

AN ORDINANCE 2008-11-20-1047

**AMENDING THE FY 2009 BUDGET ORDINANCE 2008-09-11-0773 BY REVISING FY 2009 CONSOLIDATED HUMAN DEVELOPMENT SERVICES FUNDING ALLOCATIONS TO AND FROM AGENCIES; AUTHORIZING: (A) CONTRACTS WITH AGENCIES AND GOVERNMENTAL ENTITIES CONSISTENT WITH THE REVISED FUNDING SCHEDULE; (B) A \$166,000.00 INTERLOCAL AGREEMENT WITH BEXAR COUNTY BOARD OF TRUSTEES FOR MENTAL HEALTH AND MENTAL RETARDATION SERVICES D/B/A THE CENTER FOR HEALTH CARE SERVICES FOR OPERATION OF THE PUBLIC INEBRIATES FACILITY; (C) A \$300,000.00 CONTRACT WITH CATHOLIC CHARITIES TO FACILITATE EMERGENCY SERVICES TO THE COMMUNITY; AND (D) CONTRACT AMENDMENTS TO ALLOW FOR MODIFICATIONS IN FUNDING TO SCHOOL DISTRICTS AND DELEGATE AGENCIES BASED UPON AFTER SCHOOL CHALLENGE PROGRAM ENROLLMENT LEVELS.**

\* \* \* \* \*

**WHEREAS**, in February 2008, the Consolidated Human Development Services Funding Pool Request for Proposal (RFP) was issued for FY 2008-2009 services under the categories of Family Strengthening, Youth Services, Community Safety Net, and Workforce Development; and

**WHEREAS**, the RFP process was aligned with community needs and City Council identified priorities; and

**WHEREAS**, on September 11, 2008, City Council passed Ordinance 2008-09-11-0773 adopting the FY 2009 budget and authorizing contracts with delegate agencies applying through the Consolidated Human Development Services Funding RFP process; and

**WHEREAS**, to ensure proper alignment of services and program funding, staff is recommending allocation and reallocation of amounts awarded to agencies under the Family Strengthening, Youth Development and Community Safety Net categories and approved by Ordinance 2008-09-11-0773; and

**WHEREAS**, revisions are also recommended in the Community Safety Net category to ensure continuity of existing homeless services until all phases of the Haven for Hope campus opens; and

**WHEREAS**, due to low enrollment in the San Antonio Independent School District for the After School Challenge Program, three hundred (300) program slots and their associated funding is being reallocated to other school districts where enrollment has reached capacity and waiting lists for afterschool services have been established; and

**WHEREAS**, due to potential shifts in enrollment within the school districts for the After School Challenge Program, it is City Council's desire to authorize the modification of contracts and their amounts with delegate agencies and school districts providing After School Challenge Program services based upon enrollment levels; **NOW THEREFORE**:

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

**SECTION 1.** The FY 2009 Budget Ordinance 2008-09-11-0773 is hereby amended by revising FY 2009 Consolidated Human Development Services Funding Allocations approved by said Ordinance. The impacted delegate agencies, governmental entities and political subdivisions of the state are listed in, and the amended funding schedule is attached hereto and incorporated herein as **Attachment I**.

**SECTION 2.** Subject to Section 14 of the FY 2009 Budget Ordinance 2008-09-11-0773 relating to the Ethics Disclosure requirement, the City Manager or her designee, or the Director of the Department of Community Initiatives or his designee is hereby authorized to execute delegate agency contracts, in substantially the same form and content as shown in **Attachment II**, with each of the entities impacted by the revised funding allocation, in amounts consistent with the revised funding schedule in **Attachment I**.

**SECTION 3.** The City Manager or her designee, or the Director of the Department of Community Initiatives or his designee is hereby authorized to execute After School Challenge Program (ASCP) contracts, in substantially the same form and content as shown in **Attachment III**, with each of the school districts listed in **Attachment I** and for the amounts stated therein. The City Manager or her designee, or the Director of the Department of Community Initiatives or his designee is hereby authorized to execute After School Challenge Program (ASCP) contract amendments, to allow for modification of funding and other terms related to enrollment based upon ASCP enrollment levels; provided, however, that the cumulative total of all ASCP contracts, as amended, shall not exceed the amount authorized for the ASCP by the FY 2009 Budget, unless further considered by City Council.

**SECTION 4.** The City Manager or her designee, or the Director of the Department of Community Initiatives or his designee is hereby authorized to execute contracts with the Housing Authority of the City of San Antonio, Texas d/b/a San Antonio Housing Authority for the rapid re-housing program and with Bexar County Board of Trustees for Mental Health and Mental Retardation Services d/b/a The Center For Health Care Services for operation of the public inebriates facility in amounts indicated in **Attachment I**. A copy of the draft agreements containing the essential terms and conditions of those agreements are attached hereto and incorporated herein for all purposes as **Attachment IV and V**.

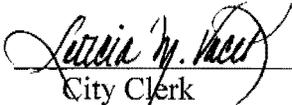
**SECTION 5.** The Office of Management and Budget shall process administrative adjustments to the FY 2009 operating budget as necessary to carry out the purpose of this Ordinance.

**SECTION 6.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 7.** This ordinance shall become effective immediately upon passage by eight (8) affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND APPROVED this 20<sup>th</sup> day of November, 2008.

  
M A Y O R

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
for City Attorney



Request for  
**COUNCIL  
ACTION**



## Agenda Voting Results - 35


<b>Name:</b>	9, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30A, 30B, 30C, 30D, 30E, 30F, 30G, 30H, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 (Revised by Councilman Rowe at 12/11/08 meeting)
<b>Date:</b>	11/20/2008
<b>Time:</b>	05:35:26 PM
<b>Vote Type:</b>	Motion to Approve
<b>Description:</b>	An Ordinance amending the FY 2009 Budget Ordinance 2008-09-11-0773 by revising FY 2009 Consolidated Human Development Services funding allocations to and from agencies; authorizing: (a) contracts with agencies and governmental entities consistent with the revised funding schedule; (b) a \$166,000.00 interlocal agreement with Bexar County Board of Trustees for Mental Health and Mental Retardation Services d/b/a The Center for Health Care Services for operation of the public inebriates facility; (c) a \$300,000.00 contract with Catholic Charities to facilitate emergency services to the community; and (d) contract amendments to allow for modifications in funding to school districts and delegate agencies based upon After School Challenge Program enrollment levels. [Frances A. Gonzalez, Assistant City Manager; Dennis J. Campa, Director, Community Initiatives]
<b>Result:</b>	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3	x					
Philip A. Cortez	District 4	x					
Lourdes Galvan	District 5		x				x
Delicia Herrera	District 6		x			x	
Justin Rodriguez	District 7	x					
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

**Attachment I**

**2009 Delegate Agency Revisions**

		Adopted 2009	Revision	Revised 2009	Funding Source
<b>Youth Development: After School &amp; Summer Care</b>					
Boys and Girls Club	Afterschool	21,000	21,000	42,000	DCI GF
East Central ISD	Afterschool	120,092	34,500	154,592	DCI GF
Northeast ISD	Afterschool	182,892	45,888	228,780	DCI GF
Northside ISD	Afterschool	177,949	26,331	204,280	DCI GF
Positive Beginnings	Youth Afterschool Program HISD	303,028	(24,500)	278,528	DCI GF
San Antonio ISD*	Afterschool	1,399,396	(103,219)	1,296,177	DCI GF

<b>Family Strengthening: Early Childhood Education</b>					
Positive Beginnings	Early On School Readiness	180,000	(70,000)	110,000	DCI GF
Family Services Association	Smart Start	324,000	70,000	394,000	DCI GF

<b>Community Safety Net: Senior Services</b>					
San Antonio Food Bank	Food Security (old name) / Project Hope (new name)	182,521	(182,521)	0	Consolidated GF
San Antonio Food Bank	Food Security (old name) / Project Hope (new name)	17,479	(17,479)	0	DCI GF

<b>Community Safety Net: Basic Needs</b>					
Catholic Charities	Emergency Assistance Program	0	300,000	300,000	DCI GF
San Antonio Food Bank	Food Security (old name) / Kid's Café (new name)	0	32,521	32,521	Consolidated GF
San Antonio Food Bank	Food Security (old name) / Kid's Café (new name)	0	17,479	17,479	DCI GF
San Antonio Food Bank	Food Stamp Outreach	0	150,000	150,000	Consolidated GF

<b>Community Safety Net: Homeless Services</b>					
Corazon Ministries	Day Center Prospects Courtyard / Community Court	555,450	(104,264)	451,186	DCI GF
Center for Health Care Services	Public Inebriate (interlocal)	0	166,000	166,000	DCI GF
Family Violence Prevention	Battered Women's Shelter	64,353	6,000	70,353	DCI GF
Salvation Army	Safe Sleeping	0	115,736	115,736	DCI GF
San Antonio Housing Authority	Rapid Re-Housing	239,478	(31,878)	207,600	DCI GF
Seton Home	Safe Shelter for Homeless Teens	25,000	(25,000)	0	DCI GF
Seton Home	Safe Shelter for Homeless Teens	0	25,000	25,000	Consolidated GF



2009 DELEGATE AGENCY FUND SCHEDULE - REVISED

Attachment I

Agency Name	Program Name	Consolidated General Fund	DCI General Fund	CCDS Grant Match	CDBG	HOPWA	ESG	ADOPTED FY 2009
<b>CITY SERVICE: Community Safety Net - Senior Services</b>								
Anlioch CTN	Senior Fitness & Activity Program				51,816			51,816
Catholic Charities	Foster Grandparent Program				36,749			36,749
Catholic Charities	Retired & Senior Volunteer Program	72,184						72,184
Christian Senior Services	Senior Companion Program				50,000			50,000
El Centro del Barrio dba Centro Med	Activity Center for the Frail & Elderly				120,000			120,000
Family Services Assoc.	Senior Enrichment Services	73,853						73,853
Project MEND	Durable Medical Equipment Program				90,000			90,000
San Antonio Food Bank	Project Hope				330,000			330,000
San Antonio OASIS	OASIS	35,000						35,000
Suppl. Lending for Emotional Well Being	Assist. for Low Inc. Disabled Women w/Cancer				100,000			100,000
YMCA of Greater SA	Active Older Adults		34,794		264,037			298,831
YWCA of SA	Senior Connection	49,983	33,037					83,000
<b>Total Community Safety Net - Senior Services</b>		<b>\$231,000</b>	<b>\$67,831</b>	<b>\$0</b>	<b>\$1,642,602</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,341,433</b>
<b>CITY SERVICE: Community Safety Net - Basic Needs</b>								
Alamo Area Rape Crisis	Sex Assault Crisis Intervent/Emerg Service		77,217					77,217
Anlioch Comm Transformation Network	Each One Teach One Adult Literacy		67,771					67,771
Any Baby Can of SA	Case Management				73,428			73,428
Any Baby Can of SA	Prescription Assistance Program				60,582			60,582
Catholic Charities	Emergency Assistance		300,000					300,000
Hispanic Relig. Partnership-Comm. Health	Hunger Relief				62,754			62,754
SAILS	Gateway to Abilities Program				100,000			100,000
San Antonio Aids Foundation	Dining for People with HIV/AIDS		6,414		74,293			80,707
San Antonio Food Bank	Food Stamp Outreach	150,000						150,000
San Antonio Food Bank	Kid's Café	32,521	17,479		70,000			120,000
San Antonio Urban Ministries	Fairweather Lodge				30,000			30,000
St. Peter - St. Joseph Children's Home	Project Ayuda				67,900			67,900
YWCA of SA	SEED				30,000			30,000
<b>Total Community Safety Net - Basic Needs</b>		<b>\$182,521</b>	<b>\$468,881</b>	<b>\$0</b>	<b>\$568,957</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,220,359</b>
<b>CITY SERVICE: Community Safety Net - Homeless Services</b>								
Alamo Area Resource Center	Greater SA Housing Works					114,176		114,176
Alamo Area Resource Center	Transportation Program					144,861		144,861
Alcoholic Rehabilitation Center	Lifetime Recovery Operations		100,000					100,000
American GI Forum	Haven for Hope Outreach		135,000					135,000
Beat AIDS Coalition Trust	Women's Life Resource Center-Housing					75,000		75,000
Center for Healthcare Services	Nueva Vida		280,901					280,901
Center for Healthcare Services	Public Inebriate		166,000					166,000
Christian Assistance Ministry	CAM Day Center/Homeless	63,173						63,173
Corazon Ministries	Basic Services: Food Security				39,473			39,473
Corazon Ministries	Day Center/Haven for Hope Prospects Courtyard	248,428	451,166					699,614
Family Violence Prevention Services, Inc	Battered Women's Shelter	171,163	70,353				8,812	250,328
Respite Care of San Antonio, Inc.	Davidson Respite House	78,000						78,000
Roy Maas Youth Alternatives	The Bridge: Youth Safety Net Emerg Shelter		25,120					25,120
Salvation Army, A Georgia Corporation	Relocation Assistance	50,000						50,000
Salvation Army, A Georgia Corporation	Safe Sleeping		115,736					115,736
San Antonio AIDS Foundation	HOPWA Operations					296,206		296,206
San Antonio AIDS Foundation	Long Term TBRA					364,007		364,007
San Antonio Food Bank	Community Kitchen/Haven for Hope		240,000				80,000	330,000
San Antonio Housing Authority	Rapid Re-Housing		207,600					207,600
San Antonio Metropolitan Ministry	Homeless Emergency Shelter/Haven for Hope		125,000				100,000	225,000
San Antonio Metropolitan Ministry	Housing First		55,000					55,000
Selon Home	Safe Shelter for Homeless Teens	25,000						25,000
<b>Total Community Safety Net - Homeless Services</b>		<b>\$635,764</b>	<b>\$1,971,896</b>	<b>\$0</b>	<b>\$39,473</b>	<b>\$994,250</b>	<b>\$198,812</b>	<b>\$3,840,195</b>
<b>Total Delegate Agencies</b>		<b>\$7,155,053</b>	<b>\$6,569,414</b>	<b>\$1,238,680</b>	<b>\$1,651,032</b>	<b>\$994,250</b>	<b>\$198,812</b>	<b>\$17,807,241</b>
<b>CITY SERVICE: Other Contracts</b>								
Avenida Guadalupe	Avenida Guadalupe	20,000						20,000
Avenida Guadalupe Assoc Com Dev	Avenida Guadalupe Assoc Com Dev	75,000						75,000
COSA-Housing & Neighborhood Services	Code Compliance				157,861			157,861
COSA-Parks & Recreation Dept	Comm. Ctr. Summer Ext. Hours				72,640			72,640
COSA-Parks & Recreation Dept	Summer Outdoor Pool				76,557			76,557
COSA-Parks & Recreation Dept	Summer Teen Programs				199,782			199,782
Neighborhood Housing Services	Low Income Lending	106,705						106,705
San Antonio Zoo	San Antonio Zoo	36,288						36,288
<b>Total Other Agencies</b>		<b>\$239,993</b>	<b>\$0</b>	<b>\$0</b>	<b>\$506,840</b>	<b>\$0</b>	<b>\$0</b>	<b>\$746,833</b>
<b>Total Budget Amount</b>		<b>\$7,395,046</b>	<b>\$6,569,414</b>	<b>\$1,238,680</b>	<b>\$2,157,872</b>	<b>\$994,250</b>	<b>\$198,812</b>	<b>\$18,554,074</b>

DELEGATE AGENCY CONTRACT TEMPLATE

IF A PARTICULAR SECTION OF THIS CONTRACT TEMPLATE IS NOT APPLICABLE TO YOUR CONTRACT, PLEASE DELETE ONLY THE LANGUAGE IN THAT SECTION, AND REPLACE IT WITH THE FOLLOWING LANGUAGE: "THIS SECTION INTENTIONALLY LEFT BLANK." THIS WILL PRESERVE THE NUMBERING FOR THE CONTRACT. IF DELETING A PARTICULAR SECTION OF THE CONTRACT DOES NOT IMPACT THE NUMBERING OF THE CONTRACT, THEN YOU DO NOT HAVE TO PUT THIS LANGUAGE.

STATE OF TEXAS \*

COUNTY OF BEXAR \* DELEGATE AGENCY CONTRACT WITH (Name of Contractor)

CITY OF SAN ANTONIO \*

This Contract is entered into by and between the City of San Antonio (hereinafter referred to as "City"), a Texas Municipal Corporation, acting by and through its \_\_\_\_\_ pursuant to Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_, and the [agency name], (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Department of \_\_\_\_\_ is designated as the managing City department (hereinafter referred to as "Managing City Department") for the City; and

WHEREAS, the City has provided certain funds from the City of San Antonio General Fund and/or Grant Fund Operating Budget (hereinafter referred to as "General Fund" and Grant Fund", respectively) for \_\_\_\_\_ services; and

[Choose only one of the following two Whereas clauses. The 1st clause will be used if there is only 1 Project for this contract. The 2nd clause will be used if there is more than 1 Project for this contract.]

WHEREAS, the City has adopted a budget for the expenditure of such funds, and included therein is an allocation of \_\_\_\_\_ for a project entitled, [project/program name] (hereinafter referred to as the "Project" or "Program"); and

WHEREAS, the City has adopted a budget for the expenditure of such funds, and included therein is: 1) an allocation of \_\_\_\_\_ for a project entitled, [project/program name] (hereinafter referred to as "Project A"); 2) an allocation of \_\_\_\_\_ for a project entitled, [project/program name] (hereinafter referred to as "Project B"); and 3) an allocation of \_\_\_\_\_ funds for a project entitled, [project/program name] (hereinafter referred to as "Project C"), (all such projects collectively referred to hereinafter as the "Projects" or "Programs"); and

WHEREAS, the City wishes to engage the Contractor to carry out the Project; NOW THEREFORE:

The parties hereto agree as follows:

I. SCOPE OF WORK

1.1 The Contractor will provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the City and in compliance with the [use the appropriate terminology for Contractor's

Statement of Work and/or Performance Measures document(s)], affixed hereto and incorporated herein for all purposes as Attachment I. [If there is more than 1 Project for this Contract, the statement of work documents for each project should be listed as Attachments I(A), I(B), I(C), etc., and the following language should be added: Project A's documents will be identified as Attachment I(A), Project B's documents will be identified as Attachment I(B) and Project C's documents will be identified as Attachment I(C)].

II. TERM

- 2.1 Except as otherwise provided for pursuant to the provisions hereof, this Contract shall begin on [Begin Date] and shall terminate on [End Date].
- 2.2 [Include this section only if the contract is being drafted for first year of the two year funding cycle. Exclude this section if the contract is being drafted for the second year of the two year funding schedule. Also, contracts with delegate agencies who are not a part of the consolidated funding RFP process would not include this section.] The City shall have the option to renew this Contract for an additional period not to exceed one (1) year, subject to (a) the City's receipt of additional monies sufficient to fund the renewal term; (b) the Contractor satisfactorily meeting the performance requirements of this Contract, as solely determined by the City and (c) the prior approval by the City Council of San Antonio of such Contract renewal, as evidenced by an ordinance duly passed and approved.

III. CONSIDERATION

[Choose only one of the following two sections numbered 3.1. The 1<sup>st</sup> section 3.1 will be used if there is only 1 Project for this contract. The 2<sup>nd</sup> section 3.1 will be used if there is more than 1 Project for this contract.]

- 3.1 In consideration, the City will reimburse Contractor for costs incurred in accordance with the budget approved by City Council of San Antonio in Ordinance No. \_\_\_\_\_. Said budget is affixed hereto and incorporated herein for all purposes as Attachment II. It is specifically agreed that reimbursement hereunder shall not exceed the total amount of \$\_\_\_\_\_.
- 3.1 In consideration, the City will reimburse Contractor for costs incurred for Project A in accordance with the budget approved for Project A by City Council of San Antonio in Ordinance No. \_\_\_\_\_, for Project B in accordance with the budget approved for Project B by City Council of San Antonio in Ordinance No. \_\_\_\_\_, and for Project C in accordance with the budget approved for Project C by City Council of San Antonio in Ordinance No. \_\_\_\_\_. Said budgets are affixed hereto and incorporated herein for all purposes as Attachment II (A) for Project A, Attachment II (B) for Project B and Attachment II (C) for Project C. It is specifically agreed that reimbursement hereunder shall not exceed the total amount of \$\_\_\_\_\_, representing \$\_\_\_\_\_ for Project A, \$\_\_\_\_\_ for Project B and \$\_\_\_\_\_ for Project C.

3.2 The funding level of this Contract is based on an allocation from the following funding sources:

[Choose one or more of the following, as applicable]

- \_\_\_\_\_ General Fund
- \_\_\_\_\_ Community Development Block Grant (CDBG)
- \_\_\_\_\_ Community Service Block Grant (CSBG)
- \_\_\_\_\_ Emergency Shelter Grant (ESG)
- \_\_\_\_\_ Housing Opportunities for Persons with aids (HOPWA)
- \_\_\_\_\_ Federal Child Care Matching Funds
- \_\_\_\_\_ (Other funding sources)

[Use the following clause only if there is only 1 project in this contract]

Consequently, Contractor agrees to comply with [insert the words "sections \_\_\_\_\_ of the Funding Guide" or "the Special Provisions", as applicable], affixed hereto and incorporated herein for all purposes as Attachment III.

[Use the following clause only if there is more than 1 project in this contract]

Consequently, Contractor agrees to comply with the following referenced requirements for the following respective project(s):

Project A Section of the [insert the words, "Funding Guide" or "Special Provisions," as applicable], affixed hereto and/incorporated herein for all purposes as Attachment III.

Project B Section of the [insert the words, "Funding Guide" or "Special Provisions", as applicable], affixed hereto and/incorporated herein for all purposes as Attachment III.

Project C Section of the [insert the words, "Funding Guide" or "Special Provisions", as applicable], affixed hereto and/incorporated herein for all purposes as Attachment III.

- 3.3 Contractor understands and agrees that the funds provided to Contractor from the City's Consolidated Human Development Funding Services Pool shall represent a limited percentage of Contractor's total agency revenues and expenses for the contract term, which percentage is established by City Council and is subject to change. The percentage of the total agency revenues and expenses derived from sources other than City funds is sometimes referred to as the agency's "match" requirement. Contractor shall comply with any matching fund requirements set by City Council that apply to Contractor's contract, regardless of when such requirements are passed. City shall have no obligation to provide any funds hereunder until Contractor demonstrates having secured the percentage of matching funds required of Contractor. If Contractor receives an aggregate amount of \$1,000,000.00 or more in City funds from all City funded contracts, then Contractor shall obtain thirty-five percent (35%) of its total budget from non-City sources. If Contractor receives less than an aggregate amount of \$1,000,000.00 in City funds from all City funded contracts, then Contractor shall obtain fifty percent (50%) of its total budget from non-City sources. City shall require sufficient evidence that such funding is in place prior to making any payments under this Contract. **(Delete the following sentence if inapplicable)** Contractor understands and acknowledges that Pell grants and other awards received by individuals shall not count toward its matching fund requirements. **(Delete the following sentence if inapplicable)** Additionally, Contractor understands and acknowledges that in-kind contributions shall not count toward its matching fund requirements.

[Use the following section if grant funds are used in this contract.]

- 3.4 It is expressly understood and agreed by the City and Contractor that the City's obligations under this Contract are contingent upon the actual receipt of adequate grant funds to meet City's liabilities hereunder.

**[ALL U.S. Department of Housing and Urban Development (HUD) FUNDED Contracts that are not part of the consolidated funding RFP process ARE REQUIRED to include the following provisions, AS IS, in their special provisions attachment. DO NOT modify, delete or substitute any of the paragraphs, language or verbiage. These provisions are to be used in addition to any other special provisions that may be used or required by the Managing City Department.]**

Contractor acknowledges, understands and agrees to comply with the following federal regulations as promulgated in Section 3 Clause of the Housing and Urban Development Act of 1968, as amended:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170(l) (u)(Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

- C. The Contractor agrees to send to each labor organization or representative of workers with which the contract has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, where not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from further HUD-assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provision of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).]

#### IV. PAYMENT

- 4.1 Contractor agrees that this is a cost reimbursement contract and that the City's liability hereunder is limited to making reimbursements for allowable costs incurred as a direct result of City-funded services provided by the Contractor in accordance with the terms of this Contract. Allowable costs are defined as those costs which are necessary, reasonable and allowable under applicable Federal, State, and local law, including but not limited to those laws referenced in Section XII hereof, for the proper administration and performance of the services to be provided under an agreement. All requested reimbursed costs must be consistent with the terms and provisions of the approved budgeted line items described in Attachment II of this Contract. In no event shall the City be liable for any cost of Contractor not eligible for reimbursement as defined within the Contract.
- 4.2 If specific circumstances require an advance payment on this Contract, Contractor must submit to the Director of the Managing City Department a written request for such advance payment, including the specific reason for such request. The Director of the Managing City Department may, in his sole discretion, approve an advance payment on this Contract. It is understood and agreed by the parties hereto that (a) each request requires submission to the Director of the Managing City Department no less than ten (10) business days prior to the actual ostensible cash need; (b) each request will be considered by the Director of the Managing City Department on a case-by-case basis, and (c) the decision by the Director of the Managing City Department whether or not to approve an advance payment is final. For purposes of this Contract, the term, "business day" shall mean every day of the week except all Saturdays, Sundays and

those scheduled holidays officially adopted and approved by the San Antonio City Council for City of San Antonio employees. In those instances in which advance payments are authorized:

(A) Advance payments to vendors shall be remitted to the vendors in a prompt and timely manner, defined as not later than ten (10) calendar days after the Contractor is notified that a check is available from the City.

(B) The Contractor must deposit City funds in an [insert the word, "separate", as applicable] account in a bank insured with the Federal Deposit Insurance Corporation (FDIC). In those situations where Contractor's total deposits in said bank, including all City funds deposited in such [insert the word, "separate", as applicable] account, exceed the FDIC insurance limit, the Contractor must arrange with said bank to automatically have the excess collaterally secured. A written copy of the collateral agreement must be obtained by Contractor from the Contractor's banking institution, maintained on file and be available for City monitoring reviews and audits. Advanced funds that cause the Contractor's account balance to exceed \$100,000.00 shall be deposited in a manner consistent with the Public Funds Investment Act (Chapter 2256 of the Texas Government Code) as amended.

4.3 Contractor agrees that reimbursements of eligible expenses shall be made \_\_\_\_\_, as determined by the Director of the Managing City Department according to standard procedures followed by the City's Finance Department.

4.4 Contractor agrees that all requests for reimbursement shall be accompanied with documentation required by the Director of the Managing City Department.

4.5 The Contractor shall submit to City all final requests for payment no later than [45 days recommended] days from the termination date of this Contract, unless Contractor receives written authorization from the Director of the Managing City Department prior to such \_\_\_\_\_ day period allowing Contractor to submit a request for payment after such \_\_\_\_\_ day period.

4.6 Contractor agrees that the City shall not be obligated to any third parties (including any subcontractors or third party beneficiaries of the Contractor).

4.7 Contractor agrees that administrative overhead costs may not exceed twenty percent (20%) of the funding provided by this Contract.

4.8 Contractor shall maintain a financial management system, and acceptable accounting records that provide for:

(A) accurate, current, and complete disclosure of financial support from each Federal, State and locally sponsored project and program in accordance with the reporting requirements set forth in Article VIII. of this Contract. If accrual basis reports are required, the Contractor shall develop accrual data for its reports based on an analysis of the documentation available;

(B) identification of the source and application of funds for City-sponsored activities. Such records shall contain information pertaining to City awards, authorizations, obligations, un-obligated balances, assets, equity, outlays, and income;

(C) effective control over and accountability for all funds, property, and other assets. The Contractor shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes. Contractor shall maintain an accounting system that can separate funds by funding source and project;

(D) comparison of actual outlays with budget amounts for each award. Whenever appropriate or required by the City, financial information should be related to performance and unit cost data;

(E) procedures to minimize the time elapsing between the transfer of funds from the City and the disbursement of said funds by the Contractor;

(F) procedures for determining reasonable, allowable, and allocable costs in accordance with the provisions of any and all applicable cost principles, including but not limited to the cost principles referenced in Section XII hereof, and the terms of the award, grant, or contract, with the City;

(G) supporting source documentation (i.e., timesheets, employee benefits, professional services agreements, purchases, and other documentation as required by City); and

(H) an accounting system based on generally acceptable accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project/Projects. A Receipts and Disbursements Ledger must be maintained. A general ledger with an Income and Expense Account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed according to the expense account to which they were charged.

- 4.9 Contractor agrees that Contractor costs or earnings claimed under this Contract will not be claimed under another contract or grant from another agency.
- 4.10 Contractor shall establish and utilize a cost allocation methodology and plan which ensures that the City is paying only its fair share of the costs for services, overhead, and staffing not solely devoted to the project or projects funded by this Contract. The Cost Allocation Plan and supportive documentation shall be included in the financial statements that are applicable to the Contractor's Project. The Cost Allocation Plan is a plan that identifies and distributes the cost of services provided by staff and/or departments or functions. It is the means to substantiate and support how the costs of a program are charged to a particular cost category or to the program.
- 4.11 Upon completion or termination of this Contract, or at any time during the term of this Contract, all unused funds, rebates, or credits on-hand or collected thereafter relating to the Project/Projects, must immediately, upon receipt, be returned by Contractor to the City.
- 4.12 Upon execution of this Contract or at any time during the term of this Contract, the City's Director of Finance, the City Auditor, or a person designated by the Director of the Managing City Department may review and approve all Contractor's systems of internal accounting and administrative controls prior to the release of funds hereunder.

**V. PROGRAM INCOME**

- 5.1 For purposes of this Contract, "program income" shall mean earnings of Contractor realized from activities resulting from this Contract or from Contractor's management of funding provided or received hereunder. Such earnings shall include, but shall not be limited to, interest income; usage or rental/lease fees; income produced from contract-supported services of individuals or employees or from the use of equipment or facilities of Contractor provided as a result of this Contract, and payments from clients or third parties for services rendered by Contractor pursuant to this Contract. At the sole option of the Director of the Managing City Department, Contractor will either (a) be required to return program income funds to City through the Managing City Department, or (b) upon prior written approval by the Director of the Managing City Department, Contractor may be permitted to retain such funds to be:

(A) added to the Project and used to further eligible Project objectives, in which case proposed expenditures must first be approved by the City; or

(B) deducted from the total Project cost for the purpose of determining the net cost reimbursed by the City.

- 5.2 In any case where Contractor is required to return program income to the Managing City Department, Contractor must return such program income to City within the timeframe that may be specified by the

Director of the Managing City Department. If the Director of the Managing City Department grants Contractor authority to retain program income, Contractor must submit all reports required by the Managing City Department within the timeframe specified in the Contract.

- 5.3 Contractor shall provide the Managing City Department with thirty (30) days written notice prior to the activity that generates program income. Such notice shall detail the type of activity, time, and place of all activities that generate program income.
- 5.4 The Contractor shall fully disclose and be accountable to the City for all program income. Contractor must submit a statement of expenditures and revenues to the Managing City Department within thirty (30) days of the activity that generates program income. The statement is subject to audit verification by Managing City Department. Failure by Contractor to report program income as required is grounds for suspension, cancellation, or termination of this Contract.
- 5.5 Contractor is prohibited from charging fees or soliciting donations from participants in any City-funded project without the prior written approval of the Director of the Managing City Department.
- 5.6 Contractor shall include this Article V, in its entirety, in all of its subcontracts involving income-producing services or activities.

VI. ADMINISTRATION OF CONTRACT

- 6.1 **[Include the following paragraph, if this contract is grant funded except for those contracts funded with CDBG, ESG and HOPWA funds:** The Contractor agrees to comply with all the terms and conditions that the City must comply within its contract with **[name of City's granting agency]**. A copy of said contract is attached hereto and incorporated herein for all purposes as Attachment IV.
- 6.2 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, the City Manager, as representative of the City, the party ultimately responsible for all matters of compliance with **[name of City's granting agency or if General Funds, City of San Antonio]** rules and regulations, shall have the final authority to render or secure an interpretation.
- 6.3 Contractor shall not use funds awarded from this Contract as matching funds for any Federal, State or local grant without the prior written approval of the Director of the Managing City Department.
- 6.4 The City shall have the authority during normal business hours to make physical inspections to the operating facility occupied to administer this Contract and to require such physical safeguarding devices as locks, alarms, security/surveillance systems, safes, fire extinguishers, sprinkler systems, etc. to safeguard property and/or equipment authorized by this Contract.
- 6.5 The Contractor Board of Directors and Management shall adopt and approve an Employee Integrity Policy and shall establish and use internal program management procedures to preclude theft, embezzlement, improper inducement, obstruction of investigation or other criminal action, and to prevent fraud and program abuse. These procedures shall specify the consequences to Contractor's employees and vendors involved in such illegal activities to include but not be limited to termination and prosecution where necessary. Said procedures shall be provided to the Managing City Department upon request by the Managing City Department.
- 6.6 Contractor agrees to comply with the following check writing and handling procedures:
  - (A) No blank checks are to be signed in advance;
  - (B) No checks are to be made payable to cash or bearer with the exception of those for petty cash reimbursement, not to exceed a \$100.00 maximum per check. Contractor agrees that the aggregate amount of petty cash reimbursement shall not exceed \$200.00 per location for any given calendar month during the

term of this Contract unless Contractor receives prior written approval from the Managing City Department to exceed such limit. Such requests for petty cash must be supported by the submission to the Managing City Department of an original receipt.

(C) Checks issued by City to Contractor shall be deposited into the appropriate bank account immediately or by the next business day after Contractor's receipt of each such check, and shall never be cashed for purposes of receiving any of the face amount back.

- 6.7 City reserves the right to request Contractor to provide additional records for long distance calls, faxes, internet service and/or cell phone calls charged to the City.

**VII. AUDIT**

- 7.1 If Contractor expends \$500,000.00 or more of City dollars, then during the term of this Contract, the Contractor shall have completed an independent audit of its financial statements performed within a period not to exceed ninety (90) days immediately succeeding the end of Contractor's fiscal year or termination of this Contract, whichever is earlier. Contractor understands and agrees to furnish the Managing City Department a copy of the audit report within a period not to exceed fifteen (15) days upon receipt of the report. In addition to the report, a copy of the corrective action plan, summary schedule of prior audit findings, management letter and/or conduct of audit letter are to be submitted to the Managing City Department by Contractor within fifteen (15) days upon receipt of said report or upon submission of said corrective action plan to the auditor.

Contractor agrees and understands that upon notification from federal, state, or local entities that have conducted program reviews and/or audits of the Contractor or its programs of any findings about accounting deficiencies, or violations of Contractor's financial operations, a copy of the notification, review, investigation, and audit violations report must be forwarded to the Managing City Department within a period of ten (10) days upon the Contractor's receipt of the report.

- 7.2 Contractor agrees that if Contractor receives or expends more than \$500,000.00 in federal funds from the City, the audit shall be made in accordance with the Single Audit Act Amendments of 1996, the State of Texas Single Audit Circular, and U.S. Office of Management and Budget Circular (OMBA-133 revision) and Contractor shall also be required to submit copies of their annual independent audit report, and all related reports issued by the independent certified public accountant within a period not to exceed one hundred twenty (120) days after the end of Contractor's fiscal year to the Federal Audit Clearinghouse in Jeffersonville, Indiana. Contractor may submit reports through the following website: <http://gov.fac@census.gov> and may also contact the Clearinghouse by telephone at (301) 763-1551 (voice) or 1-888-222-9907 (toll free) or 1-800-253-0696.

Upon completion of Form SF-SAC, Contractor may submit the completed report by mail to:

Federal Audit Clearinghouse  
1201 E. 10<sup>th</sup> Street  
Jeffersonville, Indiana 47132

- 7.3 If Contractor expends less than \$500,000.00 of City dollars, then during the term of this Contract, the Contractor shall complete and submit an unaudited financial statement(s) within a period not to exceed ninety (90) days immediately succeeding the end of Contractor's fiscal year or termination of this Contract, whichever is earlier. Said financial statement shall include a balance sheet and income statement prepared by a bookkeeper and a cover letter signed by Contractor attesting to the correctness of said financial statement.
- 7.4 All financial statement(s) must include a schedule of receipts and disbursements by budgeted cost category for each program funded by or through the City.

- 7.5 The City reserves the right to conduct, or cause to be conducted an audit or review of all funds received under this Contract at any and all times deemed necessary by City. The City Internal Audit Staff, a Certified Public Accounting (CPA) firm, or other personnel as designated by the City, may perform such audit(s) or reviews. The City reserves the right to determine the scope of every audit. In accordance herewith, Contractor agrees to make available to City all accounting and Project records.

Contractor shall during normal business hours, and as often as deemed necessary by City and/or the applicable state or federal governing agency or any other auditing entity, make available and shall continue to make available the books, records, documents, reports, and evidence with respect to all matters covered by this Contract and shall continue to be so available for a minimum period of three (3) years or whatever period is determined necessary based on the Records Retention guidelines established by applicable law for this Contract. Said records shall be maintained for the required period beginning immediately after Contract termination, save and except when there is litigation or if the audit report covering such Contract has not been accepted, then the Contractor shall retain the records until the resolution of such issues has satisfactorily occurred. The auditing entity shall have the authority to audit, examine and make excerpts, transcripts, and copies from all such books, records, documents and evidence, including all books and records used by Contractor in accounting for expenses incurred under this Contract, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Contract.

The City may, in its sole and absolute discretion, require the Contractor to use any and all of the City's accounting or administrative procedures used in the planning, controlling, monitoring and reporting of all fiscal matters relating to this Contract, and the Contractor shall abide by such requirements.

- 7.6 When an audit or examination determines that the Contractor has expended funds or incurred costs which are questioned by the City and/or the applicable state or federal governing agency, the Contractor shall be notified and provided an opportunity to address the questioned expenditure or costs.

Should any expense or charge that has been reimbursed be subsequently disapproved or disallowed as a result of any site review or audit, the Contractor will immediately refund such amount to the City no later than ten (10) days from the date of notification of such disapproval or disallowance by the City. At its sole option, the Managing City Department may instead deduct such claims from subsequent reimbursements; however, in the absence of prior notice by City of the exercise of such option, Contractor shall provide to City a full refund of such amount no later than ten (10) days from the date of notification of such disapproval or disallowance by the City. If Contractor is obligated under the provision hereof to refund a disapproved or disallowed cost incurred, such refund shall be required and be made to City by cashiers check or money order. Should the City, at its sole discretion, deduct such claims from subsequent reimbursements, the Contractor is forbidden from reducing Project expenditures and Contractor must use its own funds to maintain the Project.

Contractor agrees and understands that all expenses associated with the collection of delinquent debts owed by Contractor shall be the sole responsibility of the Contractor and shall not be paid from any Project funds received by the Contractor under this Contract.

- 7.7 If the City determines, in its sole discretion, that Contractor is in violation of the above requirements, the City shall have the right to dispatch auditors of its choosing to conduct the required audit and to have the Contractor pay for such audit from non-City resources.

## VIII. RECORDS, REPORTING, AND COPYRIGHTS

- 8.1 The Managing City Department is assigned monitoring, fiscal control, and evaluation of projects. Therefore, at such times and in such form as may be required by the Managing City Department, the Contractor shall furnish to the Managing City Department and the Grantor of the grant funds, if applicable, such statements, records, data, all policies, procedures, and information and permit the City and Grantor of the grant funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Contract.

- 8.2 The Contractor shall submit to the Managing City Department such reports as may be required by [the City, if contract is funded with general funds, or [name of granting source], if funded with grant funds], [Add following language if applicable: including [name of report], which is affixed hereto and incorporated herein as Attachment V. The [name of report] is to be submitted by the Contractor no later than the \_\_\_\_\_ business day of each month]. The Contractor ensures that all information contained in all required reports submitted to City is accurate.
- 8.3 Contractor agrees to maintain in confidence all information pertaining to the Project/Projects or other information and materials prepared for, provided by, or obtained from City including, without limitation, reports, information, project evaluation, project designs, data, and other related information (collectively, the "Confidential Information") and to use the Confidential Information for the sole purpose of performing its obligations pursuant to this Contract. Contractor shall protect the Confidential Information and shall take all reasonable steps to prevent the unauthorized disclosure, dissemination, or publication of the Confidential Information. If disclosure is required (i) by law or (ii) by order of a governmental agency or court of competent jurisdiction, Contractor shall give the Director of the Managing City Department prior written notice that such disclosure is required with a full and complete description regarding such requirement. Contractor shall establish specific procedures designed to meet the obligations of this Article VIII, Section 8.3, including, but not limited to execution of confidential disclosure agreements, regarding the Confidential Information with Contractor's employees and subcontractors prior to any disclosure of the Confidential Information. This Article VIII, Section 8.3 shall not be construed to limit the City's or its authorized representatives' right of access to records or other information, confidential or otherwise, under this Contract. Upon termination of this Contract, Contractor shall return to City all copies of materials related to the Project/Projects, including the Confidential Information.
- 8.4 The Public Information Act, Government Code Section 552.021, requires the City to make public information available to the public. Under Government Code Section 552.002(a), public information means information that is collected, assembled or maintained under a law or ordinance or in connection with the transaction of official business: 1) by a governmental body; or 2) for a governmental body and the governmental body owns the information or has a right of access to it. Therefore, if Contractor receives inquiries regarding documents within its possession pursuant to this Contract, Contractor shall within twenty-four (24) hours of receiving the requests forward such requests to City for disposition. If the requested information is confidential pursuant to State or Federal law, the Contractor shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days of Contractor's receipt of such request.
- 8.5 In accordance with Texas law, Contractor acknowledges and agrees that all local government records as defined in Chapter 201, Section 201.003 (8) of the Texas Local Government Code created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, Contractor agrees that no such local government records produced by or on the behalf of Contractor pursuant to this Contract shall be the subject of any copyright or proprietary claim by Contractor.
- Contractor acknowledges and agrees that all local government records, as described herein, produced in the course of the work required by this Contract, shall belong to and be the property of City and shall be made available to the City at any time. Contractor further agrees to turn over to City all such records upon termination of this Contract. Contractor agrees that it shall not, under any circumstances, release any records created during the course of performance of the Contract to any entity without the written permission of the Director of the Managing City Department, unless required to do so by a court of competent jurisdiction. The Managing City Department shall be notified of such request as set forth in Article VIII., section 8.3 of this Contract.
- 8.6 Ownership of Intellectual Property. Contractor and City agree that the Project/Projects shall be and remain the sole and exclusive proprietary property of City. The Project/Projects shall be deemed a "work for hire" within the meaning of the copyright laws of the United States, and ownership of the Project/Projects and all

rights therein shall be solely vested in City. Contractor hereby grants, sells, assigns, and conveys to City all rights in and to the Project/Projects and the tangible and intangible property rights relating to or arising out of the Project/Projects, including, without limitation, any and all copyright, patent and trade secret rights. All intellectual property rights including, without limitation, patent, copyright, trade secret, trademark, brand names, color schemes, designs, screens, displays, user interfaces, data structures, organization, sequences of operation, trade dress, and other proprietary rights (the "Intellectual Property Rights") in the Project/Projects shall be solely vested in City. Contractor agrees to execute all documents reasonably requested by City to perfect and establish City's right to the Intellectual Property Rights. In the event City shall be unable, after reasonable effort, to secure Contractor's signature on any documents relating to Intellectual Property Rights in the Project/Projects, including without limitation, any letters patent, copyright, or other protection relating to the Project/Projects, for any reason whatsoever, Contractor hereby irrevocably designates and appoints City and its duly authorized officers and agents as Contractor's agent and attorney-in-fact, to act for and in Contractor's behalf and stead to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright or other analogous protection thereon with the same legal force and effect as if executed by Contractor. Provided, however, nothing herein contained is intended nor shall it be construed to require Contractor to transfer any ownership interest in Contractor's best practice and benchmarking information to the City.

- 8.7 Within a period not to exceed [90 recommended] days from the termination date of the Contract, Contractor shall submit all final client and/or fiscal reports and all required deliverables to City. Contractor understands and agrees that in conjunction with the submission of the final report, the Contractor shall execute and deliver to City a receipt for all sums and a release of all claims against the Project/the Projects.
- 8.8 Contractor shall provide to the Managing City Department all information requested by the Managing City Department relating to the Contractor's Board functions. Information required for submission shall include but may not be limited to:
- (A) Roster of current Board Members (name, title, address, telephone number, fax number and e-mail address);
  - (B) Current Bylaws and Charter;
  - (C) Terms of Officers;
  - (D) Amendments to Bylaws;
  - (E) Schedule of anticipated board meetings for current Fiscal Year;
  - (F) Minutes of board meetings that are approved by the Contractor's board will become part of the Contractor's project records and as such, must be available to City staff, upon request; provided however, for contracts with the City that are in an amount of \$1,000,000.00 or greater, the Contractor shall submit to the City minutes of board meetings that are approved by the Contractor's Board on a quarterly basis.
  - (G) Board Agenda, to be submitted at least three (3) business days prior to each Board meeting.
- 8.9 Contractor agrees to comply with official records retention schedules in accordance with the Local Government Records Act of 1989 and any amendments thereto, referenced in section 12.3 of this Contract.

IX. INSURANCE

- 9.1 Contractor agrees to comply with the following insurance provisions:
- (A) Prior to the commencement of any work under this Contract, Contractor shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the Managing City Department, which shall be clearly labeled **[project/program name]** in the Description of Operations block of the Certificate. The original 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 original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and shall be mailed, transmitted or conveyed, 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 shall have been received and

approved by the Managing City Department. No officer or employee of the City, other than the City's Risk Manager, shall have authority to waive this requirement.

- (B) 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.
- (C) A Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and 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:

**[Types of coverages and amounts shall be determined by the City's Risk Manager based upon the Scope of Services submitted by the contractor]**

<u>Policy Types*</u>	<u>Amount</u>
1. Worker's Compensation	\$ _____
Employer's Liability	\$ _____
2. Commercial General Liability	\$ _____
	\$ _____
3. Crime Coverage theft, employee dishonesty	\$ _____
4. Business Auto	\$ _____
5. Professional Liability	\$ _____
6. Builder's Risk	\$ _____
7. Environmental Impact Liability	\$ _____

\*if applicable as determined by the City's Risk Manager

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

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

- (E) Contractor 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 and employers' liability policies will provide a waiver of subrogation in favor of the City.
  - Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.
- (F) Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor'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.
- (G) If Contractor fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the City may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the Contract; however, procuring of said insurance by the City is an alternative to other remedies the City may have, and is not the exclusive remedy for failure of Contractor to maintain said insurance or secure such endorsement. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- (H) Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Contract.
- (I) It is agreed that Contractor's insurance shall be deemed primary with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Contract.
- (J) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Contract.

## X. INDEMNITY

### 10.1 CONTRACTOR AGREES TO COMPLY WITH THE FOLLOWING INDEMNITY PROVISION:

**CONTRACTOR covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually 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 CONTRACTOR'S activities under this AGREEMENT, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, consultant or subcontractor**

of CONTRACTOR, and their respective officers, agents employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONTRACTOR AND CITY ARE FOUND JOINTLY LIABIE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPROTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNIFICAITON 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.

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

#### XI. SMALL, MINORITY OR WOMAN OWNED BUSINESS ADVOCACY POLICY

11.1 SBEDA Program. The City has adopted a Small Business Economic Development Advocacy Ordinance (the "SBEDA Program"), which is posted on the City's Economic Development Department website and is also available in hard copy form upon request to the City. In addition to the definitions provided in the SBEDA Program, the following definitions will apply pursuant to SBEDA Program requirements and this Contract:

- (A) SBEDA Enterprise ("SE") – A corporation, limited liability company, partnership, individual, sole proprietorship, joint stock company, joint venture, professional association or any other legal entity operated for profit that is properly licensed, as applicable, and otherwise authorized to do business in the state of Texas and certified pursuant to SBEDA Program requirements.
- (B) Commercially Useful Function – A function performed by an SE when it is responsible for supplying goods or for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether an SE is performing a Commercially Useful Function, the amount of work subcontracted, industry practices and other relevant factors shall be evaluated. Commercially Useful Function is measured for purposes of determining participation on a contract, not for determination of certification eligibility.
- (C) Conduit – An SE that knowingly agrees to pass the scope of work for which it is listed for participation, and is scheduled to perform or supply on the contract, to a non-SE firm. In this type of relationship, the SE has not performed a Commercially Useful Function and the arranged agreement between the two parties is not consistent with standard industry practice. This arrangement does not meet the Commercially Useful Function requirement and therefore the SE's participation does not count toward the SE utilization goal.
- (D) SBEDA Plan – The Good Faith Effort Plan ("GFEP"), SBEDA Narrative, List of Subcontractors/Suppliers and executed Letters of Intent (all as applicable) that are submitted with Contractor's bid for this project Contract, attached hereto and incorporated herein as "Attachment VI".

11.2 For this Contract, the Parties agree that:

- (A) The terms of the City's SBEDA Ordinance, as amended, together with all requirements and guidelines established under or pursuant to the Ordinance (collectively, the "SBEDA Program") are incorporated into this Contract by reference; and

- (B) The failure of Contractor or any applicable SE to comply with any provision of the SBEDA Program shall constitute a material breach of the SBEDA Program and this Contract.
  - (C) Failure of Contractor or any applicable SE to provide any documentation or written submissions required by the CITY Managing Department or SBEDA Program Office pursuant to the SBEDA Program, within the time period set forth by the SBEDA Program Office, shall constitute a material breach of the SBEDA Program and this Contract.
  - (D) During the term of this Contract, and any renewals thereof, any unjustified failure to utilize good faith efforts to meet, and maintain, the levels of SE participation identified in Contractor's SBEDA Plan ("Attachment VI") shall constitute a material breach of the SBEDA Program and this Contract.
  - (E) Contractor shall pay all suppliers and subcontractors identified in its SBEDA Plan ("Attachment VI") in a timely manner for satisfactory work, pursuant to and as outlined in Section VII, Paragraph F(2)(e) of the SBEDA Ordinance, as amended. Documentation of all billing and payment information applicable to SBEDA Plan suppliers and subcontractors shall be submitted by Contractor to the City's Managing Department. Failure to pay SEs in a timely manner or submit the required billing and payment documentation shall constitute a material breach of this Contract.
- 11.3 The Parties also agree that the following shall constitute a material breach of the SBEDA Program and this Contract:
- (A) Failure of Contractor to utilize an SE that was originally listed at bid opening or proposal submission to satisfy SBEDA Program goals in order to be awarded this Contract, or failing to allow such SE to perform a Commercially Useful Function; or
  - (B) Modification or elimination by Contractor of all or a portion of the scope of work attributable to an SE upon which the Contract was awarded; or
  - (C) Termination by Contractor of an SE originally utilized as a Subcontractor, Joint Venturer, Supplier, Manufacturer or Broker in order to be awarded the Contract without replacing such SE with another SE performing the same Commercially Useful Function and dollar amount, or without demonstrating each element of Modified Good Faith Efforts to do so; or
  - (D) Participation by Contractor in a Conduit relationship with an SE scheduled to perform work that is the subject of this Contract.
- 11.4 Remedies for Violation of SBEDA Program. The Parties further agree that in addition to any other remedies the City may have at law or in equity, or under this Contract for material breach, including the specified remedies available under the SBEDA Program for Alternative Construction Delivery Method, the City shall be entitled, at its election, to exercise any one or more of the following remedies if the Contractor materially breaches the requirements of the SBEDA Program:
- (A) Terminate this Contract for default;
  - (B) Suspend this Contract for default;
  - (C) Withhold all payments due to the Contractor under this Contract until such violation has been fully cured or the Parties have reached a mutually agreeable resolution; and/or
  - (D) Offset any amounts necessary to cure any material breach of the requirements of the SBEDA Program from any retainage being held by the City pursuant to the Contract, or from any other amounts due to the Contractor under the Contract.

- (E) **Suspension, Revocation or Modification of SE Certification:** The SBEDA Program Office may suspend or revoke an offending SE's eligibility for Certification, and may suspend its participation from counting toward a project goal, based upon such SE's acting as a Conduit, failing to comply with the provisions of the SBEDA Program, failing to perform a Commercially Useful Function on a project, failing to submit information as required by the SBEDA Program Office, submitting false, misleading or materially incomplete statements, documentation or records, or failing to cooperate in investigations. The SBEDA Program Office may further modify the list of areas for which an SE is certified, if the SE is routinely failing to submit bids or proposals for work in a particular area, or if it becomes apparent that the SE is not qualified to perform work in a particular area.
- 11.5 The Parties agree that nothing in the SBEDA Program or that any action or inaction by the SBEDA Program Office or the SBEDA Program Manager shall be deemed a representation or certification that an SE is qualified to perform work in a particular area for the purposes of this Contract.
- 11.6 **The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.**
- 11.7 **City Process For Exercising SBEDA Program Remedies.** The SBEDA Program Manager shall make all decisions regarding the suspension or revocation of an SE's certification as well as the duration of such suspension or revocation. The SBEDA Program Manager shall make a recommendation to the Managing Department Director regarding appropriate remedies for the City to exercise in the event a Contractor violates the SBEDA Program. The Managing Department Director shall make a recommendation regarding appropriate remedies to the City Manager or designee, who shall have final approval regarding the remedy to be exercised except for termination of the Contract. If the recommended remedy is to terminate the Contract, then the Managing Department Director or City Manager, or her designee, shall bring forward the recommendation to City Council for final determination.
- 11.8 **Special Provisions for Extension of Contracts.** In the event the City extends this Contract without a competitive Bid or Proposal process, the City Managing Department responsible for monitoring the Contract shall establish the following, subject to review and approval by the SBEDA Program Manager:
- (A) a SBEDA Utilization Goal for the extended period; and
  - (B) a modified version of the Good Faith Efforts ("Modified Good Faith Efforts Plan") set forth in the SBEDA Program Ordinance, as amended, if Contractor does not meet the SBEDA Utilization Goal; and
  - (C) the required minimum Good Faith Efforts outreach attempts that Contractor shall be required to document in attempting to meet the SBEDA Utilization Goal. The SBEDA Utilization Goal, Modified Good Faith Efforts Plan and the required number of minimum Good Faith Efforts outreach attempts shall be added into the Contract extension document. The Contractor entering into the extension shall either meet the SBEDA Utilization Goal or document that it has made the Good Faith Efforts to meet the SBEDA Utilization Goal. Failure to do so shall:
    - (i) subject Contractor to any of the remedies listed above; and/or
    - (ii) result in a new bid or proposal request of the Contract that was considered for extension.

## XII. APPLICABLE LAWS

- 12.1 The Contractor 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. Failure to comply with the above-referenced law and regulations could subject the Contractor to suspension of payments, termination of Contract, and debarment and suspension actions.

- 12.2 The Contractor understands that certain funds provided it pursuant to this Contract are funds which have been made available by the City's General Operating Budget and/or by Federal, State, or other granting entities. Consequently, Contractor agrees to comply with all laws, rules, regulations, policies, and procedures applicable to the funds received by Contractor hereunder as directed by the City or as required in this Contract. In addition Contractor shall comply with the following Office of Management and Budget (OMB) Circulars, as applicable to the funds received by Contractor hereunder:
- (A) OMB Circular A-21, entitled, "Cost Principles for Educational Institutions";
  - (B) OMB Circular A-87, entitled, "Cost Principles for State, Local and Indian Tribal Governments";
  - (C) OMB Circular A-102, entitled, "Grants and Cooperative Agreements with State and Local Governments";
  - (D) OMB Circular A-122, entitled, "Cost Principles for Non-Profit Organizations"; and
  - (E) OMB Circular A-133, entitled, "Audits of States, Local Governments, and Not for Profit Organizations".

- 12.3 All of the work performed under this Contract by Contractor shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Texas and with the charter, ordinances, bond ordinances, and rules and regulations of the City of San Antonio and County of Bexar. Additionally, Contractor shall comply with the following:

- Local Government Records Act of 1989 official record retention schedules found at <http://www.tsl.state.tx.us/slr/recordspubs/gr.html>
- Government Code Chapter 552 pertaining to Texas Public Information Act found at [www.capitol.state.tx.us/statutes/docs/GV/content/htm/gv.005.00.000552.00.htm](http://www.capitol.state.tx.us/statutes/docs/GV/content/htm/gv.005.00.000552.00.htm)  
**[REMOVE THE BULLET BELOW PERTAINING TO TEXAS LOCAL GOVERNMENT CODE CHAPTER 252 IF YOUR CONTRACT IS FUNDED BY STATE OR FEDERAL GRANTS THAT CONTAIN THEIR OWN PROCUREMENT REQUIREMENTS]**
- Texas Local Government Code Chapter 252 pertaining to purchasing and contracting authority of municipalities
- Texas Government Code Chapter 2254 pertaining to Professional and Consulting Services

The Texas Local Government Code can be found at  
<http://www.capitol.state.tx.us/statutes/go/go0055200toc.html>

In addition to the applicable laws referenced above, Contractor must also adhere to compliance requirements that are applicable to the specific funding source(s) from which funds paid to Contractor hereunder originated. For example, CDBG Contractors are required to follow applicable CDBG regulations.

- 12.4 Contractor shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation. Specifically, Contractor agrees to abide by all applicable provisions of San Antonio City ordinance number 69403 on file in the City Clerk's Office. Additionally, Contractor certifies that it will comply fully with the following nondiscrimination, minimum wage and equal opportunity provisions, including but not limited to:
- (A) Title 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; (Title 20 USC sections 1681-1688)
  - (E) Fair Labor Standards Act of 1938, as amended;
  - (F) Equal Pay Act of 1963, P.L. 88-38; and
  - (G) All applicable regulations implementing the above laws.

- 12.5 The Contractor warrants that any and all taxes that the Contractor may be obligated for, including but not limited to, Federal, State, and local taxes, fees, special assessments, Federal and State payroll and income

taxes, personal property, real estate, sales and franchise taxes, are current, and paid to the fullest extent liable as of the execution date of the Contract. The Contractor shall comply with all applicable local, State, and Federal laws including, but not limited to:

- (A) worker's compensation;
  - (B) unemployment insurance;
  - (C) timely deposits of payroll deductions;
  - (D) filing of Information on Tax Return form 990 or 990T, Quarterly Tax Return Form 941, W-2's Form 1099 on individuals who received compensation other than wages, such as car allowance, Forms 1099 and 1096 for contract or consultant work, non-employee compensation, etc;
  - (E) Occupational Safety and Health Act regulations; and
  - (F) Employee Retirement Income Security Act of 1974, P.L. 93-406.
- 12.6 Contractor agrees to comply with the Americans with Disabilities Act P.L. 101-336, enacted July 26, 1990, and all regulations thereunder.
- 12.7 In compliance with Texas Government Code Section 2264.053, Restrictions on Use of Certain Public Subsidies, if Contractor receives a public subsidy and is found to be in violation of 8 U.S.C. 1324a(f), Contractor shall repay all funds received under this Contract with interest in the amount of \_\_\_ percent (\_%). Such repayment shall be made within 120 days of Contractor receiving notice from the City of the violation. For the purposes of this section, a public subsidy is defined as a public program or public benefit or assistance of any type that is designed to stimulate the economic development of a corporation, industry or sector of the state's economy or to retain or create jobs in this state. This term includes grants, loans, loan guarantees, benefits relating to an enterprise or empowerment zone, fee waivers, land price subsidies, infrastructure development and improvements designed to principally benefit a single business or defined group of businesses, matching funds, tax refunds, tax rebates or tax abatements.
- 12.8 Contractor agrees to abide by any and all future amendments or additions to all laws, rules, regulations, policies and procedures pertinent to this Contract as they may be promulgated.
- 12.9 All expenditures by the Contractor or any of its subcontractors must be made in accordance with all applicable federal, state and local laws, rules and regulations. **[REMOVE THE FOLLOWING SENTENCE PERTAINING TO TEXAS LOCAL GOVERNMENT CODE CHAPTER 252 IF YOUR CONTRACT IS FUNDED BY STATE OR FEDERAL GRANTS THAT CONTAIN THEIR OWN PROCUREMENT REQUIREMENTS]** If using City of San Antonio General Funds, expenditures shall be made in accordance with all bidding requirements that City would be required to perform under Chapter 252 of the Texas Local Government Code.
- 12.10 Contractor shall submit to the Managing City Department on an annual basis form 990 or 990T.

### XIII. NO SOLICITATION/CONFLICT OF INTEREST

- 13.1 The Contractor warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this Contract upon a contract or understanding for a commission, percentage, brokerage, or contingent fee and further that no such understanding or agreement exists or has existed with any employee of the Contractor or the City. For breach or violation of this warrant, the City shall have the right to terminate this Contract without liability or, at its discretion, to deduct from the Contract or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or to seek such other remedies as legally may be available.
- 13.2 Contractor covenants that neither it nor any member of its governing body or of its staff presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. Contractor further covenants that in the performance of this Contract, no persons having such interest shall be employed or appointed as a member of its governing body or of its staff.

- 13.3 Contractor further covenants that no member of its governing body or of its staff shall possess any interest in, or use their position for, a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with which they have family, business, or other ties.
- 13.4 No member of City's governing body or of its staff who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this Contract shall:
- (A) Participate in any decision relating to this Contract which may affect his or her personal interest or the interest of any corporation, partnership, or association in which he or she has a direct or indirect interest; or
- (B) Have any direct or indirect interest in this Contract or the proceeds thereof.
- 13.5 Contractor acknowledges that it is informed that Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as City owned utilities. An officer or employee has "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: A City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is subcontractor on a City contract, a partner or a parent or subsidiary business entity.
- 13.6 Contractor warrants and certifies, and this Contract is made in reliance thereon, that neither the Contractor nor his or her spouse, parent, child, sibling or first-degree relative is a City officer or employee as defined by Section 2-52 (e) of the City Ethics Code. (If Contractor is a business entity, the Contractor representative further warrants and certifies that no City officer or employee nor any spouse, parent, child sibling or first-degree relative of a City officer or employee 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). Contractor further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

#### XIV. TERMINATION

- 14.1 Termination for Cause - Should the Contractor fail to fulfill, in a timely and proper manner, obligations under this Contract to include performance standards established by the City, or if the Contractor should violate any of the covenants, conditions, or stipulations of the Contract, the City shall thereupon have the right to terminate this Contract by sending written notice to the Contractor of such termination and specify the effective date thereof (which date shall not be sooner than the end of ten (10) days following the day on which such notice is sent). The Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed prior to such termination date. The question of satisfactory completion of such work shall be determined by the City alone, and its decision shall be final. It is further expressly understood and agreed by the parties that Contractor's performance upon which final payment is conditioned shall include, but not be limited to, the Contractor's complete and satisfactory performance, of its obligations for which final payment is sought.
- 14.2 Termination for Convenience - This Contract may be terminated in whole or in part when the City determines that continuation of the Project or Projects would not produce beneficial results commensurate with the further expenditure of funds. Such termination by City shall specify the date thereof, which date shall not be sooner than thirty (30) days following the day on which notice is sent. The Contractor shall also have the right to terminate this Contract and specify the date thereof, which date shall not be sooner than the end of thirty (30) days following the day on which notice is sent. The Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed prior to such termination

date. The question of satisfactory completion of such work shall be determined by the City alone, and its decision shall be final. It is further expressly understood and agreed by the parties that Contractor's performance upon which final payment is conditioned shall include, but not be limited to, the Contractor's complete and satisfactory performance of its obligations for which final payment is sought.

- 14.3 Notwithstanding any other remedy contained herein or provided by law, the City may delay, suspend, limit, or cancel funds, rights or privileges herein given the Contractor for failure to comply with the terms and provisions of this Contract. Specifically, at the sole option of the City, the Contractor may be placed on probation during which time the City may withhold reimbursements in cases where it determines that the Contractor is not in compliance with this Contract. The Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract, and the City may withhold funds otherwise due as damages, in addition to retaining and utilizing any other remedies available to the City.
- 14.4 Should the Contractor be debarred by City pursuant to a debarment policy currently existing or hereafter adopted, said debarment may within City's sole and absolute discretion, be grounds for termination for cause.

XV. PROHIBITION OF POLITICAL ACTIVITIES

- 15.1 Contractor agrees that no funds provided from or through the City shall be contributed or used to conduct political activities for the benefit of any candidate for elective public office, political party, organization or cause, whether partisan or non-partisan, nor shall the personnel involved in the administration of the Project provided for in this Contract be assigned to work for or on behalf of any partisan or non-partisan political activity.
- 15.2 Contractor agrees that no funds provided under this Contract may be used in any way to attempt to influence, in any manner, a member of Congress or any other State or local elected or appointed official.
- 15.3 The prohibitions set forth in Article XV., sections 15.1 and 15.2 of this Contract include, but are not limited to, the following:
  - (A) an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state or federal legislation;
  - (B) working or directing other personnel to work on any political activity during time paid for with City funds, including, but not limited to activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature;
  - (C) coercing personnel, whether directly or indirectly, to work on political activities on their personal time, including activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature; and
  - (D) using facilities or equipment paid for, in whole or in part with City funds for political purposes including physical facilities such as office space, office equipment or supplies, such as telephones, computers, fax machines, during and after regular business hours.
- 15.4 To ensure that the above policies are complied with, Contractor shall provide every member of its personnel paid out of City funds with a statement of the above prohibitions and have each said individual sign a statement acknowledging receipt of the policy. Such statement shall include a paragraph that directs any staff person who has knowledge of violations or feels that he or she has been pressured to violate the above policies to call and report the same to the Managing City Department. Contractor shall list the name and number of a contact person from the Managing City Department on the statement that Contractor's personnel can call to report said violations.

- 15.5 Contractor agrees that in any instance where an investigation of the above is ongoing or has been confirmed, reimbursements paid to the Contractor under this Contract may, at the City's discretion, be withheld until the situation is resolved.
- 15.6 This Article shall not be construed to prohibit any person from exercising his or her right to express his or her opinion or to limit any individual's right to vote. Further, Contractor and staff members are not prohibited from participating in political activities on their own volition, if done during time not paid for with City funds.

XVI. PERSONNEL MANAGEMENT

- 16.1 The Contractor agrees to establish internal procedures that assure employees of an established complaint and grievance policy. The grievance policy will include procedures to receive, investigate, and resolve complaints and grievances in an expeditious manner.
- 16.2 Contractor is permitted to pay its full time employees for the total number of holidays authorized by the City Council for City employees. If the Contractor elects to observe more than the total number of holidays authorized by the City Council for City employees, then such additional days are not eligible for reimbursement under this Contract.
- 16.3 Contractor agrees that the job titles and descriptions set forth in the budget (Attachment II) that affect a salary or range increase may not be changed without justification and prior written approval from the Director of the Managing City Department, as evidenced through a written amendment to this Contract approved by the Director of the Managing City Department.
- 16.4 Contractor agrees that all copies of written job descriptions will be filed in all individual personnel folders for each position in the organization.
- 16.5 The Contractor agrees to provide the City with the names and license registration of any employees of Contractor regulated by State law whose activities contribute towards, facilitate, or coordinate the performance of this Contract.
- 16.6 At the sole discretion of the Director of the Managing City Department, Contractor may be reimbursed by City for the cost of pay granted to full time, permanent employees that is not chargeable to annual or personal leave only for the reasons listed below:
  - (A) To attend annual training in a branch of the Armed Services, not to exceed fifteen (15) business days during the term of this Contract;
  - (B) To serve as a juror;
  - (C) To attend the funeral of someone in the immediate family. Immediate family shall include father, step-father, father-in-law, mother, step-mother, mother-in-law, sister, step-sister, brother, step-brother, spouse, child, and relative, if such relative is actually a member of the employee's household, if he or she was the legal guardian of the employee, or if the employee had legal guardianship of said relative. In such event, the Contractor may grant up to three (3) work days of leave with pay that is not chargeable to annual or personal leave; or
  - (D) To attend seminars or workshops;
- 16.7 Chief Executive Officers (CEOs), directors and other supervisory personnel of Contractor may not supervise a spouse, parents, children, brothers, sisters, and in-laws standing in the same relationship, (hereinafter referred to as "Relatives") who are involved in any capacity with program delivery supported through City funds. Relatives, however, may be co-workers in the same Project in a non-supervisory position.

## XVII. ADVERSARIAL PROCEEDINGS

- 17.1 Contractor agrees to comply with the following special provisions:
- (A) Under no circumstances will the funds received under this Contract be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the City or any other public entity; and
  - (B) Contractor, at the City's option, could be ineligible for consideration to receive any future funding while any adversarial proceedings against the City remains unresolved.

## XVIII. CITY-SUPPORTED PROJECT

- 18.1 Contractor shall publicly acknowledge that this Project is supported by the City as directed by the Managing City Department.

## XIX. EQUIPMENT

**[Use the paragraphs in this Article unless your specific funding source requires alternate provisions.]**

- 19.1 The City retains ownership of all equipment/property purchased with funds received through the City and such equipment/property shall, at the City's sole option, revert to the City at Contract's termination, for whatever reason. The Contractor agrees to relinquish and transfer possession of and, if applicable, title to said property without the requirement of a court order upon termination of this Contract. Equipment that has reverted to the Contractor through a City-paid lease agreement with option to buy will be considered the same as though the equipment was purchased outright with City funds. It is understood that the terms, "equipment" and "property", as used herein, shall include not only furniture and other durable property, but also vehicles.
- 19.2 Contractor agrees that no equipment purchased with City funds may be disposed of without receiving prior written approval from the Managing City Department. In cases of theft and/or loss of equipment, it is the responsibility of the Contractor to replace it with like equipment. City funds cannot be used to replace equipment in those instances. All replacement equipment will be treated in the same manner as equipment purchased with City funds.
- 19.3 Contractor shall maintain records on all items obtained with City funds to include:
- (A) A description of the equipment, including the model and serial number, if applicable;
  - (B) The date of acquisition, cost and procurement source, purchase order number, and vendor number;
  - (C) An indication of whether the equipment is new or used;
  - (D) The vendor's name (or transferred from);
  - (E) The location of the property;
  - (F) The property number shown on the property tag; and
  - (G) A list of disposed items and disposition
- 19.4 The Contractor is fully and solely responsible for the safeguarding, maintaining, and reporting of lost, stolen, missing, damaged, or destroyed equipment/property purchased or leased with City funds. All lost, stolen, missing, damaged and/or destroyed equipment/property shall be reported to the local Police Department and, if applicable, the Federal Bureau of Investigation (FBI). The Contractor shall make such reports immediately and shall notify and deliver a copy of the official report to the Managing City Department within seventy-two (72) hours from the date that Contractor discovers the lost, stolen, missing, damaged and/or destroyed equipment/property. The report submitted by the Contractor to the Managing City Department shall minimally include:
- (A) A reasonably complete description of the missing, damaged or destroyed articles of property, including the cost and serial number and other pertinent information;

- (B) A reasonably complete description of the circumstances surrounding the loss, theft, damage or destruction; and,
- (C) A copy of the official written police report or, should the Police not make such copy available, a summary of the report made to the Police, including the date the report was made and the name and badge number of the Police Officer who took the report.

- 19.5 All equipment purchased under this Contract shall be fully insured against fire, loss and theft.
- 19.6 The Contractor shall provide an annual inventory of assets purchased with funds received through the City to the Managing City Department.

## XX. TRAVEL

**[Use the paragraphs in this Article unless your specific funding source requires alternate provisions.]**

20.1 The costs associated with budgeted travel for business, either in-town or out-of-town, are allowable costs provided documentation of expenses is present.

- (A) Contractor agrees that mileage reimbursement paid to Contractor's employees shall be reimbursed at a rate no more liberal than the City's policy for mileage reimbursement, which is consistent with Internal Revenue Service (IRS) rules. Contractor further agrees that in order for its employees to be eligible for mileage reimbursement, the employees 1) shall be required to possess a valid Texas Driver's License and liability insurance as required by law, and 2) must record, on a daily basis, odometer readings before and after business use, showing total business miles driven each day and must keep such record in the vehicle. Mileage records are subject to spot-checks by the City. Contractor shall strongly encourage the participation by its employees in an approved defensive driving course. Evidence of the required driver's license and liability insurance must be kept on file with the Contractor.
- (B) Contractor agrees that in order to obtain reimbursement of the costs associated with budgeted out of town travel for business in connection with this Contract, Contractor shall 1) provide City with detailed documentation of such business travel expense(s), 2) ensure that any and all costs associated with out-of-town travel (including per diem rates) shall not be more liberal than the City's travel policies which conform with the reimbursement rates established by the United States General Services Administration, 3) purchase all business travel at economy class rates and shall document such and 4) submit support for conferences to include itineraries and documentation certifying conference attendance.

## XXI. NO USE OF FUNDS FOR RELIGIOUS ACTIVITIES

**[Use the paragraph in this Article unless your specific funding source requires alternate provisions.]**

21.1 Contractor agrees that none of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

## XXII. DEBARMENT

**[Use the paragraph in this Article if your specific funding source is federal.]**

22.1 Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

- 22.2 Contractor shall provide immediate written notice to City, in accordance with the notice requirements of Article XXVI herein, if, at any time during the term of the contract, including any renewals hereof, Contractor learns that its certification was erroneous when made or have become erroneous by reason of changed circumstances.

XXIII. ASSIGNMENT

- 23.1 Contractor shall not assign or transfer Contractor's interest in this Contract or any portion thereof without the written consent of the City Council of San Antonio, and if applicable, the Grantor of the grant source. Any attempt to transfer, pledge or otherwise assign shall be void ab initio and shall confer no rights upon any third person or party.

XXIV. AMENDMENT

- 24.1 Any alterations, additions or deletions to the terms hereof shall be by amendment in writing executed by both City and Contractor and evidenced by passage of a subsequent City ordinance, as to City's approval; provided, however, the Director of the Managing City Department shall have the authority to execute an amendment of this Contract without the necessity of seeking any further approval by the City Council of the City of San Antonio, if permitted by all applicable local, state and federal laws, and in the following circumstances:

A. an increase in funding of this Contract in an amount not exceeding (a) twenty-five percent (25%) of the total amount of this Contract or (b) \$25,000.00, whichever is the lesser amount; provided, however, that the cumulative total of all amendments executed without City Council approval pursuant to this subsection and increasing Contract funding during the term of this Contract shall not exceed the foregoing amount;

**[Use the appropriate terminology used by your department when describing the highlighted documents]**

B. modifications to the performance measures document set forth in Attachment I hereto, so long as 1) the terms of the amendment stay within the parameters set forth in the (statement of work document), also set forth in Attachment I hereto;

C. budget line item shifts of funds, so long as the total dollar amount of the budget set forth in section 3.1 of this Contract remains unchanged; provided, however, that budget line item shifts of funds related to personnel services cannot exceed the total dollar amount allocated to personnel services set forth in the budget (Attachment II) of this Contract;

D. modifications to the insurance provisions described in Article IX of this Contract that receive the prior written approval of the City of San Antonio's Risk Manager and the Director of the Managing City Department.

**[Use Section 24.1(E) below if this Contract involves the Consolidated Human Development Services Funding Pool and Human Development Services Funds of City Council.]**

E. modifications to Article III herein to reduce the total amount of reimbursement that shall be made to the Contractor by City, and to amend the budget accordingly which is set forth in Attachment II hereto, in the event that Contractor does not meet the requirements set forth in Article I Overview of the Funding Guide, which is set forth in Attachment III hereto. Contractor shall execute any and all amendments to this Contract that are required as a result of a modification made pursuant to this Section 24.1(E).

XXV. SUBCONTRACTING

**[Use section 25.1 of this Contract if grant funded. For those contracts that the Managing City Department wants the Contractor to receive consent from the Managing City Department prior to the Contractor's issuance of a subcontract, please state such requirement in the special provision section of the Contract (section 3.2 of the Contract)].**

- 25.1 None of the work or services covered by this Contract shall be sub-contracted without the prior written consent of the Grantor of the grant source, if so required by said Grantor.
- 25.2 Contractor must comply with all applicable local, State and Federal procurement standards, rules, regulations and laws in all its sub-contracts related to the work or funds herein. It is further agreed by the parties hereto that the City has the authority to monitor, audit, examine, and make copies and transcripts of all sub-contracts, as often as deemed appropriate by the City. If, in the sole determination of the City, it is found that all applicable local, State and Federal procurement standards, rules, regulations and laws have not been met by Contractor with respect to any of its sub-contracts, then the Contractor will be deemed to be in default of this Contract, and as such, this Contract will be subject to termination in accordance with the provisions hereof.
- 25.3 Any work or services for sub-contracting hereunder, shall be sub-contracted only by written Contract, and unless specific waiver is granted in writing by City, shall be subject by its terms to each and every provision of this Contract. Compliance by sub-contractors with this Contract shall be the responsibility of Contractor. Contractor agrees that payment for services of any sub-contractor shall be submitted through Contractor, and Contractor shall be responsible for all payments to sub-contractors.
- 25.4 Contractor certifies that its subcontractors are not presently debarred, suspended or proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

XXVI. OFFICIAL COMMUNICATIONS

- 26.1 For purposes of this Contract, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

City:

Director

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

Contractor:

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

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

XXVII. VENUE

- 27.1 Contractor and City agree that this Contract shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Bexar County, Texas. Any action or proceeding brought to enforce the terms of this Contract or adjudicate any dispute arising out of this Contract shall be brought in a court of competent jurisdiction in San Antonio, Bexar County, Texas. Venue and jurisdiction arising under or in connection with this Contract shall lie exclusively in Bexar, County, Texas.

XXVIII. GENDER

- 28.1 Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

**XXIX. AUTHORITY**

- 29.1 The signer of this Contract for Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Contract on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained. Contractor shall provide evidence to City upon execution of this Contract that it is currently operating as a non-profit entity with a current Internal Revenue Code section 501(c)(3) status, or a for-profit entity governed by an autonomous governing body, acting in accordance with the governing instruments submitted to the City in the application for funding. Whether a non-profit or for-profit entity, Contractor must be authorized to do business in the State of Texas and be formed under and operating in accordance with all applicable laws of the State of Texas. Contractor shall provide Managing City Department verification of the foregoing requirements no later than the execution date of this Contract.

**XXX. LICENSES AND TRAINING**

- 30.1 Contractor warrants and certifies that Contractor's employees and its subcontractors have the requisite training, license or certification to provide said services, and meet all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

**XXXI. INDEPENDENT CONTRACTOR**

- 31.1 It is expressly understood and agreed that the Contractor is and shall be deemed to be an independent contractor, responsible for its respective acts or omissions and that the City shall in no way be responsible therefore, and that neither party hereto has authority to bind the other nor to hold out to third parties that it has the authority to bind the other.
- 31.2 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.
- 31.3 Any and all of the employees of the Contractor, wherever located, while engaged in the performance of any work required by the City under this Contract shall be considered employees of the Contractor only, and not of the City, and any and all claims that may arise from the Workers' Compensation Act on behalf of said employees while so engaged shall be the sole obligation and responsibility of the Contractor.

**XXXII. SEVERABILITY**

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

XXXIII. CONTRIBUTION PROHIBITIONS

The provisions of Article XXXIII shall apply to all contracts considered "high risk" as that term is defined in the City of San Antonio Contracting Policy and Process Manual.

- 33.1 Contractor acknowledges that City Code Section 2-309 provides that any person acting as a legal signatory for a proposed contractual relationship that applies for a "high-risk" discretionary contract, as defined by the City of San Antonio Contracting Policy and Process Manual, may not make a campaign contribution to any councilmember or candidate at any time from the time the person submits the response to the Request for Proposal (RFP) or Request for Qualifications (RFQ) until 30 Calendar days following the contract award. Contractor understands that if the legal signatory entering the Contract has made such a contribution, the City may not award the Contract to that contributor or to that contributor's business entity. Any legal signatory for a proposed high-risk contract must be identified within the response to the RFP or RFQ, if the identity of the signatory will be different from the individual submitting the response
- 33.2 Contractor acknowledges that the City has identified this Contract as high risk.
- 33.3 Contractor warrants and certifies, and this Contract is made in reliance thereon, that the individual signing this Contract has not made any contributions in violation of City Code section 2-309, and will not do so for 30 calendar days following the award of this Contract. Should the signor of this Contract violate this provision, the City Council may, in its discretion, declare the Contract void.

XXXIV. ENTIRE CONTRACT

- 34.1 This Contract and its attachments, if any, constitute the entire and integrated Contract between the parties hereto and contain all of the terms and conditions agreed upon, and supersede all prior negotiations, representations, or contracts, either oral or written.

In witness of which this Contract has been executed effective the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**CITY OF SAN ANTONIO:**

**CONTRACTING AGENCY:**

\_\_\_\_\_  
Director  
Department of \_\_\_\_\_

\_\_\_\_\_  
(enter name of agency)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
San Antonio, TX (zip code)

APPROVED BY:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Board President (if required by Agency)

APPROVED AS TO FORM:

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

ATTACHMENTS

Attachment I – Scope of Work

Attachment II – Budget

Attachment III – Funding Guide/Special Provisions **[Please choose one of the former, as applicable]**

Attachment IV – Grantor Contract **[include if applicable and referenced in the Contract]**

Attachment V – Report **[include if applicable and referenced in the Contract]**

Attachment VI – SBEDA Plan

Contract # 460000\_\_\_\_\_

STATE OF TEXAS

§ AFTER SCHOOL CHALLENGE PROGRAM  
 § INTERLOCAL AGREEMENT  
 COUNTY OF BEXAR § BETWEEN CITY OF SAN ANTONIO  
 AND  
 INDEPENDENT SCHOOL DISTRICT

This agreement ("Agreement") is entered into by and between the CITY OF SAN ANTONIO, a Texas Municipal Corporation, (hereinafter called "**City**"), acting by and through its Director of the Department of Community Initiatives pursuant to Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_ and the INDEPENDENT SCHOOL DISTRICT, a political subdivision of the State of Texas, acting by and through its Board of Trustees, hereto duly authorized, (hereinafter called "**District**").

**WHEREAS**, both parties to this Agreement are political subdivisions of the State of Texas, and desire to enter into this Agreement in accordance with the provisions of the Interlocal Cooperation Act, being Chapter 791 of the Texas Government Code; and

**WHEREAS**, the City and District wish to collaborate to provide recreational and educational opportunities for children in the community during after school hours (hereinafter referred to as the "After School Challenge Program"); and

**WHEREAS**, the District owns various educational facilities which are available for use for approved activities during after school hours; and

**WHEREAS**, City desires to provide funding to District in order for District to conduct the After School Challenge Program for children at its various educational facilities; and

**WHEREAS**, the City and the District have come to an agreement regarding mutually advantageous terms for the District to manage and operate the After School Challenge Program, and both desire that such agreement be memorialized herein; and

**NOW, THEREFORE**, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**Section 1: Term**

This Agreement shall commence on October 1, 2008 and shall terminate on September 30, 2009.

**Section 2: Program Operation**

- A. City and District agree that District shall manage and operate the After School Challenge Program for after school recreation, enrichment, and education for students enrolled in District's schools. District may subcontract the operation of the After School Challenge

Program at a particular District school site to an agency meeting the legal and programmatic qualifications necessary to operate the After School Challenge Program (such agency is hereinafter referred to as a "Provider"), subject to the City's prior written approval as set forth in Section 10 of this Agreement.

- B. District and any approved Providers shall operate the After School Challenge Program in accordance with the Standards approved by the District which comply with the State of Texas Department of Family and Protective Services requirements for operations of after-school programs by a school district.
- C. The District shall provide the following to children during the After School Challenge Program:
  - 1.) An hour daily combined homework assistance and tutoring
  - 2.) Educationally based activities; and
  - 3.) A nutritious snack
- D. District and any City approved Provider(s) shall continue to support a plan for, and implement, a quality initiative program with a focus on improving math and science knowledge and skills for those participants of the After School Challenge Program. District and approved Provider(s) shall submit the plan for implementation of the quality initiative program to the City for its review and approval. Performance measures shall be established to support the successful implementation of an approved quality initiative program plan, and District and approved Providers shall be obligated to implement the quality initiative program by providing services such that the goals of the performance measures are achieved. The District agrees to require that each Provider comply with this clause by including the obligations set forth in this Section 2.D. in every Provider subcontract. District understands that the total contract amount set forth in Section 3.A. includes a budget allocation of \$24,500.00 for the math and science quality initiative program and District agrees to dedicate that amount towards the implementation of the quality initiative program.
- E. The District's After School Challenge Program shall be open to only those students enrolled at District's schools during the 2008-2009 school year. District shall offer and operate the After School Challenge Program at no fewer than X campuses and shall maintain a minimum enrollment of X children.
- F. District shall start operation of The After School Challenge Program no earlier than the first day of school and operate at a minimum of X days from the time of school dismissal until X each regular school day until the end of the term of this Agreement. Program expenses incurred beyond the authorized term or hours set forth in this Agreement shall be the sole responsibility of the District.
- G. The District is not required to provide After School Challenge Program activities on early release days.
- H. City intends to develop age appropriate financial literacy training for children participating in District's After School Challenge Program. District shall permit City to offer financial literacy training at District's campuses at mutually agreed upon date(s) and time(s).

**Section 3: Consideration**

- A. Subject to Sections 4.A. and B. herein, City will reimburse District in an amount not to exceed \$Awarded Amount for those costs incurred in operating the After School Challenge Program in accordance with the budget approved by the City. A program budget and related detailed line item budget for said After School Challenge Program, reviewed and approved by City, is attached hereto and incorporated herein for all purposes as **Attachment II**. If District subcontracts the performance of work pursuant to this Agreement, then a line item budget by each approved Provider, which in the aggregate totals the District budget for After School Challenge Program services under this Agreement, must also be submitted to City. District may rebalance funding allocations to approved Providers for services in the District as necessary.
- B. THIS SECTION INTENTIONALLY LEFT BLANK
- C. It is expressly understood and agreed by the City and District that the City's obligations under this Agreement are contingent upon the appropriation of adequate funds to meet City's liabilities hereunder. In the event such funds are not appropriated in part or in whole by City, then District understands and agrees that the City may terminate this Agreement, and it shall be of no further force or effect.

**Section 4: Payment**

- A. Invoices for reimbursement must be submitted to City on a monthly basis and no later than the 30<sup>th</sup> calendar day of each month, in the month after the period for which reimbursement of an expense is being requested. City shall reimburse the District for allowable costs within 30 days of City's receipt of invoice.
- B. Additionally, District shall reimburse all Providers and subcontractors within 30 days of receipt of invoice. District shall withhold payment for those invoice items with partial or no supporting documentation. District and City agree to reimburse Providers and subcontractors 100% of workers compensation costs related to individuals contributing 100% of his or her time and effort to the After School Challenge Program. Workers compensation costs related to other individuals contributing less than 100% of his or her time and effort will be reimbursed on a prorated basis supported by time and effort reports or other documentation mutually agreed upon by District and Provider.
- C. District shall maintain a minimum Average Daily Attendance of X participants or X% of the contracted enrollment in the After School Challenge Program each month in order to receive reimbursement of related costs from the City.

**Section 5: Program Site, Supplies, and Maintenance**

- A. District shall provide educational facilities for the After School Challenge Program, adequate in size for all of the Program participants and activities to be provided at each campus (the combined facilities utilized for the After School Challenge Program at each campus is hereinafter referred to as "Program Site" and the Program Sites are collectively referred to as "Program Sites"). The Program Sites may include a combination of classrooms, cafeteria, lab rooms, or libraries. If District intends to utilize other educational facilities within a campus, the District must obtain the City's approval prior to implementation into the Program. The District shall also reserve and keep secure space for the storage of the Program funded

equipment as is appropriate and necessary for the number of Program participants at each Program Site.

- B. Program Sites for the After School Challenge Program shall be located at District campuses only.
- C. District shall provide supplies as necessary so as to facilitate the provision of recreational and educational activities for the After School Challenge Program.
- D. The District shall provide utilities and custodial services at all Program Sites.

**Section 6: Program Participation**

- A. Participation in the After School Challenge Program shall be open to all of District's students attending the Program Site where said Program is offered. At a minimum, students must be in kindergarten and must be 5 years old, as of September 1<sup>st</sup> of the school year covered by this Agreement in order to enroll. However, enrollment of 5 year olds may be limited depending on licensing requirements.
- B. The maximum number of participants in the After School Challenge Program shall only be limited by the District in the event that appropriate staffing and space cannot be provided.
- C. The District shall not restrict registration at Program Sites other than as outlined in this Agreement.
- D. District shall implement a process for collecting the fees required for participation in the Program in accordance with the City's adopted sliding fee scale, and provide necessary staffing to collect and safeguard all such collected funds. At the sole option of the Director of the Department of Community Initiatives (hereinafter referred to as the "Director"), District shall either (a) be required to turn over collected fees to the Department of Community Initiatives within 30 days of receipt, or (b) upon prior written approval by the Director, District may be permitted to retain such funds to be (A) added to the District's After School Challenge Program Budget, in which case proposed expenditures must first be approved by the City; or (B) deducted from the total amount authorized to be reimbursed under the Agreement for the purpose of determining the net reimbursable amount.

**Section 7: Program Staff**

- A. The District shall provide at least one professional educator (hereinafter referred to as "Site Facilitator") as part of District's staff at each Program Site. Each Site Facilitator shall be the liaison between the Program and the District and shall have oversight responsibility at the Program Site to which he or she is assigned.
- B. District, through its Site Facilitator for each Program Site, shall monitor on a daily basis Program participant attendance and staffing to ensure that District's participant to staff ratio shall always be maintained at a maximum ratio of 25:1.
- C. All District employees that are employed to satisfy the 25:1 ratio of participants to staff in the After School Challenge Program, shall remain with the participants at all times, and must be free of non-After School Challenge Program related duties (e.g., custodial duties) during After School Challenge Program hours of operation. Accordingly, Site Facilitators shall not be assigned to serve as staff assigned to provide direct child care. All employees acting as

staff of the District's After School Challenge Program shall be under the direct supervision of the Site Facilitator for the Program Site and, ultimately the District during the After School Challenge Program hours of operation.

- D. The District shall be responsible for assessing the number of the District's participants with special needs and for employing staff qualified to assist special needs participants. Staff members provided by District to assist special needs participants shall be in addition to the staff required to maintain the 25:1 participant to staff ratio.

**Section 8: Snack Component**

- A. The District shall be responsible for providing snacks, in cooperation with the United States Department of Agriculture (USDA) free snack program, at each District campus that qualifies for the free snack program and is being used as Program Sites for the After School Challenge Program. Expired foods and those lacking nutritional value shall not be served to Program participants.
- B. The District shall be responsible for ensuring that the After School Challenge Program staff serve the snack in accordance with USDA guidelines.

**Section 9: Program Evaluation and Record Keeping Requirements**

- A. District agrees to maintain full and accurate records regarding: the number of participants attending each Program Site to include the activities planned and provided to the participants; the number of hours worked by the staff; the staff involved; attendance records for participants; improvement in grades or testing by participants and all other pertinent information regarding the Program.
- B. The Department of Community Initiatives is assigned monitoring, fiscal control, and evaluation of projects such as the After School Challenge Program. Therefore, at such times and in such form as may be required by the Department of Community Initiatives, the District shall furnish to the Department of Community Initiatives, such statements, records, data, policies, procedures, and information and permit the City to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement.
- C. District shall submit to the Department of Community Initiatives such reports as may be required by the City, including the Contract Monitoring Report (CMR) and the Results Based Accountability Report no later than the 8<sup>th</sup> business day of each month detailing pertinent participant information by Program Site. The Contract Monitoring Report and the Results Based Accountability Report are attached hereto and incorporated herein as **Attachments IV and V**. District ensures that all information contained in all required reports submitted to City is accurate. The Balanced Scorecard Performance Plan, reviewed and approved by City, is attached hereto and incorporated herein as **Attachment I**. If District subcontracts the performance of work pursuant to this Agreement, then measures by each approved Provider, which in the aggregate totals the District measures for After School Challenge Program services under this Agreement, must also be submitted to City

- D. The Public Information Act, Government Code Section 552.021, requires the City to make public information available to the public. Under Government Code Section 552.002(a), public information means information that is collected, assembled or maintained under a law or ordinance or in connection with the transaction of official business: 1) by a governmental body; or 2) for a governmental body and the governmental body owns the information or has a right of access to it. Therefore, if District receives inquiries regarding documents within its possession pursuant to this Agreement, District shall within twenty-four (24) hours of receiving the requests forward such requests to City for disposition. If the requested information is confidential pursuant to State or Federal law, the District shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days of District's receipt of such request.
- E. In accordance with Texas law, District acknowledges and agrees that all local government records as defined in Chapter 201, Section 201.003 (8) of the Texas Local Government Code created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, District agrees that no such local government records produced by or on the behalf of District pursuant to this Agreement shall be the subject of any copyright or proprietary claim by District.
- F. District acknowledges and agrees that all local government records, as described herein, produced in the course of the work required by this Agreement, shall belong to and be the property of City and shall be made available to the City at any time. District further agrees to turn over to City all such records upon termination of this Agreement. District agrees that it shall not, under any circumstances, release any records created during the course of performance of the Agreement to any entity without the written permission of the Director of the Department of Community Initiatives, unless required to do so by a court of competent jurisdiction.

**Section 10: Sub-Contracting and Assignment**

- A. Any other clause of this Agreement to the contrary notwithstanding, none of the work or services covered by this Agreement shall be assigned without the prior written approval of City.
- B. Any other clause of this Agreement to the contrary notwithstanding, none of the work or services covered by this Agreement shall be sub-contracted without the prior written approval of City. Any work or services approved for sub-contracting hereunder, however, shall be sub-contracted only by written agreement and, unless specific waiver is granted in writing by City, shall be subject by its terms to each and every provision of this Agreement. Compliance by sub-contractors or Providers with this Agreement shall be the responsibility of District. District agrees that payment for services of any sub-contractor or Provider shall be submitted to District and District alone, and District shall be responsible for all payments to sub-contractors or Providers.

**Section 11: Relationship of Parties**

- A. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between the parties hereto.
- B. This Agreement inures to the benefit of and obligates only the parties executing it. No term or provision of this Agreement shall benefit or obligate any person or entity not party to it. The parties hereto shall cooperate fully in opposing any attempt by any third person or entity to claim any benefit, protection, release or other consideration under this Agreement.

**Section 12: Indemnity**

District and the City acknowledge they are political subdivisions of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

**Section 13: Insurance**

District and the City each maintain a self-insurance fund for general liability and worker's compensation claims and causes of action to meet their statutory obligations to each party's employees.

**Section 14: Termination**

Should the District fail to fulfill, in a timely and proper manner, obligations under this Agreement to include performance standards established by the City, or if the District should violate any of the covenants, conditions, or stipulations of the Agreement, the City shall thereupon have the right to terminate this Agreement by sending written notice to the District of such termination and specify the effective date thereof. Prior to termination, the City shall provide written notice of the unsatisfactory performance, violations or areas of non-compliance, and an opportunity to cure within 10 days after District receipt of the City's notice. However, in cases where the health, safety and welfare of one or more children is at risk as a consequence of District's unsatisfactory performance, violation or area of non-compliance, then the City may suspend District's After School Challenge Program and/or require that the District immediately act to cure the deficiency and District hereby waives all right to receive 10 days written notice. The question of satisfactory completion of such work or curing of violations or areas of non-compliance shall be determined by the City alone, and its decision shall be final. The District shall be entitled to receive just and equitable compensation for any work satisfactorily completed prior to such termination date. It is further expressly understood and agreed by the parties that District's performance upon which final payment is conditioned shall include, but not be limited to, the District's complete and satisfactory performance, of its obligations for which final payment is sought.

**Section 15: Notices**

Notices to City required or appropriate under this Agreement shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, and addressed to:

City of San Antonio  
Department of Community Initiatives  
After School Challenge Program  
P.O. Box 839966  
San Antonio, Texas 78283-3966

or to such other address on file with the District as City may provide from time to time in writing to the District. Notices to District shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, and addressed to District at:

Independent School District  
Superintendent  
Address  
San Antonio, TX Zip Code

or to such other address on file with the City Clerk as District may provide from time to time in writing to City.

**Section 16: Approval of the City**

Whenever this Agreement calls for approval by City, unless otherwise explained herein, such approval shall be evidenced by the written approval of the City's Director of the Department of Community Initiatives or his designee, unless City Council approval is required.

**Section 17: Entire Agreement; Amendments**

- A. This Agreement, together with the authorizing ordinance or ordinances, in writing, constitutes the entire agreement, with any other written or parol agreement with District being expressly waived by District.
- B. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed and agreed to by all the parties hereto. District also understands that the Charter of the City requires that all contracts with the City and amendments thereto be in writing and approved by an ordinance; provided, however, the Director of the Department of Community Initiatives shall have the authority to execute an amendment of this Agreement without the necessity of seeking any further approval by the City Council of the City, if permitted by all applicable local, state, and federal laws, and in the following circumstances:
  - 1. an increase in funding of this Agreement in an amount not exceeding (a) twenty-five percent (25%) of the total amount of this Agreement or (b) \$25,000, whichever is the lesser amount; provided, however, that the cumulative total of all amendments increasing

Agreement funding during the term of this Agreement and executed without City Council approval shall not exceed the foregoing amount;

- 2. modifications to the scope of services, so long as the terms of the amendment stay within the parameters set forth in Section 2 of this Agreement.
- 3. budget line item shifts of funds, so long as the total dollar amount of the budget set forth in Section 3.A. of this Agreement remains unchanged; provided, however, that budget line item shifts of funds related to personnel services cannot exceed the total dollar amount allocated to personnel services set forth in the budget (**Attachment II**) of this Agreement;
- 4. modifications to Section 3 herein to reduce the total amount of reimbursement that shall be made to the District by City, and to amend the budget accordingly which is set forth in **Attachment II** hereto, in the event that District does not meet the requirements set forth in Article I Overview of the Funding Guide, which is set forth in **Attachment III** hereto. District shall execute any and all amendments to this Agreement that are required as a result of a modification made pursuant to this Section 17.B.4.

**Section 18: Authority**

Each of the signers of this Agreement hereby represents and warrants that they each have the authority to execute this Agreement on behalf of their respective governing entities

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**CITY OF SAN ANTONIO,  
a Texas Municipal Corporation**

**INDEPENDENT SCHOOL DISTRICT**

By: \_\_\_\_\_  
Dennis J. Campa, Director  
Department of Community Initiatives

By: \_\_\_\_\_  
Superintendent

**Approved as to Form:**

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

**ATTACHMENTS**

- Attachment I – Executive Summary and Balanced Scorecard Performance Plan
- Attachment II – Budget
- Attachment III – Funding Guide
- Attachment IV – Contract Monitoring Report
- Attachment V – Results Based Accountability Report

**DRAFT**  
MEMORANDUM OF AGREEMENT BETWEEN  
THE CITY OF SAN ANTONIO  
AND  
SAN ANTONIO HOUSING AUTHORITY

This Memorandum of Agreement is entered into by and between the City of San Antonio, (hereinafter referred to as the CITY), a Texas municipal corporation, acting by and through its Director of Community Initiatives as authorized by City Council on \_\_\_\_\_, pursuant to Ordinance No. \_\_\_\_\_, and the San Antonio Housing Authority (hereinafter referred to as the SAHA).

WHEREAS the CITY, and the SAHA (hereinafter referred to as "the Parties") are dedicated to providing housing assistance to low-income residents; and

WHEREAS each of the Parties wish to promote the public purpose of providing a community safety net for individuals in need of permanent housing assistance;

NOW THEREFORE:

IT IS HEREBY AGREED that the Parties participate in the Rapid Re- Housing Program (RRH) project. Such participation shall be defined in accordance with the following parameters and limitations:

1. TERM.

This MEMORANDUM OF AGREEMENT shall commence on October 1, 2008 and shall terminate on September 30, 2009 unless earlier termination or extension shall occur pursuant to any provision hereof.

2. CONSIDERATION.

City agrees to pay SAHA \$8,544 per month for 16 units (\$534 per unit) for 16 families participating in the Rapid Re-Housing Program. This payment includes **maintenance costs** for make-ready and operation of said 16 units as well as **utility costs** of said 16 units.

SAHA understands that funds provided pursuant to this Agreement are funds which have been made available to the City by the U.S. Department of Housing and Urban Development through the Supportive Housing Program and that it will, therefore, comply with all rules, regulations, policies, and procedures applicable to these funds. This section shall also incorporate and the Contractor agrees to abide by any and all future amendments or additions to such rules and regulations as they may be promulgated.

3. PROGRAM GUIDELINES.

The intent of the project is to provide permanent housing assistance to eligible San

Antonio families as determined by the City's Supportive Housing Program staff.

**4. SCOPE OF WORK.**

SAHA agrees to provide the following:

- a) 16 apartment units either two-bedrooms (995 square feet) or town homes (1,134 square feet)
- b) Lease 16 apartment units to each Rapid Re- Housing Program tenant
- c) Include a clause in each Rapid Re- Housing Program tenant lease that has the tenant indemnifying the City
- d) Notify and involve City prior to taking legal action against Rapid Re- Housing Program tenants regarding eviction or other violations
- e) Provide make-ready on apartments each time a RRH tenant moves out, in order to prepare for the new RRH tenant
- f) Provide routine maintenance and repairs to apartment units
- g) Invoice the City for the 16 RRH units on a monthly basis

City agrees to provide the following:

- a) A list of tenants to be provided housing through the Rapid Re- Housing Program
- b) \$534 per month per unit for up to 16 units that contain Rapid Re- Housing Program tenants
- c) Provide RRH services to all RRH tenants
- d) Intervene and assist in mediation/resolution of RRH tenant violations prior to eviction

**5. CONFIDENTIAL INFORMATION**

The PARTIES agree to maintain the confidentiality of any record directly related to or generated as a result of this agreement in accordance with all Local, State, and Federal Laws. AGENCY understand that work provided through this agreement is subject to the Public Information Act, Government Code Section 552.021. Therefore, if AGENCY receives inquiries regarding documents within its possession pursuant to this agreement, AGENCY shall within twenty-four (24) hours of receiving the request forward such requests to CITY for disposition.

**6. INDEMNITY**

**AGENCY AGREES TO COMPLY WITH THE FOLLOWING INDEMNITY PROVISION:**

**(A) AGENCY covenants and agrees to FULLY INDEMNIFY, and HOLD**

**HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers, and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to AGENCY's activities under this Contract, including any acts or omissions of AGENCY, any agent, officer, director, representative, employee, consultant or subcontractor of AGENCY, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Contract, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS CONTRACT. 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. AGENCY shall promptly advise the CITY in writing of any claim or demand against the CITY or AGENCY known to AGENCY related to or arising out of AGENCY's activities under this Contract and shall see to the investigation of and defense of such claim or demand at AGENCY's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving AGENCY of any of its obligations under this paragraph.**

- (B) It is the EXPRESS INTENT of the parties to this Contract, that the INDEMNITY provided for in this Article is an INDEMNITY extended by AGENCY to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this Article SHALL APPLY only when the NEGLIGENT ACT of the CITY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the CITY is the sole cause of the resultant injury, death, or damage. AGENCY further AGREES TO DEFEND, AT ITS OWN EXPENSE, and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.**

7. TERMINATION BY NOTICE

This MEMORANDUM OF AGREEMENT 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) calendar days nor more than ninety (90) calendar 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) calendar days after receipt of the notice by the other party.

8. TERMINATION FOR CAUSE

Should either party default in the performance of any of the terms or conditions of this MEMORANDUM OF AGREEMENT, the other party shall deliver to the defaulting party written notice thereof specifying the matters on default. The defaulting party shall have ten (10) calendar 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, this MEMORANDUM OF AGREEMENT shall terminate at 11:59 p.m. on the tenth day after the receipt of the notice by the defaulting party.

9. TERMINATION BY LAW

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

10. CONFLICT OF INTEREST

10.1 AGENCY acknowledges that it is informed that the Charter of the CITY of San Antonio and its Ethics Code prohibit a City Officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with the CITY or any CITY Agency such as CITY owned utilities. An officer or employee has "prohibited financial interest" in a contract with the CITY or in the sale to the CITY of land, materials, supplies or service, if any of the following individuals or entities is 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 this 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 Contractor warrants and certifies, and this Contract is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the CITY. Contractor further warrants and certifies that it has

tendered to the CITY a Discretionary Contracts Disclosure Statement in compliance with the CITY's Ethics Code.

11. NOTICES

For purposes of this agreement, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

City of San Antonio  
Department of Community Initiatives  
Community Action Division  
115 Plaza de Armas Ste. 210  
San Antonio, TX 78205

SAHA  
ADDRESS

12. AMENDMENT

Except where the terms of this MEMORANDUM OF AGREEMENT expressly provide otherwise, any amendment to this MEMORANDUM OF AGREEMENT shall not be binding on the parties unless such amendment be in writing, executed by all the Parties and dated subsequent to the date hereof.

13. COMPLIANCE WITH LAWS AND REGULATIONS

It is understood and agreed by the Parties hereto, that changes in local, State and Federal rules, regulations or laws applicable hereto, including the Project WARM Plan, may occur during the term of this MEMORANDUM OF AGREEMENT and that any such changes shall be automatically incorporated into this MEMORANDUM OF AGREEMENT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law. The Parties expressly agree to comply with all applicable federal, state, and local laws.

14. INDEPENDENT CONTRACTOR

The Parties agree that they will provide services under this Memorandum of Agreement as independent parties. The Parties to this Memorandum of Agreement further agree that they have no authority to bind the others or to hold out to third parties that it has authority to bind the others; and nothing herein contained shall be deemed or construed by the Parties hereto or any third party as creating the

**Attachment IV**

relationship of employer-employee, principal-agent, partners or joint venturers. Furthermore, there is no intention on the part of the Parties hereto to create or otherwise form a joint enterprise under or pursuant to this Memorandum of Agreement. The Parties to this Memorandum of Agreement do not have a pecuniary purpose, let alone a common one. The purpose of this Agreement is to further the public good, not to gain a profit. The Parties do not have an equal right of control over any aspect of the Memorandum of Agreement. Each of the Parties to this Memorandum of Agreement have separate and independent duties and obligations over which they have control.

15. TEXAS LAW TO APPLY

This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created herewith are performable in the State of Texas, County of Bexar.

16. CAPTIONS

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

This MEMORANDUM OF AGREEMENT, together with its authorizing ordinance and exhibits, if any, shall constitute the full and final agreement between the parties hereto.

Agreed to by and between the below parties on this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Dennis J Campa  
Director, Department of Community Initiatives  
City of San Antonio

\_\_\_\_\_  
San Antonio Housing Authority

STATE OF TEXAS §  
  §  
COUNTY OF BEXAR §

**INTERLOCAL AGREEMENT  
BETWEEN  
CITY OF SAN ANTONIO  
AND  
BEXAR COUNTY BOARD OF TRUSTEES  
FOR MENTAL HEALTH AND MENTAL  
RETARDATION SERVICES D/B/A THE  
CENTER FOR HEALTH CARE SERVICES**

This agreement ("Agreement") is entered into by and between the CITY OF SAN ANTONIO, a Texas Municipal Corporation, (hereinafter referred to as the "**City**"), acting by and through its Director of the Department of Community Initiatives pursuant to Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_ and Bexar County Board of Trustees for Mental Health and Mental Retardation Services D/B/A the Center for Health Care Services, a political subdivision of the State of Texas, acting by and through its duly authorized representative (hereinafter referred to as the "**Contractor**").

**WHEREAS**, both parties to this Agreement are political subdivisions of the State of Texas, and desire to enter into this Agreement in accordance with the provisions of the Interlocal Cooperation Act, being Chapter 791 of the Texas Government Code; and

**WHEREAS**, **Contractor** has the capability to provide indigent care and services to public inebriates; and

**WHEREAS**, **City** desires to improve the quality of indigent care in San Antonio and services to public inebriates through investment in public safety triage, detoxification, and outpatient treatment services ("Public Inebriate Services") as part of a public inebriate program ("Public Inebriate Program"); and

**WHEREAS**, **City** and **Contractor** have come to an agreement regarding mutually advantageous terms for **Contractor** to provide Public Inebriate Services, and both desire that such agreement be memorialized herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and provisions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 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 accomplishments of the tasks hereinafter described.

**Section 1: Term**

- A. This Agreement will commence on September 1, 2009 and continue through September 30, 2009 or until funding for this agreement is fully expensed, whichever is sooner.

## Section 2: Components of the Program

A. **Contractor** shall provide the following Public Inebriate Services as part of its Program :

- 1.) services as described in this Section to homeless individuals, persons with Axis I psychiatric disorders, and participants engaged in the criminal justice system or referred by DCI as a result of an offense or violation of law that have substance abuse and/or dependency issues; and
- 2.) triage services that includes medical screening and assessment to determine the appropriate level of care; and
- 3.) residential detoxification services administered by qualified under the supervision of medical director or administered by an outpatient chemical dependency services unit; and
- 4.) outpatient program services, which include individual and group counseling, chemical dependency education, and various support activities, such as life skills training, that facilitate seeking and maintaining abstinence; and
- 5.) overall coordination of services with all organizations offering welfare support at the Haven for Hope homeless campus.

B. **City** will reimburse **Contractor** for costs incurred providing the Public Inebriate Services as, part of its program operations in an amount not to exceed \$ 166,000.00. A budget for said Program is attached hereto and incorporated herein for all purposes as Attachment I.

## Section 3: Program Site, Supplies, and Maintenance

- A. **Contractor** shall provide a program site facility, adequate in size for all of its participants and the activities described in Section 2.
- B. The **Contractor** shall provide all supplies for the program.
- C. The **Contractor** shall provide reasonable ancillary services at the site.

## Section 4: Program Participation

- A. Participation in the Program in support of care activities is subject to participant eligibility as evaluated by **Contractor** in coordination with the Haven for Hope homeless campus and its activities.

## Section 5: Program Operation

**Contractor** hereby agrees to provide Public Inebriate Services, based upon needs of eligible participants, and if medical or psychological assessment require, uninterrupted services 24 hours a day, everyday of the calendar year during the term and in accordance with all applicable standards of care.

## Section 6: Program Staff – Funding and Contract

- A. **City** will reimburse **Contractor** on a monthly basis for eligible costs incurred under this Agreement and in compliance with the Balanced Scorecard Performance Plan affixed hereto and incorporated herein for all purposes as Attachment II.

- B. Contractor shall submit to City all final requests for payment no later than 45 days from the termination date of this Agreement, unless Contractor receives written authorization from the Director of the of the Department of Community Initiatives prior to such 45 day period allowing **Contractor** to submit a request for payment after such 45 day period
- C. **Contractor** expressly understands and agrees that the **City's** obligations under this Agreement are contingent upon the actual appropriation of adequate funds to meet **City's** liabilities hereunder. In the event such funds are not appropriated in part or in whole by **City**, this Agreement will immediately terminate and be of no further force or effect.

#### **Section 7: Program Evaluation and Record Keeping Requirements**

- A. **Contractor** and **City** are both committed to monitoring and continually evaluating and improving the Program to be offered to the participants. **Contractor** agrees to distribute and collect surveys of participants and staff as a means of identifying possible improvements in the Program.
- B. **Contractor** agrees to maintain full and accurate records regarding: the number of participants receiving services; the type of activities planned and provided to the participants; the number of hours worked by the staff in support of the Program; the staff involved; and all other pertinent information regarding the Program, which might benefit the **City**. To the extent permitted by law, **City** will have access to such records at such time as is mutually convenient for both parties.
- C. **Contractor** agrees to provide a monthly report to **City** on the 5<sup>th</sup> working day of each month detailing the data in Part B of this Section.
- D. **Contractor** agrees to secure the confidentiality of records and other information relating to participants in accordance with applicable federal and state laws, rules and regulations.

#### **Section 8: Sub-contracting and Assignment**

- A. Any other clause of this Agreement to the contrary notwithstanding, none of the work or services covered by this Agreement shall be assigned without the prior written approval of **City** and **Contractor**.
- B. Any other clause of this Agreement to the contrary notwithstanding, none of the work or services covered by this Agreement shall be sub-contracted without the prior written approval of **City** and **Contractor**. Any work or services approved for sub-contracting hereunder, however, shall be sub-contracted only by written contract or agreement and, unless specific waiver is granted in writing by **City**, shall be subject by its terms to each and every provision of this Agreement.

#### **Section 9: Relationship of Parties**

- A. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between the parties hereto.
- B. This Agreement inures to the benefit of and obligates only the parties executing it. No term or provision of this Agreement shall benefit or obligate any person or entity not party to it.

The parties hereto shall cooperate fully in opposing any attempt by any third person or entity to claim any benefit, protection, release or other consideration under this Agreement.

**Section 10: Indemnity**

**City** and the **Contractor** acknowledge they are political subdivisions of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, Section 101.001 et. seq. and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

**Section 11: Amendment**

No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed and agreed to by all the parties hereto.

**Section 12: Notices**

Notices to **City** required or appropriate under this Agreement shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, and addressed to:

City of San Antonio  
Department of Community Initiatives  
P.O. Box 839966  
San Antonio, Texas 78283-3966

or to such other address as may have been designated in writing by the Director of the Department of Community Initiatives of the City of San Antonio from time to time. Notices to **Contractor** shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, and addressed to **Contractor** at:

Bexar County Board Of Trustees  
For Mental Health And Mental Retardation Services  
D/B/A The Center For Health Care Services  
President and CEO  
3031 IH 10 West  
San Antonio, Texas 78201

or at such other address on file with the City Clerk as **Contractor** may provide from time to time in writing to **City**.

**Section 13: Approval of the City**

Whenever this Agreement calls for approval by **City**, unless otherwise explained herein, such approval shall be evidenced by the written approval of the Director of the Department of Community Initiatives of the **City**, or his designee, unless City Council approval is required.

**Section 14: Entire Agreement**

This written Agreement, together with the authorizing ordinance or ordinances constitutes the, entire agreement, with respect to the subject matter hereof, with any other written or parol agreement between the **City** and **Contractor** being expressly waived by **Contractor**. It is understood that the Charter of the **City** requires that all contracts and agreements with the **City** be in writing and adopted by ordinance. All amendments also need approval evidenced by an ordinance; provided, however, the Director of the Department of Community Initiatives shall have the authority to execute an amendment of this Agreement without the necessity of seeking any further approval by the City Council of the City, if permitted by all applicable local, state, and federal laws, and in the following circumstances:

- A. an increase in funding of this Contract in an amount not exceeding (a) twenty-five percent (25%) of the total amount of this Contract or (b) \$25,000.00, whichever is the lesser amount; provided, however, that the cumulative total of all amendments executed without City Council approval pursuant to this subsection and increasing Contract funding during the term of this Contract shall not exceed the foregoing amount; or
- B. modifications to the scope of services, as long as the terms of the amendment stay within the parameters set forth in Section 2 of this Agreement; or
- C. budget line item shifts of funds, so long as the total dollar amount of the budget set forth in Section 2 (C) of this Agreement remains unchanged; provided, however, that budget line item shifts of funds related to personnel services cannot exceed the total dollar amount allocated to personnel services set forth in the budget (Attachment II) of this Contract;

**Section 15: Authority**

Each of the signers of this Agreement hereby represents and warrants that they have authority to execute this Agreement on behalf of each of their governing entities. This Agreement shall be signed in duplicate originals so that each Party hereto shall have an original.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008, the EFFECTIVE DATE.

**CITY OF SAN ANTONIO,  
a Texas Municipal Corporation**

**BEXAR COUNTY BOARD OF TRUSTEES  
FOR MENTALHEALTH AND MENTAL  
RETARDATION SERVICES  
D/B/A THE CENTER FOR HEALTH CARE  
SERVICES**

By: \_\_\_\_\_  
Dennis J. Campa, Director  
Department of Community Initiatives

By: \_\_\_\_\_  
President and CEO

**Approved as to Form:**

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



**CITY OF SAN ANTONIO**  
**Request for Council Action**

Agenda Item # 35  
Council Meeting Date: 11/20/2008  
RFCA Tracking No: R-4163

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**DEPARTMENT:** Community Initiatives

**DEPARTMENT HEAD:** Dennis J Campa

**COUNCIL DISTRICT(S) IMPACTED:**  
City Wide

**SUBJECT:**  
Authorization to Reallocate FY09 Consolidated Human Development Services Funding

**SUMMARY:**

This ordinance authorizes the allocation and reallocation of funds to and from agencies within the Family Strengthening, Youth Development and Community Safety Net categories as set forth in the FY 2009 General Fund Consolidated Funding Schedule. This ordinance also authorizes the Director of the Department of Community Initiatives (DCI), or his designee, to execute (i) contracts with said agencies in accordance with the allocations and reallocations; (ii) interlocal agreements with independent school districts to operate the After School Challenge Program (ASCP); (iii) an interlocal agreement with the Center for Health Care Services to operate the Public Inebriates facility; (iv) contracts with governmental entities shown in the FY 2009 General Fund Consolidated Funding Schedule; and (v) future ASCP contract amendments to allow for modifications in funding to school districts and delegate agencies based upon enrollment levels, but limited by the budget for the ASCP.

**BACKGROUND INFORMATION:**

In February 2008, the Consolidated Human Development Services Funding Pool Request for Proposal (RFP) was issued for services under the categories of Family Strengthening, Youth Services, Community Safety Net, and Workforce Development. This RFP process was aligned with community needs and City Council identified priorities. The FY 2009 adopted budget, as approved by City Council on September 11, 2008, authorized contracts with delegate agencies applying through the consolidated funding process.

**ISSUE:**

To ensure proper alignment of services and program funding, staff is recommending reallocating amounts awarded to 13 agencies under the Family Strengthening, Youth Development and Community Safety Net categories (Attachment A). Due to low enrollment in the San Antonio Independent School District, 300 slots and their associated funding is being reallocated to East Central, Edgewood, Northside, and North East ISDs, where enrollment has reached capacity and waiting lists for afterschool services have been established.

Revisions are also recommended in the Community Safety Net category to ensure continuity of existing homeless services until all phases of the Haven for Hope campus opens. The ordinance authorizes a contract with Catholic Charities in the amount of \$300,000.00 to facilitate and optimize the provision of emergency services to the community.

**ALTERNATIVES:**

If funds are not reallocated, funding will not be properly aligned with needed services, within the Family Strengthening, Youth Development and Community Safety Net categories. The reallocation of funds in the ASCP will provide services to school districts with greater needs. Reallocation of funding in the Emergency Assistance Program will provide additional case managers to serve more families. The extension of homeless services will continue until all services can be provided at a one-stop location on the homeless campus.

**FISCAL IMPACT:**

Approval of this item will not require any other allocations. General Funds have already been allocated during the 2009 Budget Process.

**RECOMMENDATION:**

Staff recommends approval of the allocation and reallocation to the FY 2009 Consolidated Funding Schedule.

**ATTACHMENT(S):**

File Description	File Name
<a href="#">Attachment A: FY 2009 Proposed Consolidated Funding Schedule</a>	Attachment A-FY 2009 Proposed Consolidated Funding Schedule.pdf
<a href="#">Voting Results</a>	
<a href="#">Original Vote Slip</a>	Original Vote Slip.pdf
<a href="#">Ordinance/Supplemental Documents</a>	200811201047.pdf

**DEPARTMENT HEAD AUTHORIZATIONS:**

Melody Woosley	Assistant Director	Community Initiatives
Dennis J Campa	Director	Community Initiatives

**APPROVED FOR COUNCIL CONSIDERATION:**

Frances A. Gonzalez Assistant City Manager