CITY shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the CONSULTANT under this Contract and that the CONSULTANT has no authority to bind the CITY.

#### **V. CONFIDENTIALITY**

- 5.1 No reports, information, designs, data nor any other documentation developed by, given to, prepared by, or assembled by CONSULTANT under this CONTRACT shall be disclosed or made available to any individual or organization by CONSULTANT without the express prior written approval of CITY. In the event CONSULTANT receives a request to disclose or produce documents, CONSULTANT shall inform the CITY immediately for the purpose of receiving direction regarding the manner of processing.
- 5.2 CONSULTANT shall comply with laws, regulations and rules pertaining to confidentiality and shall establish a method to secure the confidentiality of documents and information that CONSULTANT may have access to, in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting CITY's right of access to records or other information under this CONTRACT.

#### **VI. OWNERSHIP OF DOCUMENTS**

- 6.1 Any and all records, data, finished or unfinished documents, writings, reports, charts, schedules, or information produced by, or on behalf of, CONSULTANT, and any related responses, inquiries, correspondence and materials which has come into CONSULTANT's custody, even if not produced by, or on behalf of, CONSULTANT, in whatsoever form and character (hereinafter referred to as "documents") pursuant to the provisions of this CONTRACT are the exclusive property of CITY; and no such documents shall be the subject of any copyright or proprietary claim by CONSULTANT.
- 6.2 CONSULTANT understands and acknowledges that as the exclusive owner of any and all such documents, CITY has the right to use all such documents as CITY desires, without restriction or further compensation to CONSULTANT. CONSULTANT shall deliver, at CONSULTANT's sole cost and expense, all CONTRACT related documents and reports to the CITY in accordance with the dates established under this CONTRACT, and in a timely and expeditious manner, and if a delivery date is not specified, then upon termination of the CONTRACT.

- 6.3 CONSULTANT shall notify CITY immediately of any requests for information from a third party which pertain to documents obtained and/or generated pursuant to this CONTRACT. CONSULTANT understands and agrees that CITY will process and handle all such requests.

#### VII. RIGHT OF REVIEW AND RECORDS RETENTION

- 7.1 CONSULTANT and its subcontractors, if any, shall properly, accurately and completely maintain all documents, and shall make such materials available to the CITY at their respective offices, at all reasonable times and as often as CITY may deem necessary during the CONTRACT period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by CITY and any of its authorized representatives.
- 7.2 CONSULTANT shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the CONTRACT. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, CONSULTANT shall retain the records until the resolution of such litigation or other such questions. CONSULTANT acknowledges and agrees that CITY shall have access to any and all such documents at any and all times, as deemed necessary by CITY, during said retention period. CITY may, at its election, require CONSULTANT to return the documents to CITY at CONSULTANT's expense prior to or at the conclusion of the retention period. In such event, CONSULTANT may retain a copy of the documents.

#### VIII. LICENSES AND CERTIFICATIONS

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

#### IX. COMPLIANCE

- 9.1 This CONTRACT is funded wholly or in part by the U.S. Department of Health and Human Services through the Head Start grant (CFDA #93.600). CONSULTANT shall provide and perform all services under this CONTRACT in compliance with all applicable federal, state, local laws, rules and regulations. Failure to comply with applicable laws and regulations could subject the CONSULTANT to suspension of payments, termination of CONTRACT, and debarment and suspension actions. In the event that any disagreement or dispute should arise between the Parties hereto pertaining to the interpretation or meaning of any part of this CONTRACT or its governing rules, regulations, laws, codes or ordinances, CITY, as the party ultimately responsible for all matters of compliance with City of San Antonio and applicable grant rules and regulations, shall have the final authority to render or secure an interpretation.
- 9.2 The CONSULTANT certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988 and the Drug-Free Workplace Rules established by the Texas Worker's Compensation Commission effective April 17, 1991.
- 9.3 As a party to this CONTRACT, CONSULTANT understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein. Also, CONSULTANT certifies that it will comply fully with the following nondiscrimination and equal opportunity provisions:
- a. Titles VI and VII of the Civil Rights Act of 1964, as amended;
  - b. Section 504 of the Rehabilitation Act of 1973, as amended;
  - c. The Age Discrimination Act of 1975, as amended;

- d. Title IX of the Education Amendments of 1972, as amended; and
- e. All applicable regulations implementing the foregoing laws.

**X. CONFLICT OF INTEREST**

- 10.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in the City’s Ethics Code, from having a financial interest in any CONTRACT with City or any City agency such as City owned utilities. An officer or employee has a “prohibited financial interest” in a CONTRACT with the City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the CONTRACT or sale: a City officer or employee; his 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.
- 10.2 CONSULTANT warrants and certifies, and this CONTRACT is made in reliance thereon, that it, its officers, employees and agents performing on this CONTRACT are neither a City officer nor an employee as defined by Section 2-52 (e) of the City’s Ethics Code. CONSULTANT further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City’s Ethics Code.

**XI. INSURANCE**

- 11.1 Prior to the commencement of any work under this CONTRACT, CONSULTANT shall furnish copies of all required endorsements and a completed Certificate(s) of Insurance to the CITY’s Department of Human Services, which shall be clearly labeled “**Nutritional Educational Services for the Head Start Program**” in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The CITY will not accept Memorandum of Insurance or Binders as proof of insurance. The certificate(s) or form must have the agent’s original signature, including the signer’s phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer’s authorized representative to the CITY. The CITY shall have no duty to pay or perform under this CONTRACT until such certificate and endorsements have been received and approved by the CITY’s Human Services Department. No officer or employee, other than the CITY’s Risk Manager, shall have authority to waive this requirement.
- 11.2 The CITY reserves the right to review the insurance requirements of this Article during the effective period of this CONTRACT and any extension or renewal hereof and to modify insurance 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 CONTRACT. In no instance will CITY allow modification whereupon CITY may incur increased risk.
- 11.3 A CONSULTANT’s financial integrity is of interest to the CITY; therefore, subject to CONSULTANT’s right to maintain reasonable deductibles in such amounts as are approved by the CITY, CONSULTANT shall obtain and maintain in full force and effect for the duration of this CONTRACT, and any extension hereof, at CONSULTANT’s sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized and admitted to do business in the State of Texas and with an A.M Best’s rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

TYPE	AMOUNTS
1. Broad Form General Liability Insurance to include coverage for the following: <ul style="list-style-type: none"> <li>a. Premises operations</li> <li>b. Independent Contractors</li> <li>c. Products/completed operations</li> <li>d. Personal Injury</li> <li>e. Contractual Liability</li> </ul>	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

f. Damage to property rented by you g. Sexual Abuse/Molestation Coverage	f. \$10,000 g. \$1,000,000
2. Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	\$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

11.3.1 CONSULTANT also agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of CONSULTANT herein, and provide a certificate of insurance and endorsement that names CONSULTANT and CITY as additional insureds. CONSULTANT shall provide CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by CITY's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by CITY's Risk Manager, which shall become a part of the contract for all purposes.

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

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

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

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

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

11.7 In addition to any other remedies the CITY may have upon CONSULTANT's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the CITY shall have

the right to order CONSULTANT to stop work hereunder, and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof.

- 11.8 Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subcontractors' performance of the work covered under this CONTRACT.
- 11.9 It is agreed that CONSULTANT'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 CONTRACT.
- 11.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this CONTRACT and that no claim or action by or on behalf of the CITY shall be limited to insurance coverage provided.
- 11.11 CONSULTANT and any approved subcontractors are responsible for all damage to their own equipment and/or property.

## XII. INDEMNITY

- 12.1 **CONSULTANT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONSULTANT'S activities under this CONTRACT including any acts or omissions of CONSULTANT, any agent, officer, director, representative, employee, consultant or subcontractor of CONSULTANT, and their respective officers, agents, employees, directors and representatives while in the exercise of the rights or performance of the duties under this CONTRACT. 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 CONSULTANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**
- 12.2 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONSULTANT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONSULTANT known to CONSULTANT related to or arising out of CONSULTANT's activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at CONSULTANT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONSULTANT of any of its obligations under this paragraph.
- 12.3 Defense Counsel - CITY shall have the right to select or to approve defense counsel to be retained by CONSULTANT in fulfilling its obligation hereunder to defend and indemnify CITY, unless such right is expressly waived by CITY in writing. CONSULTANT shall retain CITY approved defense counsel within seven (7) business days of CITY's written notice that CITY is invoking its right to indemnification under this CONTRACT. If CONSULTANT fails to retain counsel within such time period, CITY shall have the right to retain defense counsel on its own behalf, and CONSULTANT shall be liable for all costs incurred by CITY.

CITY shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

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

### **XIII. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY**

- 13.1 The CITY has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2010-06-17-0531 and as amended, also referred to as “SBEDA” or “the SBEDA Program”), which is posted on the City’s Economic Development (EDD) website page and is also available in hard copy form upon request to the CITY. The SBEDA Ordinance Compliance Provisions contained in this section of the CONTRACT and by the requirements outlined in the SBEDA Program for this CONTRACT, attached hereto and incorporated herein for all purposes as Attachment B, are governed by the terms of the SBEDA Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by the CITY pursuant to the Ordinance, and any subsequent amendments to the referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual that are effective as of the date of the execution of this CONTRACT.

### **XIV. TERMINATION**

- 14.1 For purposes of this CONTRACT, “termination” of this CONTRACT shall mean termination by expiration of the CONTRACT term or earlier termination pursuant to any of the provisions hereof.
- 14.2 **TERMINATION BY NOTICE:** The CONTRACT may be terminated by either party upon written notice, provided such notice specifies an effective date of termination, which shall be not less than thirty (30) days from the date such notice is received by the other party. If the notice does not specify a date of termination, the effective date of termination shall be thirty (30) days after receipt of the notice by the other party. All files are the property of the CITY and, at the CITY’S request, will be delivered at no cost to the CITY or its designated recipient at the effective date of termination.
- 14.3 **TERMINATION FOR CAUSE:** Should either party default in the performance of any of the terms or conditions of this CONTRACT, the non-defaulting party shall deliver to the defaulting party written notice thereof specifying the matters of default. The defaulting party shall have ten (10) days after its receipt of the written notice to cure such default. If the defaulting party fails to cure the default within such ten (10) day period, the non-defaulting party may elect to terminate this CONTRACT, in whole or in part, upon written notice, as of the date provided in the notice.
- 14.4 **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, and the CONTRACT may not be continued by severance of the prohibited duties, this CONTRACT shall automatically terminate as of the effective date of such prohibition.
- 14.5 **NON-APPROPRIATION:** In the event that through action or no action initiated by the City of San Antonio, the CITY’s legislative body does not appropriate funds for the continuation of this CONTRACT and has no funds to do so from other sources, this CONTRACT may be terminated. To effect this termination, the CITY shall, thirty (30) days prior to the period for which funds are not appropriated, send the CONSULTANT written notice stating that the City of San Antonio failed to appropriate funds.
- 14.6 **EFFECT OF TERMINATION:** Upon the effective date of expiration or termination of this CONTRACT CONSULTANT shall cease all operations of work being performed by CONSULTANT or any of its approved subcontractors pursuant to this CONTRACT. The period between notice of termination and the effective date of termination shall be used to effect an orderly transfer of records and documents and funds, if

any, from the CONSULTANT to the CITY or to such person(s) as the CITY may designate, if so requested by CITY; otherwise, the documents shall be retained by CONSULTANT in accordance with Article VII, Right of Review and Records Retention. Any records or documents transfer shall be completed within fifteen (15) days of the termination date. Any such transfer of records or funds shall be completed at the CONSULTANT'S sole cost and expense.

- 14.7 Within thirty (30) days of the effective date of termination (unless an extension is authorized in writing by the CITY), the CONSULTANT shall submit to the CITY, its claim, in detail, for the monies owed by the CITY for services performed under this CONTRACT through the effective date of termination. Failure by CONSULTANT to submit its claims within said thirty (30) days shall negate any liability on the part of CITY and constitute a waiver by CONSULTANT of any and all right or claims to collect funds that CONSULTANT may rightfully be otherwise entitled to for services performed pursuant to this CONTRACT.
- 14.8 Upon termination of this CONTRACT, the CITY may immediately commence an audit of the CONSULTANT'S books, accounts, and records. Within thirty (30) days after being notified by the CITY of the results of said audit, the CONSULTANT shall pay the CITY any amount shown by said audit to be owed the CITY.
- 14.9 Termination not sole remedy. In no event shall CITY's action of terminating this CONTRACT, whether for cause or otherwise, be deemed an election of CITY's remedies, nor shall such termination limit, in any way, at law or at equity, CITY's right to seek damages from or otherwise pursue CONSULTANT for any default hereunder or other action.

#### XV. AMENDMENT

- 15.1 Except where the terms of this CONTRACT expressly provide otherwise, any amendment to this CONTRACT shall not be binding on the Parties unless such amendment be in writing, executed by both CITY and CONSULTANT and dated subsequent to the date hereof.
- 15.2 It is understood and agreed by Parties hereto, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this CONTRACT and that any such changes shall be automatically incorporated into this CONTRACT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

#### XVI. NOTICE

- 16.1 Any notice required, permitted or appropriate under this CONTRACT shall be deemed sufficient, if in writing, and to have been duly given if and when delivered personally, with receipt acknowledged, or upon receipt if sent certified mail, return receipt requested, postage prepaid, to CITY or CONSULTANT at the respective address set forth below or to any other address of which written notice of change is given:

##### CITY

City of San Antonio  
Attn: Director  
Department of Human Services  
106 St. Mary's Street, 7th Floor  
San Antonio, Texas 78205

##### CONSULTANT

Nutrition Therapy Associates, Inc.  
Attn: Christina Frantz  
8407 Monument Oak  
Boerne, Texas 78015

#### XVII. LEGAL AUTHORITY

- 17.1 The person signing on behalf of CONSULTANT represents and warrants and certifies that he has full legal authority to execute this CONTRACT on behalf of CONSULTANT and has authority to bind CONSULTANT to all the terms, conditions, provisions and obligations contained herein.

**XVIII. SUBCONTRACTING AND ASSIGNING INTEREST**

- 18.1 CONSULTANT shall perform all necessary work or shall supply qualified personnel as maybe necessary to complete the work to be performed under this CONTRACT. CONSULTANT shall obtain prior written approval from CITY before assigning or subcontracting any responsibilities under this CONTRACT. The violation of this provision by CONSULTANT shall not release CONSULTANT from any obligation under the terms of this CONTRACT, nor shall it relieve or release CONSULTANT from the payment of any damages to CITY which CITY sustains as a result of such violation.
- 18.2 Any services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the CITY, shall be subject by its terms to each and every provision of this CONTRACT. Compliance by subcontractors with this CONTRACT shall be the responsibility of CONSULTANT. CITY shall in no event be obligated to any third party, including any subcontractor of CONSULTANT, for performance of services or payment of fees.

**XIX. SUCCESSORS AND ASSIGNS**

- 19.1 This CONTRACT shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and their assigns, however, CONSULTANT may not assign this CONTRACT without prior written consent of CITY in accordance with Article XVIII hereof.

**XX. NON-WAIVER**

- 20.1 Unless otherwise specifically provided for in this CONTRACT, a waiver by either party of a breach of any of the terms, conditions, covenants or guarantees of this CONTRACT 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. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this CONTRACT shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. No act or omission by a party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

**XXI. VENUE AND GOVERNING LAW**

- 21.1 **ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY LEGAL ACTION, CLAIM OR DISPUTE ARISING DIRECTLY OR INDIRECTLY AS A RESULT OF THIS CONTRACT SHALL BE IN BEXAR COUNTY, TEXAS.**

**XXII. SEVERABILITY**

- 22.1 If any clause or provision of this CONTRACT is held invalid, illegal or unenforceable under present or future laws during the term of this CONTRACT, including any extension, it is the intention of the Parties hereto that the remainder of the CONTRACT shall not be affected thereby, and that in lieu of each clause or provision of the CONTRACT that is held invalid, illegal or unenforceable, a new clause or provision be added, as similar in terms and content, to be legal, valid, and enforceable under the CONTRACT.

**[Remainder of this page intentionally left blank]**

ENTIRE AGREEMENT

23.1 Each of the Attachments listed below is an essential part of the CONTRACT, which governs the rights and duties of the Parties. This CONTRACT, together with its authorizing ordinance, exhibits and attachments, if any, embodies the final and entire agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties and relating to matters in this CONTRACT. No other agreements, oral or otherwise regarding the matters of this CONTRACT shall be deemed to exist or to bind the Parties unless same be executed in accordance with Section XV.

EFFECTIVE as of \_\_\_\_\_, 2014, as evidenced by each party's signature below.

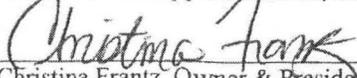
CITY

CONSULTANT

City of San Antonio, Texas

Nutrition Therapy Associates, Inc.

\_\_\_\_\_  
Melody Woosley, Director  
Department of Human Services

  
\_\_\_\_\_  
Christina Frantz, Owner & President

\_\_\_\_\_  
Date

9-5-14  
Date

APPROVED AS TO FORM:

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

- Attachment A – Statement of Work
- Attachment B – SBEDA Program
- Attachment C – CONSULTANT's Proposal to CITY's Request for Qualifications for Nutritional Educational Services for the Head Start Program
- Attachment D – HIPAA Business Associate Agreement

**Attachment A**  
**Statement of Work**

CONSULTANT agrees to provide the following services and abide by the following provisions:

- Provide ongoing consulting and training in the following areas as directed by the CITY:
  - Two (2) teacher nutrition education sessions, at a minimum of 2.5 hours each, once in the fall and once in the spring
  - 26 parent nutrition education sessions, at a minimum of 2 (two) hours each
  - Two (2) parent conference presentations, at a minimum of 6 (six) hours each, in both English and Spanish
  - Three (3) staff nutrition education sessions, at a minimum of 3 (three) hours each
  - Approximately 240 hours of one-on-one child counseling sessions
- Use a maximum amount not to exceed \$1,500.00 in training supplies
- Assist with any other nutrition-related concerns as requested by CITY

**Attachment B**  
**[INSERT SBEDA PROGRAM]**

## Attachment B

### SBEDA PROGRAM

#### A. SBEDA Program

The CITY has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2010-06-17-0531 and as amended, also referred to as "SBEDA" or "the SBEDA Program"), which is posted on the City's Economic Development (EDD) website page and is also available in hard copy form upon request to the CITY. The SBEDA Ordinance Compliance Provisions contained in this section of the CONTRACT (hereinafter referred to as "Agreement"), are governed by the terms of this Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by the CITY pursuant to this Ordinance, and any subsequent amendments to this referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual that are effective as of the date of the execution of this Agreement. Unless defined in a contrary manner herein, terms used in this section of the Agreement shall be subject to the same expanded definitions and meanings as given those terms in the SBEDA Ordinance and as further interpreted in the SBEDA Policy & Procedure Manual.

#### B. Definitions

**Affirmative Procurement Initiatives (API)** – Refers to various Small Business Enterprise, Minority Business Enterprise, and/or Women Business Enterprise ("S/M/WBE") Program tools and Solicitation Incentives that are used to encourage greater Prime and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full descriptions of these and other S/M/WBE program tools, see Section III. D. of Attachment A to the SBEDA Ordinance.)

**Certification or "Certified"** – the process by which the Small Business Office (SBO) staff determines a firm to be a bona-fide small, minority-, women-owned, or emerging small business enterprise. Emerging Small Business Enterprises (ESBEs) are automatically eligible for Certification as SBEs. Any firm may apply for multiple Certifications that cover each and every status category (e.g., SBE, ESBE, MBE, or WBE) for which it is able to satisfy eligibility standards. The SBO staff may contract these services to a regional Certification agency or other entity. For purposes of Certification, the City accepts any firm that is certified by local government entities and other organizations identified herein that have adopted Certification standards and procedures similar to those followed by the SBO, provided the prospective firm satisfies the eligibility requirements set forth in this Ordinance in Section III.E.6 of Attachment A.

**Centralized Vendor Registration System (CVR)** – a mandatory electronic system wherein the City requires all prospective Respondents and Subcontractors that are ready, willing and able to sell goods or services to the City to register. The CVR system assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices, and for receiving payments from the City. The CVR-assigned identifiers are also used by the Goal Setting Committee for measuring relative availability and tracking utilization of SBE and M/WBE firms by Industry or commodity codes, and for establishing Annual Aspirational Goals and Contract-by-Contract Subcontracting Goals.

**Commercially Useful Function** – an S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the S/M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation, when in similar transactions in which S/M/WBE firms do not participate, there is no such role performed. The use of S/M/WBE firms by CONTRACTOR to

## Attachment B

perform such “pass-through” or “conduit” functions that are not commercially useful shall be viewed by the CITY as fraudulent if CONTRACTOR attempts to obtain credit for such S/M/WBE participation towards the satisfaction of S/M/WBE participation goals or other API participation requirements. As such, under such circumstances where a commercially useful function is not actually performed by the S/M/WBE firm, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE subcontractor or joint venture partner towards attainment of S/M/WBE utilization goals, and the CONTRACTOR and S/M/WBE firm may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

**Evaluation Preference** – an API that may be applied by the Goal Setting Committee (“GSC”) to Construction, Architectural & Engineering, Professional Services, Other Services, and Goods and Supplies contracts that are to be awarded on a basis that includes factors other than lowest price, and wherein responses that are submitted to the City by S/M/WBE firms may be awarded additional Points in the evaluation process in the scoring and ranking of their proposals against those submitted by other prime CONTRACTORS or Respondents.

**Good Faith Efforts** – documentation of the CONTRACTOR’s or Respondent’s intent to comply with S/M/WBE Program Goals and procedures including, but not limited to, the following: (1) documentation within a solicitation response reflecting the Respondent’s commitment to comply with SBE or M/WBE Program Goals as established by the GSC for a particular contract; or (2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SBE or M/WBE subcontract opportunities on the City of San Antonio website; solicitations of bids/proposals/qualification statements from all qualified SBE or M/WBE firms listed in the Small Business Office’s directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Contractor’s posting of a bond covering the work of SBE or M/WBE Subcontractors; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by the Respondent; and documentation of consultations with trade associations and consultants that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Subcontractors.) The appropriate form and content of CONTRACTOR’s Good Faith Efforts documentation shall be in accordance with the SBEDA Ordinance as interpreted in the SBEDA Policy & Procedure Manual.

**HUBZone Firm** – a business that has been certified by U.S. Small Business Administration for participation in the federal HUBZone Program, as established under the 1997 Small Business Reauthorization Act. To qualify as a HUBZone firm, a small business must meet the following criteria: (1) it must be owned and Controlled by U.S. citizens; (2) at least 35 percent of its employees must reside in a HUBZone; and (3) its Principal Place of Business must be located in a HUBZone within the San Antonio Metropolitan Statistical Area. [See 13 C.F.R. 126.200 (1999).]

**Independently Owned and Operated** – ownership of an SBE firm must be direct, independent and by Individuals only. Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control as specified herein in Section III.E.6. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

**Individual** – an adult person that is of legal majority age.

**Industry Categories** – procurement groupings for the City of San Antonio inclusive of Construction, Architectural & Engineering (A&E), Professional Services, Other Services, and Goods & Supplies (i.e., manufacturing, wholesale and retail distribution of commodities). This term may sometimes be referred to as “business categories.”

**Minority/Women Business Enterprise (M/WBE)** – firm that is certified as a Small Business Enterprise and also as either a Minority Business Enterprise or as a Women Business Enterprise, and which is at least fifty-one percent (51%) owned, managed and Controlled by one or more Minority Group Members and/or women, and that is ready, willing and able to sell goods or services that are purchased by the City of San Antonio.

## Attachment B

**M/WBE Directory** – a listing of minority- and women-owned businesses that have been certified for participation in the City's M/WBE Program APIs.

**Minority Business Enterprise (MBE)** – any legal entity, except a joint venture, that is organized to engage in for-profit transactions, which is certified a Small Business Enterprise and also as being at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members, and that is ready, willing and able to sell goods or services that are purchased by the CITY. To qualify as an MBE, the enterprise shall meet the Significant Business Presence requirement as defined herein. Unless otherwise stated, the term "MBE" as used in this Ordinance is not inclusive of women-owned business enterprises (WBEs).

**Minority Group Members** – African-Americans, Hispanic Americans, Asian Americans and Native Americans legally residing in, or that are citizens of, the United States or its territories, as defined below:

African-Americans: Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian, or West Indian.

Hispanic-Americans: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central and South American origin.

Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

Native Americans: Persons having no less than 1/16<sup>th</sup> percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

**Originating Department** – the CITY department or authorized representative of the CITY which issues solicitations or for which a solicitation is issued.

**Payment** – dollars actually paid to CONTRACTORS and/or Subcontractors and vendors for CITY contracted goods and/or services.

**Points** – the quantitative assignment of value for specific evaluation criteria in the vendor selection process used in some Construction, Architectural & Engineering, Professional Services, and Other Services contracts (e.g., up to 10 points out of a total of 100 points assigned for S/M/WBE participation as stated in response to a Request for Proposals).

**Prime Contractor** – the vendor or contractor to whom a purchase order or contract is issued by the City of San Antonio for purposes of providing goods or services for the City. For purposes of this agreement, this term refers to the CONTRACTOR.

**Relevant Marketplace** – the geographic market area affecting the S/M/WBE Program as determined for purposes of collecting data for the MGT Studies, and for determining eligibility for participation under various programs established by the SBEDA Ordinance, is defined as the San Antonio Metropolitan Statistical Area (SAMSA), currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

**Respondent** – a vendor submitting a bid, statement of qualifications, or proposal in response to a solicitation issued by the City. For purposes of this agreement, CONTRACTOR is the Respondent.

**Responsible** – a firm which is capable in all respects to fully perform the contract requirements and has the integrity and reliability which will assure good faith performance of contract specifications.

**Responsive** – a firm's submittal (bid, response or proposal) conforms in all material respects to the solicitation (Invitation for Bid, Request for Qualifications, or Request for Proposal) and shall include compliance with S/M/WBE Program requirements.

## Attachment B

**San Antonio Metropolitan Statistical Area (SAMSA)** – also known as the Relevant Marketplace, the geographic market area from which the CITY's MGT Studies analyzed contract utilization and availability data for disparity (currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson).

**SBE Directory** - a listing of small businesses that have been certified for participation in the City's SBE Program APIs.

**Significant Business Presence** – to qualify for this Program, a S/M/WBE must be headquartered or have a *significant business presence* for at least one year within the Relevant Marketplace, defined as: an established place of business in one or more of the eight counties that make up the San Antonio Metropolitan Statistical Area (SAMSA), from which 20% of its full-time, part-time and contract employees are regularly based, and from which a substantial role in the S/M/WBE's performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

**Small Business Enterprise (SBE)** – a corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is Independently Owned and Operated by Individuals legally residing in, or that are citizens of, the United States or its territories, and which meets the U.S. Small Business Administration (SBA) size standard for a small business in its particular industry (ies) and meets the Significant Business Presence requirements as defined herein.

**Small Business Office (SBO)** – the office within the Economic Development Department (EDD) of the CITY that is primarily responsible for general oversight and administration of the S/M/WBE Program.

**Small Business Office Manager** – the Assistant Director of the EDD of the CITY that is responsible for the management of the SBO and ultimately responsible for oversight, tracking, monitoring, administration, implementation and reporting of the S/M/WBE Program. The SBO Manager is also responsible for enforcement of contractor and vendor compliance with contract participation requirements, and ensuring that overall Program goals and objectives are met.

**Small Minority Women Business Enterprise Program (S/M/WBE Program)** – the combination of SBE Program and M/WBE Program features contained in the SBEDA Ordinance.

**Subcontractor** – any vendor or contractor that is providing goods or services to a Prime Contractor or CONTRACTOR in furtherance of the Prime Contractor's performance under a contract or purchase order with the City. A copy of each binding agreement between the CONTRACTOR and its subcontractors shall be submitted to the CITY prior to execution of this contract agreement and any contract modification agreement.

**Suspension** – the temporary stoppage of the SBE or M/WBE firm's beneficial participation in the CITY's S/M/WBE Program for a finite period of time due to cumulative contract payments the S/M/WBE firm received during a fiscal year that exceed a certain dollar threshold as set forth in Section III.E.7 of Attachment A to the SBEDA Ordinance, or the temporary stoppage of CONTRACTOR's and/or S/M/WBE firm's performance and payment under CITY contracts due to the CITY's imposition of Penalties and Sanctions set forth in Section III.E.13 of Attachment A to the SBEDA Ordinance.

**Subcontractor/Supplier Utilization Plan** – a binding part of this contract agreement which states the CONTRACTOR's commitment for the use of Joint Venture Partners and / or Subcontractors/Suppliers in the performance of this contract agreement, and states the name, scope of work, and dollar value of work to be performed by each of CONTRACTOR's Joint Venture partners and Subcontractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Subcontractor/Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or Subcontractor/Supplier names, scopes of work, of dollar values of work to be performed requires an amendment to this agreement to be approved by the EDD Director or designee.

**Women Business Enterprises (WBEs)** - any legal entity, except a joint venture, that is organized to engage in for-profit transactions, that is certified for purposes of the SBEDA Ordinance as being a Small Business Enterprise and

## Attachment B

that is at least fifty-one percent (51%) owned, managed and Controlled by one or more non-minority women Individuals that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing and able to sell goods or services that are purchased by the City and that meets the Significant Business Presence requirements as defined herein. Unless otherwise stated, the term "WBE" as used in this Agreement is not inclusive of MBEs.

### C. SBEDA Program Compliance – General Provisions

As CONTRACTOR acknowledges that the terms of the CITY's SBEDA Ordinance, as amended, together with all requirements, guidelines, and procedures set forth in the CITY's SBEDA Policy & Procedure Manual are in furtherance of the CITY's efforts at economic inclusion and, moreover, that such terms are part of CONTRACTOR's scope of work as referenced in the CITY's formal solicitation that formed the basis for contract award and subsequent execution of this Agreement, these SBEDA Ordinance requirements, guidelines and procedures are hereby incorporated by reference into this Agreement, and are considered by the Parties to this Agreement to be material terms. CONTRACTOR voluntarily agrees to fully comply with these SBEDA program terms as a condition for being awarded this contract by the CITY. Without limitation, CONTRACTOR further agrees to the following terms as part of its contract compliance responsibilities under the SBEDA Program:

1. CONTRACTOR shall cooperate fully with the Small Business Office and other CITY departments in their data collection and monitoring efforts regarding CONTRACTOR's utilization and payment of Subcontractors, S/M/WBE firms, and HUBZone firms, as applicable, for their performance of Commercially Useful Functions on this contract including, but not limited to, the timely submission of completed forms and/or documentation promulgated by SBO, through the Originating Department, pursuant to the SBEDA Policy & Procedure Manual, timely entry of data into monitoring systems, and ensuring the timely compliance of its Subcontractors with this term;
2. CONTRACTOR shall cooperate fully with any CITY or SBO investigation (and shall also respond truthfully and promptly to any CITY or SBO inquiry) regarding possible non-compliance with SBEDA requirements on the part of CONTRACTOR or its Subcontractors or suppliers;
3. CONTRACTOR shall permit the SBO, upon reasonable notice, to undertake inspections as necessary including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;
4. CONTRACTOR shall immediately notify the SBO, in writing on the Change to Utilization Plan form, through the Originating Department, of any proposed changes to CONTRACTOR's Subcontractor / Supplier Utilization Plan for this contract, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by CONTRACTOR to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by CONTRACTOR of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or

## Attachment B

suppliers, shall be subject to advanced written approval by the Originating Department and the SBO.

5. CONTRACTOR shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with the CITY, as well as any transfer or change in its ownership or business structure.
6. CONTRACTOR shall retain all records of its Subcontractor payments for this contract for a minimum of four years or as required by state law, following the conclusion of this contract or, in the event of litigation concerning this contract, for a minimum of four years or as required by state law following the final determination of litigation, whichever is later.
7. In instances wherein the SBO determines that a Commercially Useful Function is not actually being performed by the applicable S/M/WBE or HUBZone firms listed in a CONTRACTOR's Subcontractor / Supplier Utilization Plan, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE or HUBZone subcontractor(s) or joint venture partner(s) toward attainment of S/M/WBE or HUBZone firm utilization goals, and the CONTRACTOR and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.
8. CONTRACTOR acknowledges that the CITY will not execute a contract or issue a Notice to Proceed for this project until the CONTRACTOR and each of its Subcontractors for this project have registered and/or maintained active status in the CITY's Centralized Vendor Registration System, and CONTRACTOR has represented to CITY which primary commodity codes each registered Subcontractor will be performing under for this contract.

### D. SBEDA Program Compliance – Affirmative Procurement Initiatives

The CITY has applied the following contract-specific Affirmative Procurement Initiatives to this contract. CONTRACTOR hereby acknowledges and agrees that the selected API requirement shall also be extended to any change order or subsequent contract modification and, absent SBO's granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement:

**ESBE Prime Contract Program.** In accordance with the SBEDA Ordinance, Section III. D. 5. (c), this contract is being awarded pursuant to the Emerging SBE (ESBE) Prime Contract Program, and as such, CONTRACTOR affirms that if it is presently certified as an ESBE, CONTRACTOR agrees not to subcontract more than 49% of the contract value to a non-ESBE firm, AND

**M/WBE Prime Contract Program.** In accordance with the SBEDA Ordinance, Section III. D. 6. (d), this contract is being awarded pursuant to the M/WBE Prime Contract Program and as such, CONTRACTOR affirms that if it is presently certified as an M/WBE (see *Minority/Women Business Enterprise* definition), CONTRACTOR agrees not to subcontract more than 49% of the contract value to a non-M/WBE firm;

### F. Commercial Nondiscrimination Policy Compliance

As a condition of entering into this Agreement, the CONTRACTOR represents and warrants that it has complied with throughout the course of this solicitation and contract award process, and will continue to comply with, the CITY's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the

## Attachment B

SBEDA Ordinance. As part of such compliance, CONTRACTOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the CITY's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in CITY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. CONTRACTOR's certification of its compliance with this Commercial Nondiscrimination Policy as submitted to the CITY pursuant to the solicitation for this contract is hereby incorporated into the material terms of this Agreement. CONTRACTOR shall incorporate this clause into each of its Subcontractor and supplier agreements entered into pursuant to CITY contracts.

### G. Prompt Payment

Upon execution of this contract by CONTRACTOR, CONTRACTOR shall be required to submit to CITY accurate progress payment information with each invoice regarding each of its Subcontractors, including HUBZone Subcontractors, to ensure that the CONTRACTOR's reported subcontract participation is accurate. CONTRACTOR shall pay its Subcontractors in compliance with Chapter 2251, Texas Government Code (the "Prompt Payment Act") within ten days of receipt of payment from CITY. In the event of CONTRACTOR's noncompliance with these prompt payment provisions, no final retainage on the Prime Contract shall be released to CONTRACTOR, and no new CITY contracts shall be issued to the CONTRACTOR until the CITY's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the contract.

### H. Violations, Sanctions and Penalties

In addition to the above terms, CONTRACTOR acknowledges and agrees that it is a violation of the SBEDA Ordinance and a material breach of this Agreement to:

1. Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefitting from the SBEDA Ordinance;
2. Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the SBEDA Ordinance;
3. Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;
4. Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and
5. Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the SBEDA Ordinance.

## Attachment B

Any person who violates the provisions of this section shall be subject to the provisions of Section III. E. 13. of the SBEDA Ordinance and any other penalties, sanctions and remedies available under law including, but not limited to:

1. Suspension of contract;
2. Withholding of funds;
3. Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;
4. Refusal to accept a response or proposal; and
5. Disqualification of CONTRACTOR or other business firm from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).



## CITY OF SAN ANTONIO SUBCONTRACTOR/SUPPLIER UTILIZATION PLAN

SOLICITATION NAME: **Nutrition Services**

RESPONDENT NAME: Nutrition Therapy Associates, Inc

SOLICITATION API: **Emerging Small Business Enterprise (ESBE) Prime Contract Program AND Minority / Women-Owned Business Enterprise (MWBE) Prime Contract Program**

API REQUIREMENTS: In order to receive the **ten (10)** evaluation preference points associated with the ESBE Prime Contract Program and/or **ten (10)** evaluation preference points associated with the MWBE Prime Contract program on this solicitation, ESBE and S/M/WBE Prime Respondents must document on this form that at least 51% of this contract shall be self-performed or shall be subcontracted to other certified Emerging Small Business Enterprises and/or Small Minority / Women-Owned Business Enterprises with a Significant Business Presence within the San Antonio Metropolitan Statistical Area. To qualify as an MWBE pursuant to the SBEDA ordinance, a vendor must also be SBE.

ESBEs and SMWBEs must be certified with the South Central Texas Regional Certification Agency **and** be headquartered or have Significant Business Presence in the San Antonio Metropolitan Statistical Area to receive preference points. Please be sure to indicate dollar value or percentage of the value of the contract that will be paid to the subcontractors (if any). For further clarification, please contact Edson Zavala at (210) 207-3962.

Enter Respondent's (Prime) proposed contract participation level.

	PARTICIPATION DOLLAR AMOUNT	% LEVEL OF PARTICIPATION	CERTIFICATION TYPE AND NUMBER	TYPE OF WORK TO BE PERFORMED (BY NIGP CODE)
Prime: Nutrition Therapy Associates, Inc	\$ 10,000	40 %	Not certified	91838, 94832, 61500
SAePS Vendor #: 10022659			SCTRCA #:	

List ALL subcontractors/suppliers that will be utilized for the entire contract period, excluding possible extensions, renewals and/or alternates. Use additional pages if necessary.

Sub: Tirza Nestel	\$ 15,000	60 %	Not certified	91838, 94832, 61500
SAePS Vendor #:			SCTRCA #:	
Sub:	\$	%		
SAePS Vendor #:			SCTRCA #:	
Sub:	\$	%		
SAePS Vendor #:			SCTRCA #:	
Sub:	\$	%		
SAePS Vendor #:			SCTRCA #:	

**\*\* Prime respondent and all subcontractors/suppliers must be registered in the City of San Antonio Electronic Procurement System (SAePS). To learn more about how to register, please call (210) 207-0118 or visit <http://www.sanantonio.gov/purchasing/saeps.aspx>.**

Attachment B



**Attachment C**

**[INSERT CONSULTANT'S PROPOSAL TO  
CITY'S REQUEST FOR QUALIFICATIONS FOR  
NUTRITIONAL EDUCATIONAL SERVICES FOR THE HEAD START PROGRAM]**

Attachment C

**RFQ 6100004404**  
**NUTRITIONAL EDUCATIONAL SERVICES FOR THE HEAD START PROGRAM**

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**EXECUTIVE SUMMARY**

Nutrition Therapy Associates, Inc. (NTA) has been serving San Antonio/Hill Country areas since 1995 and continues to serve the community in a variety of ways. NTA is a private practice and nutrition consulting company consisting of a team of Registered Dietitians working together to provide nutrition counseling and education to their clients and families. NTA contracts with both the pediatric (80%) and adult (20%) population.

It is the goal of NTA to provide nutritional educational services to the Head Start Program in the following manner. NTA dietitians will conduct nutrition assessments for growth, allergies, special dietary requirements and medical conditions that may lead to altered nutrition needs for children in the program. To perform these assessments, dietitians will use recorded weight and height measurements to calculate the child's BMI/age and determine whether they are at risk for underweight/overweight/obesity. The dietitian will then obtain a detailed report of the child's nutrition background, develop a nutrition plan and provide education to families when a child is determined to be at risk. Other tasks that may become necessary for the dietitian to complete are: analyzing Head Start program menus as needed, developing a special diet when needed and provide the necessary parent/staff education regarding this special diet. NTA will provide dietitians to conduct kitchen inspections when needed for the City sites and will assist with any necessary changes to meet health department standards. Dietitians are available to provide staff education in-services and/or parent group classes on nutritional topics of interest/relevance.

NTA dietitians are bilingual and culturally sensitive to the various populations around San Antonio. NTA will continue to work closely with the City and its Head Start Program to seek opportunities to improve the health and well being of the children in the community.

015 - RFQ ATTACHMENTS

RFQ ATTACHMENT A, PART ONE

GENERAL INFORMATION

**1. Respondent Information:** Provide the following information regarding the Respondent.

(NOTE: Co-Respondents are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors are not Co-Respondents and should not be identified here. If this proposal includes Co-Respondents, provide the required information in this Item #1 for each Co-Respondent by copying and inserting an additional block(s) before Item #2.)

Respondent Name: NUTRITION THERAPY ASSOCIATES, INC.

(NOTE: Give exact legal name as it will appear on the contract, if awarded.)

Principal Address: 8407 MONUMENT OAK

City: BOERNE State: TEXAS Zip Code: 78015

Telephone No. 210-349-9837 Fax No: 866-849-4267

Website address: www.nutritiontherapyassociates.com

Year established: 1995

Provide the number of years in business under present name: 19 years 6 months

Social Security Number or Federal Employer Identification Number: 74-2739753

Texas Comptroller's Taxpayer Number, if applicable: 17427397538

(NOTE: This 11-digit number is sometimes referred to as the Comptroller's TIN or TID.)

DUNS NUMBER: \_\_\_\_\_

Business Structure: Check the box that indicates the business structure of the Respondent.

Individual or Sole Proprietorship

If checked, list Assumed Name, if any: \_\_\_\_\_

Partnership

Corporation

If checked, check one:  For-Profit  Nonprofit

Attachment C

Also, check one:  Domestic  Foreign  
 Other

If checked, list business structure: \_\_\_\_\_

Printed Name of Contract Signatory: CHRISTINA FRANTZ  
Job Title: OWNER & PRESIDENT

Provide any other names under which Respondent has operated within the last 10 years and length of time under for each:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provide address of office from which this project would be managed:

City: BOERNE State: TEXAS Zip Code: 78015

Telephone No. 210-349-9837 Fax No: 866-849-4267

Annual Revenue: \$ 100,000+

Total Number of Employees: 1

Total Number of Current Clients/Customers: 9 AGENCY CONTRACTORS + INDIVIDUAL PRIVATE CLIENTS

Briefly describe other lines of business that the company is directly or indirectly affiliated with:

NTA serves both the San Antonio and Hill Country areas. Currently 80% of our population are pediatrics, leaving the remaining 20% adults. We serve 3 Earlyhood Child Intervention agencies covering San Antonio & the Hill Country areas, both Head Start and Early Head Start centers covering over 30 sites, Any Baby Can, Schertz-Cibolo-Universal City ISD, Vanguard Resources, and NeuroRestorative San Antonio. Additionally NTA has both pediatric & adult private clients that are assessed and followed. Lastly, NTA is available for speaking venues and health-related fairs when needed (example: most recent speaking event: Boys & Girls Club).

List Related Companies:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attachment C

2. **Contact Information:** List the one person who the City may contact concerning your proposal or setting dates for meetings.

Name: Christina Frantz Title: Owner

Address: 8407 Monument Oak

City: Boerne State: TX Zip Code: 78015

Telephone No. 210-349-9837 Fax No: 866-849-4267

Email: frantzchristy@gmail.com

3. Does Respondent anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?

Yes  No

4. Is Respondent authorized and/or licensed to do business in Texas?

Yes  No  If "Yes", list authorizations/licenses.

TEXAS COMPTROLLER OF PUBLIC ACCOUNTS, SECRETARY OF STATE

5. Where is the Respondent's corporate headquarters located? BOERNE, TX

6. **Local/County Operation:** Does the Respondent have an office located in San Antonio, Texas?

Yes  No  If "Yes", respond to a and b below:

- a. How long has the Respondent conducted business from its San Antonio office?

Years \_\_\_\_\_ Months \_\_\_\_\_ **(NOTE: BUSINESS CONDUCTED WITH A SAN ANTONIO ADDRESS FOR 19 YEARS PRIOR TO RECENT CHANGE IN OWNERSHIP IN 2014)**

- b. State the number of full-time employees at the San Antonio office.

If "No", indicate if Respondent has an office located within Bexar County, Texas:

Yes  No  If "Yes", respond to c and d below:

Attachment C

c. How long has the Respondent conducted business from its Bexar County office?

Years \_\_\_\_\_ Months 6

d. State the number of full-time employees at the Bexar County office. 1

**7. Debarment/Suspension Information:** Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity?

Yes \_\_\_ No X If "Yes", identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

\_\_\_\_\_  
\_\_\_\_\_

**8. Surety Information:** Has the Respondent ever had a bond or surety canceled or forfeited?

Yes \_\_\_ No X If "Yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

\_\_\_\_\_  
\_\_\_\_\_

**9. Bankruptcy Information:** Has the Respondent ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?

Yes \_\_\_ No X If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

\_\_\_\_\_  
\_\_\_\_\_

**10. Disciplinary Action:** Has the Respondent ever received any disciplinary action, or any pending disciplinary action, from any regulatory bodies or professional organizations? If "Yes", state the name of the regulatory body or professional organization, date and reason for disciplinary or impending disciplinary action.

NO

Attachment C

**11. Previous Contracts:**

- a. Has the Respondent ever failed to complete any contract awarded?

Yes \_\_\_ No X If "Yes", state the name of the organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

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- b. Has any officer or partner proposed for this assignment ever been an officer or partner of some other organization that failed to complete a contract?

Yes \_\_\_ No X If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

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- c. Has any officer or partner proposed for this assignment ever failed to complete a contract handled in his or her own name?

Yes \_\_\_ No X If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

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Attachment C

REFERENCES

Provide three (3) references, that Respondent has provided services to within the past three (3) years. The contact person named should be familiar with the day-to-day management of the contract and be willing to respond to questions regarding the type, level, and quality of service provided.

**Reference No. 1:**

Firm/Company Name ANY BABY CAN

Contact Name: ALFRED CHAVIRA Title: Director of Health & Wellness Programs

Address: 217 Howard St.

City: San Antonio State: TX Zip Code: 78212

Telephone No. 210-227-0170 Email: achavira@anybabycansa.org

Date and Type of Service(s) Provided: February 1, 2012 - Present

Complete initial and follow-up nutritional assessments on families involved in wellness program. Provide on-going nutritional education and meal plans to all program families. Additional nutrition services can be provided as determined necessary. Nutritional classes are taught as requested.

**Reference No. 2:**

Firm/Company Name HILL COUNTRY COMMUNITY MHMR CENTER, HILL COUNTRY MHDD CENTERS

Contact Name: ERIN JORDAN Title: ECI Homespun Director

Address: 819 Water Street, Suite 300

City: Kerrville State: TX Zip Code: 78028

Telephone No. 830-258-5445 Email: ejordan@hillcountry.org

Date and Type of Service(s) Provided: Contract ongoing for 5+ years

Provide nutritional assessments and consultation for clients served. Provide recommendations and participation consisting of in-service and monitoring of nutritional services. Provide material development and menu planning as determined within the Individual Family Service Plan.

Attachment C

**Reference No. 3:**

Firm/Company Name CAMINO REAL COMMUNITY SERVICES - ECI

Contact Name: DEBRA WILLIAMSON Title: Program Administrative Specialist

Address: P.O. Box 725

City: Lytle State: TX Zip Code: 78052

Telephone No. 210-357-0335 Email: DebraW@caminorealcs.org

Date and Type of Service(s) Provided: Contract ongoing for 5+ years

Provide evaluations, nutrition therapy, education, and consultation by scheduled appointments for all families involved in ECI program.

**RFQ ATTACHMENT A, PART TWO**  
**EXPERIENCE, BACKGROUND, QUALIFICATIONS**

Nutrition Therapy Associates, Inc. (NTA) is composed of a team of dietitians that have been serving the San Antonio/Hill Country areas since 1995. We are a group of Registered and Licensed Dietitians that provide nutrition counseling and consulting services for adults and children throughout south-central Texas. Our mission is to help individuals improve their health through optimal nutrition and physical fitness. We can help the City with a variety of concerns including weight management, diabetes, cholesterol management, food allergies, specialty diets, or simply healthy eating. We currently contract with both pediatric (80%) and adult (20%) populations. Quality assurance for food service operations are also a part of our routine services, including menu development and review, kitchen inspections, and process improvement strategies.

Over the years, NTA has provided contracted services to multiple companies and organizations. Our current clients include:

- Hill Country Community MHMR Center (ECI)
- Camino Real Community MHMR Center (ECI)
- Brighton Center (ECI)
- BCFS Education Services (Head Start Program serving Kendall, Atascosa, Wilson, and Karnes Counties)
- Center for New Communities (Early Head Start Program serving San Antonio and Fredericksburg)
- Any Baby Can
- Schertz-Cibolo-Universal City ISD
- NeuroRestorative San Antonio
- Vanguard Resources

Our dietitians offer counseling and education in the following areas and others upon request:

- Pediatric Nutrition
- Dietary Analysis & Menu Planning
- Disease Prevention
- Metabolic Nutrition
- Nutrition in Special Needs Clients
- Wellness
- Weight Loss
- High Cholesterol
- Vegetarianism
- Food Allergies
- GI Disorders
- Kitchen Inspections
- Grocery Store Tours

## Attachment C

Our dietitians are able to provide the above nutrition education with 1:1 consulting sessions, development of nutritional handouts/pamphlets, and providing group nutrition education classes for staff, parents and/or children. For example, NTA dietitians have provided "nutrition circle time" for a classroom of children to teach them the different food groups. NTA has also proven that with parent:dietitian interaction, parents become more involved in their child's nutritional health. Parents will then often "spread the word" to other parents causing the clientele of the program to increase and in effect allowing more children and families to be reached and educated by the dietitian. Additionally, NTA has experience with providing nutrition presentations to both parents and program staff members. NTA's dietitians can present all nutrition material in either English or Spanish.

The recent partnership that NTA has developed with Any Baby Can (ABC) exemplifies the impact that our dietitians can have on the San Antonio community. NTA started contracting with Any Baby Can in February 2012 as they revealed a new Health & Wellness Program known as Any Body Can. NTA's dietitians were given the opportunity to develop the nutrition portion of this program in a way that they believed could best serve the community. In order to demonstrate standard practices, NTA dietitians developed a Policies & Procedures Manual for the nutrition portion of this wellness project. NTA created a nutrition program for ABC that involved: 1:1 consulting sessions with parents, 1:1 consulting sessions with children on an appropriate learning level, grocery store tours, pantry makeovers, and nutrition education classes opened to the ABC community and the public. The nutrition portion along with the fitness portion of the Any Body Can program is now entering its third fiscal year, with each year increasing its participants by a minimum of 15% or more due to the success of the program in the previous years.

In addition to the ABC project described above, NTA has had extensive involvement over the years with various Early Childhood Intervention (ECI) programs serving the San Antonio and Hill Country areas. NTA served with the Center for Healthcare services for over 12 years providing nutrition assessments and education to families in need. NTA currently serves with 3 separate ECI programs: Homespun, Camino Real, and Brighton Centers. The ECI population receiving nutrition services continues to multiply with each year. For example, over the past 2 years, the ECI Homespun Program serving the Hill Country areas has increased its nutrition clients by fourfold. NTA also contracts with the Head Start Programs serving Kendall, Atascosa, Wilson, and Karnes Counties. Within these sites, NTA's dietitians have conducted 1:1 consulting sessions, menu analysis and revision, kitchen inspections, and nutrition in-services to staff. Dietitians within this program have seen an increase of nutritional interest from parents once they learn there is a dietitian available to them. Dietitians at these sites have also seen lab results testing for iron deficiencies improve after the parents are educated on the appropriate food sources for their child. Most recently, NTA has also acquired a contract with the Center for New Communities with 5 Early Head Start sites in San Antonio and 1 site in Fredericksburg.

Nutrition Therapy Associates, Inc. has provided services for the City of San Antonio in the recent past. NTA served the City from February 2012 – January 2014. The project involved was the Nutritional Educational Services for the Head Start Program for the Department of Human Services. The direct dietitian involved on this project is both

## Attachment C

cultural sensitive to the various populations of San Antonio and is bilingual. She conducted all of her nutrition education in either English or Spanish to the families involved, being sure to also translate all nutrition handouts and presentations in Spanish when needed. Past families involved in the Nutritional Educational Services for the Head Start Program often showed improvement in their actions towards a healthier lifestyle for their child after spending quality time with the dietitian. The dietitian reported parents making changes in their cooking habits, measuring out foods to help control portions served, and simply being aware of what their child was eating on a daily basis. Parents in the program were able to "connect" with the dietitian involved and understand what changes they needed to make. This dietitian was also able to connect with the elementary schools involved with the City's Head Start Program and talk with the kitchen clientele about appropriate portion control for the children's meals. During the time frame of this project, other tasks that were completed by this dietitian included but are not limited to: preparation of a healthy snack food guide, composition of healthy recipes in both English and Spanish, and also served as a presenter at the 2013-2014 Head Start Parent Conference.

NTA is currently composed of a team of 5 dietitians, along with its owner who is also a Registered & Licensed Dietitian. The team conducts its services using nutrition assessment forms, nutrition education handouts, weighing scales, and height measuring boards. NTA's home office is based in Boerne, TX; however, all dietitians perform on-site visits for their clientele, whether it is at a home, school, daycare, or other location. The dietitians are involved in such organizations as the Academy of Nutrition and Dietetics, South Texas Academy of Nutrition and Dietetics, Texas Dietetic Association, and the Pediatric Nutrition Practice Group. NTA's dietitians are all skilled in both pediatric and adult nutrition with varying qualifications such as, Registered and Licensed for the state of Texas, Master's degree in Nutrition, certified in CPR, and bilingual, speaking both English and Spanish. All dietitians on the NTA team are available to serve on multiple contracts, assist each other when faced with a new nutrition challenge, and are typically assigned to a contract based on their qualifications related to the specific scope of services requested by the contract. The dietitian most recently involved with the City's Head Start program (mentioned above) has worked with various Head Start and Early Childhood Intervention programs for over 11 years and with the Any Baby Can project for the past 2 years. Throughout this length of time, she has been witness to the growth of families transitioning from the ECI programs (0-3 years) to the Head Start programs (4-5 years) and then even to the newer contract mentioned before in association with Any Baby Can (school-age years).

NTA's team of dietitians is passionate in what they do. Our mission is to provide sound nutritional education to both the individual and their family/caretakers involved. A NTA motto to remember, "You are what you eat and if you eat well, you can live well!"

**RFQ ATTACHMENT A, PART THREE**  
**PROPOSED PLAN**

**OPERATING PLAN:**

- Teacher Nutrition Education Sessions – NTA will conduct education sessions based on topics of interest expressed by staff and topics also deemed relevant by dietitian. Example topics could include:
  - Activity Recommendations: physical activity vs. screen time vs. sleep
  - Special Diets
- Parent Nutrition Education Sessions - NTA will conduct education sessions based on topics of interest expressed by parents and topics also deemed relevant by dietitian. Example topics could include:
  - Portion Control
  - Smart Beverages
  - Recipe Modifications
  - Meal Planning on a Budget
  - Label Reading/Grocery Shopping
- Parent Conference Presentations – NTA will conduct research on a specified topic, develop a presentation for the assigned population, and present in a manner for audience involvement and learning. Presentations will be made available in both English and Spanish and can be offered twice a year.
- Program Staff Nutrition Education Sessions – NTA will conduct nutrition educational in-service classes on relevant subject matter for the program staff. Example topics could include:
  - Nutrition Screening & Assessments
  - Nutrition for Overweight/Obesity Management
  - Nutrition for Underweight Status
  - Special Diets
- 1:1 Child Counseling Sessions – NTA dietitians will provide 1:1 consultation sessions to involve the parent and/or child when applicable. Follow-up appointments will be scheduled if determined necessary.
- Kitchen inspections – If requested, inspections can be performed bi-annually. Reports will be generated to follow along with state regulations.
- Dietitian will provide written reports on completed tasks to City contact person and be involved in Health Service Advisory Committee meetings when applicable.

**MARKETING PLAN:**

The following will be used to market nutritional services for the Head Start Program:

- Nutrition Therapy Associates, Inc. website
- Nutritional Education Handouts/Pamphlets left at various Head Start sites

## Attachment C

- Dietitian will promote program by talking with individual teachers at the Head Start sites.
- National Nutrition Month marketing – prepare posters/handouts to promote a healthy lifestyle of eating during the month of March
- Present nutrition education classes to the public at the Any Baby Can non-profit agency
- Dietitian will be available to present at the City's Head Start Parent Conference to discuss the scope of services available for all families.

It is not known at this time the cost needed to provide these marketing tools. Majority of the costs will involve copying and printing of nutrition materials.

### **ADDITIONAL INFORMATION:**

With NTA's passion to provide the highest quality of nutritional services to the community of San Antonio, it is the dietitian's goal to seek out all resources available for families to learn how to live a healthier lifestyle. Such resources could include but are not limited to: local YMCA's, libraries, health wellness fairs, and various community centers.

Attachment C

RFP ATTACHMENT B

HOURLY RATE SCHEDULE

PROFESSIONAL STAFF SERVICE TYPE	Mark Services You Will Offer	Hourly Rate
Registered Dietician	X	\$ 65
Dietician	X	\$ 65
	<input type="checkbox"/>	\$
Other, mileage	X	\$ 40 or government rate/mile (current 0.56/mile)
Annual Estimated Budget for Supplies		up to \$ 1,500
	*Travel time and preparation time are allowable costs.	\$25,000 total/contract year

\* = Required fields



Attachment C  
**City of San Antonio**  
**Contracts Disclosure Form**

Office of the  
City Clerk

Please fill out this form online, print completed form and submit with proposal to originating department. All questions must be answered.

For details on use of this form, see Section 2-59 through 2-61 of the City's Ethics Code.

\*This is a  New Submission or  Correction or  Update to previous submission.

\*1. Name of person submitting this disclosure form.

First: Christina M.I. L Last: Frantz Suffix: \_\_\_\_\_

\*2. Contract information.

a) Contract or project name: Nutritional Educational Services for the Head Start Program

b) Originating department: \_\_\_\_\_

\*3. Name of individual(s) or entity(ies) seeking a contract with the city (i.e. parties to the contract).

Nutrition Therapy Associates, Inc.  
Christina Frantz, RD, LD  
President

\*4. List any individual(s) or entity(ies) that is a partner, parent, joint venture, or subsidiary entity(ies) of the individual or entity listed in Question 3.

Not applicable. Contracting party(ies) does not have partner, parent, joint venture, or subsidiary entities.

Names of partner, parent, joint venture or subsidiary entities, and all the board members, executive committee members, and officers of each entity:

\*5. List any individuals or entities that will be subcontractors on this contract.

Not applicable. No subcontractors will be retained for this contract.

Subcontractors may be retained, but have not been selected at the time of this submission.

List of subcontractors, including the name of the owner(s), and business name:

\*6. List any attorneys, lobbyists, or consultants retained by any individuals listed in Questions 3, 4, or 5 to assist in seeking this contract.

Not applicable. No attorneys, lobbyists, or consultants have been retained to assist in seeking this contract.

List of attorneys, lobbyists, or consultants retained to assist in seeking this contract:



# Attachment C City of San Antonio Contracts Disclosure Form

Office of the  
City Clerk

### 7. Disclosure of political contributions.

List any campaign or officeholder contributions made by the following individuals in the past 24 months totaling more than \$100 to any current member of City Council, former member of City Council, any candidate for City Council, or to any political action committee that contributes to City Council elections:

- a) any individual seeking contract with the city (Question 3)
- b) any owner or officer of entity seeking contract with the city (Question 3)
- c) any individual or owner or officer of an entity listed above as a partner, parent, or subsidiary business (Question 4)
- d) any subcontractor or owner/officer of subcontracting entity retained for the contract (Question 5)
- e) the spouse of any individual listed in response to (a) through (d) above
- f) any attorney, lobbyist, or consultant retained to assist in seeking contract (Question 6)

Not applicable. No campaign or officeholder contributions have been made in preceding 24 months by these individuals.

List of contributions:

### Updates on Contributions Required

Information regarding contributions must be updated by submission of a revised form from the date of the submission of this form, up through the time City Council takes action on the contract identified in response to Question 2 and continuing for 30 calendar days after the contract has been awarded.

### Notice Regarding Contribution Prohibitions for "High-Profile" Contracts

Under Section 2-309 of the Municipal Campaign Finance Code, the following listed individuals are prohibited from making a campaign or officeholder contribution to any member of City Council, candidate for City Council or political action committee that contributes to City Council elections from the 10th business day after a contract solicitation has been released until 30 calendar days after the contract has been awarded:

- a) Legal signatory of a high-profile contract
- b) Any individual seeking a high-profile contract
- c) Any owner or officer of an entity seeking a high-profile contract
- d) The spouse of any of individual listed in response to (a) through (c) above
- e) Any attorney, lobbyist, or consultant retained to assist in seeking a high-profile contract

**Penalty.** A high-profile contract cannot be awarded to the individual or entity if a prohibited contribution has been made by any of these individuals during the contribution "black-out" period, which is the 10th business day after a solicitation has been released until 30 calendar days after the contract has been awarded.

### \*8. Disclosure of conflict of interest.

Are you aware of any fact(s) with regard to this contract that would raise a "conflict of interest" issue under Sections 2-43 or 2-44 of the City Ethics Code for any City Council member or board/commission member that has not or will not be raised by these city officials?

I am not aware of any conflict(s) of interest issues under Section 2-43 or 2-44 of the City Ethics Code for members of City Council or a city board/commission.

I am aware of the following conflict(s) of interest:

\* = Required fields



Attachment C  
**City of San Antonio**  
**Contracts Disclosure Form**

Office of the  
City Clerk

**\*9. Prohibited Interest in Contracts.**

Currently, or within the past twelve (12) months, have you, your spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity served on a City board or commission?

Currently, or within the past twelve (12) months, has an owner, partner or employee of a business entity in which you, your spouse, parent, child own 10% or more of the voting stock or shares, or 10% or more of the fair market value served on a City board or commission?

Currently, or within the past twelve (12) months, has an owner, partner, or employee of a business entity who owns 10% or more of the voting stock or shares, or 10% or more of the fair market value, that will be a subcontractor for this contract, served on a City board or commission?

No

Yes

**Notice Regarding Prohibited Interest in Contracts.**

Please be aware, the City's Charter and Ethics Code prohibits members of certain more-than-advisory boards and commissions, as well as their close family members and any businesses they or their families hold a 10% or greater ownership interest from obtaining a contract with the City during their board or commission service. The prohibition extends to subcontracts on City contracts, and would also apply to parent, subsidiary or partner businesses owned by the member of the board or commission and their family. Please see [Section 141 of the City Charter](#) and [Section 2-52 of the City Ethics Code \(Prohibited Interests in Contracts\)](#) for complete information.

Former members of certain more-than-advisory boards and commissions, their family members and the businesses they own will continue to be prohibited from obtaining any discretionary contracts for one year after leaving City service. Please see [Section 2-58 of the City Ethics Code \(Prohibited Interest in Discretionary Contracts\)](#) for complete information.

Please note that any contract in place at the time the applicant becomes a City officer may remain in effect, but cannot be amended, extended, modified, or changed in any manner during the officer's City service on the more-than-advisory board.

If you have any questions, please contact the Office of the City Attorney to request to speak with a member of the Ethics staff: (210) 207-8940.

**Acknowledgements**

**\*1. Updates Required**

I understand that this form must be updated by submission of a revised form if there is any change in the information before the discretionary contract, housing and retail development incentive, or the purchase, sale, or lease of real estate to or from the City is the subject of action by the City Council, and no later than 5 business days after any change has occurred, whichever comes first. This includes information about political contributions made after the initial submission and up until 30 calendar days after contract has been awarded.

**\*2. No Contact with City Officials or Staff during Contract Evaluation**

I understand that a person or entity who seeks or applies for a city contract or any other person acting on behalf of that person or entity is prohibited from contacting city officials and employees regarding the contract after a Request for Proposal (RFP), Request for Qualification (RFQ), or other solicitation has been released.

This no-contact provision shall conclude when the contract is posted as a City Council agenda item. If contact is required with city officials or employees, the contact will take place in accordance with procedures incorporated into the solicitation documents. Violation of this prohibited contacts provision set out in [Section 2-61 of the City Ethics Code](#) by respondents or their agents may lead to disqualification of their offer from consideration.

\* = Required fields



Attachment C  
**City of San Antonio**  
**Contracts Disclosure Form**

Office of the  
City Clerk

**\*3. Contribution Prohibitions for "High-Profile" Contracts**

- This is not a high-profile contract.
- This is a high-profile contract.

**\*4. Conflict of Interest Questionnaire (CIQ)**

Chapter 176 of the Local Government Code requires all contractors and vendors to submit a Conflict of Interest Questionnaire Form (CIQ) to the Office of the City Clerk, even if contract is not designated as "High Profile".

- I acknowledge that I have been advised of the requirement to file a CIQ form under Chapter 176 of the Local Government Code.

**\*Oath**

- I swear or affirm that the statements contained in this Contracts Disclosure Form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.

Your Name: Christina Frantz Title: Owner/President

Company Name or DBA: Nutrition Therapy Associates, Inc. Date: 08/01/2014

Please fill this form out online, print completed form and submit with proposal to originating department. All questions must be answered.

If necessary to mail, send to:

Purchasing  
P.O. Box 839966

San Antonio, Texas 78283-3966

Attachment C

RFQ ATTACHMENT D

LITIGATION DISCLOSURE FORM

Respond to each of the questions below by checking the appropriate box. Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your proposal from consideration or termination of the contract, once awarded.

Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

Yes \_\_\_ No X

Have you or any member of your Firm or Team to be assigned to this engagement been terminated (for cause or otherwise) from any work being performed for the City of San Antonio or any other Federal, State or Local Government, or Private Entity?

Yes \_\_\_ No X

Have you or any member of your Firm or Team to be assigned to this engagement been involved in any claim or litigation with the City of San Antonio or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

Yes \_\_\_ No X

If you have answered "Yes" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.



# Exception to SBEDA Program Requirements Request Form

RESPONDENT NAME: Nutrition Therapy Associates, Inc. DATE: 7/2/14

SOLICITATION NAME: Nutrition Services

API APPLIED: ESBE Prime Contract Program and MWBE Prime Contract Program

1. Please check the box that best describes the reason you are requesting an Exception to the SBEDA Program requirements associated with this solicitation:

- The value of the contract is below the \$50,000 threshold for application of the SBEDA Program
- No commercially-useful subcontracting opportunities exist within the contract.
- The type of contract is beyond the scope of the SBEDA Ordinance

2. Describe the rationale for your request for an Exception to SBEDA program requirements associated with this solicitation. Attach additional pages, if necessary.

Nutrition Therapy Associates, Inc. (NTA) is a small business that is 100% woman owned; however, it is not certified as a WBE due to the fact that the RFQ for Nutritional Educational Services for the Head Start Program will involve a contract that is below \$50,000/year based on the Scope of Services required for the RFQ.

3. Name and phone number of person appointed to coordinate this project.

Name: Christina Frantz

Phone Number: 210-349-9837

E-mail: frantzchristy@gmail.com

### AFFIRMATION

I CERTIFY THAT ALL INFORMATION CONTAINED IN THIS FORM IS ACCURATE AND COMPLETE AND I UNDERSTAND THAT IF THIS REQUEST FOR EXCEPTION IS DENIED AND I FAIL TO MEET THE REQUIREMENTS OF THIS SOLICITATION, MY RESPONSE TO THIS SOLICITATION WILL BE DEEMED **NON-RESPONSIVE**.

*Christina Frantz*  
NATURE

7/2/14  
DATE

Christina Frantz / President  
PRINT NAME/TITLE

\*\*\*\*\*  
**Attachment C**  
**FOR CITY USE ONLY - ORIGINATING DEPARTMENT**

DEPARTMENT:

DATE RECEIVED:  STAFF NAME:

\*\*\*\*\*  
**FOR CITY USE ONLY - SBO STAFF**

DATE RECEIVED:  STAFF NAME:

RECOMMENDATION:  APPROVED  DENIED

EDD DIRECTOR: \_\_\_\_\_

DATE OF ORIGINATING DEPARTMENT/CIMS/PGS/GSC NOTIFICATION:

Justification:



HEALTHCARE PROVIDERS SERVICE ORGANIZATION PURCHASING GROUP

Print Date: 4/05/2014



Certificate of Insurance OCCURENCE POLICY FORM

Producer Branch Prefix Policy Number Policy Period
018098 970 HPG 0421975913 from 04/21/14 to 04/21/15 at 12:01 AM Standard Time

Named Insured and Address: Nutrition Therapy Associates, Inc. 8407 Monument Oak Boerne, TX 78015-6535

Program Administered by: Healthcare Providers Service Organization 159 E. County Line Road Hatboro, PA 19040-1218 1-888-288-3534 www.hpsso.com

Medical Specialty: Dietitian Firm Code: 80720 Insurance is provided by: American Casualty Company of Reading, Pennsylvania 333 S. Wabash Avenue, Chicago, IL 60604

Excludes Cosmetic Procedures

Professional Liability \$1,000,000 each claim \$3,000,000 aggregate

Your professional liability limits shown above include the following:

- \* Good Samaritan Liability \* Malplacement Liability \* Personal Injury Liability
\* Sexual Misconduct Included in the PL limit shown above subject to \$25,000 aggregate sublimit

Coverage Extensions

Table with 4 columns: Coverage Extension, Amount, Unit, and Aggregate Limit. Includes License Protection, Defendant Expense Benefit, Deposition Representation, Medical Payments, First Aid, Damage to Property of Others, and Information Privacy (HIPAA) Fines and Penalties.

General Liability

General Liability \$1,000,000 each claim / \$3,000,000 aggregate
Fire & Water Legal Liability Included in the GL limit shown above subject to \$250,000 aggregate sublimit

Total: \$1,379.00

Base Premium \$1,379.00

Policy Forms & Endorsements (Please see attached list for a general description of many common policy forms and endorsements.)

- G-121500-D G-121501-C G-53752-C42 G-145184-A G-147292-A GSL15563
GSL15564 GSL17101 GSL13424 GSL13425 G-123846-C42 GSL3886
GSL3908 G-121504-C GSL19904 GSL-5587

Medical Speciality is amended to include Consulting Services (GSL-5587)

Handwritten signatures of Thomas F. Mohamed and John M. Walker

Chairman of the Board

Secretary

Keep this document in a safe place. It and proof of payment are your proof of coverage. There is no coverage in force unless the premium is paid in full. In order to activate your coverage, please remit premium in full by the effective date of this Certificate of Insurance. Master Policy # 188711433

G-141241-B (03/2010)

Coverage Change Date:

Endorsement Change Date:

04/05/14  
Accrual Basis

Attachment C  
**NUTRITION THERAPY ASSOCIATES, INC.**  
**Profit & Loss**  
January through December 2013

Jan - Dec 13

**Ordinary Income/Expense**  
**Income**

<b>Consulting Income</b>	
Any Baby Can	19,860.75
Brighton	7,270.93
Camino Real MHMR	23,625.00
CDI-HeadStart	731.07
City of San Antonio	11,293.75
E.O.D.C	2,620.48
Enhanced	6,675.06
Hillcountry MHDD	
Hillcountry ECI	19,013.00
Hillcountry MHDD - Other	11,040.00
<b>Total Hillcountry MHDD</b>	<u>30,053.00</u>
<b>Mission Road Development Center</b>	
HCS	146.25
ICF	1,040.00
MRDC TxHML #610	520.00
Mission Road Development Center - O...	8,937.50
<b>Total Mission Road Development Center</b>	<u>10,643.75</u>
NeuroRestorative	1,890.00
PACES	456.25
Private Pay	200.00
Progressive	179.66
SCUISD	870.00
Speaking Income	700.00
Vanguard Resources/Foundation	6,305.00
<b>Total Consulting Income</b>	<u>123,374.70</u>
<b>Total Income</b>	<u>123,374.70</u>

07/03/14

**Attachment C**  
**NUTRITION THERAPY ASSOCIATES**  
Sales by Customer Summary  
January through June 2014

	<u>Jan - Jun '14</u>
Any Baby Can	10,193.95
BCFS Health and Human Servi...	4,143.75
Brighton ECI	2,380.98
Camino Real ECI	13,837.50
City of San Antonio	3,851.25
Enhanced	276.40
Homespun ECI	20,923.75
Mission Road Development C...	1,592.50
NeuroRestorative San Antonio	540.00
Private Pay 2014	1,200.00
Speaking Income	150.00
Vanguard Resources, Inc	<u>3,932.50</u>
TOTAL	<u><u>63,022.58</u></u>

07/03/14

**Attachment C**  
**NUTRITION THERAPY ASSOCIATES**  
 Profit and Loss Standard  
 January through June 2014

	Jan - Jun '14
Ordinary Income/Expense	
Income	
Consulting Income	63,022.58
Interest earned	0.03
	63,022.61
Expense	
Advertising and Promotion	133.72
Automobile Expense	
Car Rental	45.89
Fuel for Car Rental	26.05
Repair	574.94
Mileage	3,873.45
	4,520.33
Total Automobile Expense	4,520.33
Bank Service Charges	5.00
Computer Supplies	567.16
Contributions	25.00
Dues and Subscriptions	285.00
Employee Relations	22.39
Insurance Expense	
Professional Liability Ins	1,389.00
	1,389.00
Total Insurance Expense	1,389.00
Interest Expense	1,510.73
Licenses & Permits	130.00
Office Reimbursement	493.19
Office Supplies	720.09
Outside Services	
Eva Nestor-Alcantor	4,926.25
Kathryn Guerra	4,555.00
Lorie Casanova-Guizar	1,927.83
Rayna Wooten	1,917.50
Tirza Nestel	7,510.02
Vanessa Estrada	2,038.75
	22,875.35
Total Outside Services	22,875.35
PayPal Fees	3.78
Payroll Expenses	
FICA/SS	-325.13
Unemployment Tax	6.38
Wages	4,250.00
	3,931.25
Total Payroll Expenses	3,931.25

07/03/14

**Attachment C**  
NUTRITION THERAPY ASSOCIATES  
Profit and Loss Standard  
January through June 2014

	<u>Jan - Jun '14</u>
Postage & Delivery	83.69
Product Costs	
Books & Subscriptions	88.45
Product Costs - Other	39.31
	<u>127.76</u>
Total Product Costs	127.76
Professional Fees	
Accounting	372.84
CPR Training	20.84
Legal fees	1,640.41
	<u>2,034.09</u>
Total Professional Fees	2,034.09
Small Medical Equipment	207.72
Taxes	
Other	-0.30
	<u>-0.30</u>
Total Taxes	-0.30
Telephone Expense	
Fax	102.91
Internet	149.04
Telephone Expense - Ot...	631.84
	<u>883.79</u>
Total Telephone Expense	883.79
Total Expense	<u>39,948.74</u>
Net Ordinary Income	<u>23,073.87</u>
Net Income	<u><u>23,073.87</u></u>

07/03/14

**Attachment C**  
**NUTRITION THERAPY ASSOCIATES**  
Balance Sheet Standard  
As of June 30, 2014

	<u>Jun 30, '14</u>
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
Chase Bank-Checking	<u>15,394.57</u>
Total Checking/Savings	15,394.57
Accounts Receivable	
Accounts Receivable	<u>4,406.00</u>
Total Accounts Receivable	<u>4,406.00</u>
Total Current Assets	<u>19,800.57</u>
<b>TOTAL ASSETS</b>	<u><u>19,800.57</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Credit Cards	
Chase Cardmember Servi...	<u>181.22</u>
Total Credit Cards	181.22
Other Current Liabilities	
Payroll Liabilities	<u>-191.26</u>
Total Other Current Liabil...	<u>-191.26</u>
Total Current Liabilities	-10.04
Long Term Liabilities	
N/P - Rayna Wooten	<u>67,857.13</u>
Total Long Term Liabilities	<u>67,857.13</u>
Total Liabilities	67,847.09
Equity	
Opening Balance Equity	1,189.98
Owner's Equity	-75,370.00
Retained Earnings	3,059.63
Net Income	<u>23,073.87</u>
Total Equity	<u>-48,046.52</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>19,800.57</u></u>

RFQ ATTACHMENT F

SIGNATURE PAGE

Respondent, and co-respondent, if any, must complete City's Certified Vendor Registration (CVR) Form prior to the due date for submission of proposals. The CVR Form may be accessed at: <http://www.sanantonio.gov/purchasing/>.

By submitting a proposal, whether electronically or by paper, Respondent represents that:

If Respondent is a corporation, Respondent will be required to provide a certified copy of the resolution evidencing authority to enter into the contract, if other than an officer will be signing the contract.

If awarded a contract in response to this RFQ, Respondent will be able and willing to comply with the insurance and indemnification requirements set out in RFQ Exhibits 1 & 2.

If awarded a contract in response to this RFQ, Respondent will be able and willing to comply with all representations made by Respondent in Respondent's proposal and during Proposal process.

Respondent has fully and truthfully submitted a Litigation Disclosure form with the understanding that failure to disclose the required information may result in disqualification of proposal from consideration.

Respondent agrees to fully and truthfully submit the General Information form and understands that failure to fully disclose requested information may result in disqualification of proposal from consideration or termination of contract, once awarded.

To comply with the City's Ethics Code, particularly Section 2-61 that prohibits a person or entity seeking a City contract - or any other person acting on behalf of such a person or entity - from contacting City officials or their staff prior to the time such contract is posted as a City Council agenda item.

(S) he is authorized to submit this proposal on behalf of the entity.

**Acknowledgement of Prohibition regarding Campaign and Officeholder Contributions**

If submitting your proposal by paper, complete the following and sign on the signature line below. Failure to sign and submit this Signature Page will result in rejection of your proposal.

Nutrition Therapy Associates, Inc.  
Respondent Entity Name

Signature: Christina Frantz

Printed Name: Christina Frantz

Title: President

(NOTE: If proposal is submitted by Co-Respondents, an authorized signature from a representative of each Co-Respondent is required. Add additional signature blocks as required.)

Attachment C

If submitting your proposal electronically, through City's portal, Co-Respondent must also log in using Co-Respondent's log-on ID and password, and submit a letter indicating that Co-Respondent is a party to Respondent's proposal and agrees to these representations and those made in Respondent's proposal. While Co-Respondent does not have to submit a copy of Respondent's proposal, Co-Respondent should answer any questions or provide any information directed specifically to Co-Respondent.

\_\_\_\_\_  
Co-Respondent Entity Name

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

**Attachment C  
RFQ ATTACHMENT G**

**PROPOSAL CHECKLIST**

Use this checklist to ensure that all required documents have been included in the proposal and appear in the correct order.

Document	Initial to Indicate Document is Attached to Proposal
Table of Contents	<b>CF</b>
Executive Summary	<b>CF</b>
General Information and References RFQ Attachment A, Part One	<b>CF</b>
Experience, Background & Qualifications RFQ Attachment A, Part Two	<b>CF</b>
Proposed Plan RFQ Attachment A, Part Three	<b>CF</b>
Contracts Disclosure form RFQ Attachment C	<b>CF</b>
Litigation Disclosure RFQ Attachment D	<b>CF</b>
* SBEDA Form RFQ Attachment E; and Associated Certificates, if applicable	<b>CF</b>
Proof of Insurability (See RFQ Exhibit 2 ) Insurance Provider's Letter Copy of Current Certificate of Insurance	<b>CF</b>
Financial Information	<b>CF</b>
* Signature Page RFQ Attachment F	<b>CF</b>
Proposal Checklist RFQ Attachment G	<b>CF</b>
One (1) Original, and seven (7) copies and one (1) CD of entire proposal in PDF format if submitting in hard copy.	<b>CF</b>

\*Documents marked with an asterisk on this checklist require a signature. Be sure they are signed prior to submittal of proposal.

**Attachment D**

**WITNESSETH:**

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

**This HIPAA Business Associate Agreement** is entered into by and between the City of San Antonio ("Covered Entity"), and Nutrition Therapy Associates, Inc., a Business Associate ("BA").

WHEREAS, the City of San Antonio and BA have entered into a Professional Services Contract to provide nutrition education services ("Service Contract"), effective \_\_\_\_\_, whereby BA provides nutrition education services for the City of San Antonio Head Start Program to the Covered Entity; and

WHEREAS, Covered Entity and BA may need to use, disclose and/or make available certain information pursuant to the terms of the Service Contract, some of which may constitute Protected Health Information ("PHI"); and

WHEREAS, Covered Entity and BA intend to protect the privacy and provide for the security of PHI disclosed to each other pursuant to the Service Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws; and

WHEREAS, the purpose of this Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Section 164.504(e) of the Code of Federal Regulations ("C.F.R."), as the same may be amended from time to time;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

A. Definitions. For the purposes of this Agreement, the following terms have the meanings ascribed to them:

(1) "Disclosure" with respect to PHI, shall mean the release, transfer, provision of access to or divulging in any other manner of PHI outside the entity holding the PHI.

(2) "Individual" shall have the same meaning as the term "Individual" in 45 C.F.R. 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. 164.502(g).

(3) "Parties" shall mean Covered Entity and BA.

(4) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and Part 164, subparts A and E.

(5) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. 164.501, limited to the information created or received by BA from or on behalf of Covered Entity.

## Attachment D

(6) "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.

(7) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(8) "PHI Breach" shall mean an acquisition, access, use, or disclosure of PHI in a manner not permitted by the Privacy Rules and such action compromises the security or privacy of the PHI.

B. BA Obligations and Activities. BA agrees that it shall:

(1) Not use or disclose the PHI other than as permitted or required by this Agreement or as Required by Law;

(2) Establish and maintain appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect, consistent with the services provided under this Agreement, the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of covered entity;

(3) Mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA in violation of the requirements of this Agreement;

(4) Report to Covered Entity any use or disclosure of PHI of which BA is aware or becomes aware that is not provided for or allowed by this Agreement as well as any security incident that BA becomes aware of;

(5) Ensure that any of its agents or subcontractors with which BA does business and to whom it provides PHI received from, created or received by BA on behalf of Covered Entity are aware of and agree to the same restrictions and conditions that apply through this Agreement to BA with respect to such information, and further agree to implement reasonable and appropriate administrative, physical and technical safeguards to protect such information;

(6) Provide access, at the request of Covered Entity, and in a reasonable time and manner as agreed by the Parties, to PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements 45 C.F.R. §164.524;

(7) Make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of the Covered Entity or an Individual, and in a reasonable time and manner agreed to by the Parties;

(8) Make available to the Covered Entity or to the Secretary of the U.S. Department of Health and Human Services all internal practices, books and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by the BA on behalf of the Covered Entity, for purposes of the Secretary of the U.S. Department of Health and Human Services in determining Covered Entity's compliance with the Privacy Rule;

## Attachment D

- (9) Document such disclosures of PHI, and information related to such disclosures, as would be required for Covered Entity to respond to a request from an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528;
- (10) Provide Covered Entity or an Individual, in a reasonable time and manner as agreed to by the Parties, information collected in accordance with Section B(9) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528.
- (11) Will immediately, and in no event later than 14 days of discovery, notify Covered Entity of any breach of PHI and will coordinate with Covered Entity to identify, record, investigate, and report to an affected individual and US Department of Health and Human Services, as required, any covered PHI breach.

### C. Permitted Uses and Disclosures by BA

- (1) Except as otherwise limited in this Agreement, BA may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Service Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- (2) Except as otherwise limited in this Agreement, BA may disclose PHI for the proper management and administration of the BA, provided that disclosures are Required By Law, or BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the BA of any instances of which it is aware in which the confidentiality of the information has been breached.
- (3) Except as otherwise limited in this Agreement, BA may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. 164.504(e)(2)(i)(B).
- (4) BA may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. 502(j)(1).

### D. Obligations of Covered Entity. Covered Entity shall inform BA of its privacy practices and restrictions as follows. Covered Entity shall:

- (1) notify BA of any limitations in its notice of privacy practices in accordance with 45 C.F.R. 164.520, to the extent that such limitation may affect BA's use or disclosure of PHI;
- (2) notify BA of any changes in, or revocation of, permission by any Individual to use or disclose PHI, to the extent that such changes may affect BA's use or disclosure of PHI;
- (3) notify BA of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522 to the extent that such changes may affect BA's use or disclosure of PHI.

## Attachment D

(4) coordinate with BA regarding any PHI breach and make timely notification to affected individuals within 60 days of discovery.

### E. Permissible Requests by Covered Entity.

Covered Entity shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that the Business Associate may use or disclose PHI for data aggregation or management and administrative activities of the BA.

### F. Term and Termination.

(1) The term of this Agreement shall commence on the date on which it is fully executed or the contract start date, whichever is later. This Agreement shall terminate when all PHI encompassed by this Agreement is destroyed or returned to Covered Entity or, if it is infeasible to return or destroy the PHI, protections are extended to such information in accordance with the termination provisions in this Section.

(2) Termination for Cause. Upon Covered Entity's knowledge of a material breach by BA, Covered Entity shall either (a) provide an opportunity for BA to cure the breach in accordance with the terms of the Service Contract or, if the BA does not cure the breach or end the violation within the time for cure specified in the Service Contract, end the violation and terminate this Agreement and the Contract; or (b) immediately terminate this Agreement and the Service Contract if BA has breached a material term of this Agreement and cure is not possible. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

(3) Effect of Termination.

(a) Except as provided below in paragraph (b) of this Section F(3), upon termination of this Agreement for any reason, BA shall return or destroy all PHI received from the Covered Entity, or created or received by BA on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of BA or its subcontractors or agents. BA shall not retain any copies of PHI.

(b) In the event that BA determines that returning or destroying PHI is infeasible, BA shall provide to Covered Entity written notification of the condition that makes the return or destruction of PHI infeasible. Upon BA's conveyance of such written notification, BA shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make its return or destruction infeasible, for so long as BA maintains such PHI.

(4) Notwithstanding any other provision under this Agreement, the Parties agree that the Service Contract may be terminated by either Party without penalty should the other Party violate a material obligation under this Agreement.

#### Attachment D

- G. Amendment to Comply with Law. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.
- H. Survival. The respective rights and obligations of the BA under Sections B, C(2) and (4), and F(3) shall survive the termination of this Agreement.
- I. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit Covered Entity to comply with the Privacy Rule.
- J. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or amended.
- K. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer upon any person other than Covered Entity, BA, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- L. **INDEMNIFICATION. BA WILL INDEMNIFY, DEFEND AND HOLD COVERED ENTITY AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BA IN ACCORDANCE WITH THE INDEMNITY PROVISIONS IN THE SERVICE AGREEMENTS, WHICH ARE HEREBY INCORPORATED BY REFERENCE FOR ALL PURPOSES.**
- M. Reimbursement. BA will reimburse Covered Entity for reasonable costs incurred responding to a PHI breach by BA or any of BA's subcontractors.
- N. 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.
- O. 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, Covered Entity shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Covered Entity, without the prior approval of Business Associate.
- P. Entire Agreement. This Agreement constitutes the complete agreement between Business Associate and Covered Entity 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 Service Contracts or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Service Contract 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

**Attachment D**

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.

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

**FULLY EXECUTED** as of the date of the last party to sign below.

**COVERED ENTITY**  
City of San Antonio

**BUSINESS ASSOCIATE:**  
Nutrition Therapy Associates, Inc.

By: \_\_\_\_\_  
Melody Woosley, Director  
Department of Human Services

By: Christina Frantz  
Christina Frantz, Owner & President

\_\_\_\_\_  
Date

9-5-14  
Date

APPROVED AS TO FORM:

Kristine Duff  
Kristine Duff  
Assistant City Attorney