

**PROFESSIONAL SERVICES AGREEMENT
FOR
VACCINE EDUCATION OUTREACH SERVICES**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Professional Services Agreement (Agreement) is entered into between the City of San Antonio (“City”), a Texas Municipal Corporation, on behalf of the San Antonio Metropolitan Health District (“Metro Health”), acting by and through the director of Doin Well, LLC (“CONTRACTOR”), hereinafter collectively referred to as the “Parties.”

WHEREAS, the U.S. Department of Health and Human Services’ Centers for Disease Control and Prevention’s CDC-RFA-IP19-1901 Immunization and Vaccines for Children grant project aims to provide support for improving vaccination rates in the City of San Antonio and Bexar County (Grant Project); and

WHEREAS, Metro Health seeks agencies to provide outreach services to mitigate vaccine hesitancy and build vaccine confidence in areas in Bexar County with low immunization coverage; and

WHEREAS, City desires CONTRACTOR to provide for the provision of online and in-person community events, aimed at providing information and education to residents of Bexar County zip codes with high equity index scores or areas with low vaccine uptake; and

WHEREAS, CONTRACTOR represents that it possesses the knowledge, ability, professional skills, and qualifications to perform this work in an expeditious and economical manner consistent with City’s interests;

NOW THEREFORE, in consideration of the promises, mutual covenants, and agreements contained herein, the Parties agree as follows:

I. DEFINITIONS

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

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

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

"Director" shall mean the director of the San Antonio Metropolitan Health District (“Metro Health”).

“CDC-RFA-IP19-1901 Immunization and Vaccines for Children grant” shall mean the U.S. Department of Health and Human Services’ (HHS), Centers for Disease Control and Prevention Grant (CDC Grant) which provides funding for this Agreement (FAIN: NH231IP922584, Assistance Listing Number 93.268).

II. TERM

- 2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall start December 1, 2024 and terminate on June 30, 2025.
- 2.2 This Agreement conditioned upon an award of sufficient funding to City by federal or state agencies. City retains the right to terminate this Agreement if funding is not awarded to City. Any additional contract period beyond the initial term set forth in 2.1 is also subject to and conditioned upon subsequent appropriation of funding or grant awards.
- 2.3 CONTRACTOR further agrees and understands that the City expects to pay all obligations of this Agreement from the CDC Grant funding. Accordingly, if funding is not received by City in a sufficient amount to pay

any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor CONTRACTOR will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

III. SCOPE OF SERVICES

3.1 CONTRACTOR agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV. Compensation.

3.2 CONTRACTOR's specific duties and responsibilities under the Agreement shall include:

3.2.1 Participate in train-the-trainer sessions coordinated by Metro Health to review the adopted curriculum for the project covering information on current vaccine trends, strategies to prevent vaccine-preventable illnesses and promotion of health equity. Attendance at training sessions is required in order for CONTRACTOR to receive standardized information to be provided by Metro Health to prepare CONTRACTOR to deliver the presentations to the community and answer questions regarding the material.

3.2.2 Develop a plan to educate and engage the target population and promoting vaccination opportunities in order to increase vaccine uptake, including, but not limited to, holding events at flea markets, places of worship and other locations where the CONTRACTOR can reach target populations; timing events/classes in evenings and weekends; integrating education with other services the CONTRACTOR offers; and working with houseless-serving organizations to target encampments. Education sessions should be planned to be held in geographic areas within Bexar County with high equity index scores or areas with low vaccine uptake as identified by Metro Health. Areas with high equity index scores, can be accessed through the San Antonio Equity Atlas at: <https://www.sanantonio.gov/Equity/Initiatives/Atlas>. Education can also be provided to focus populations regardless of area of residence. These focus populations include expecting mothers, parents, people with disabilities, houseless, and trusted community messengers (community leaders, spiritual leaders). The plan should include tentative dates/times of when sessions will be held and the anticipated number of attendees the CONTRACTOR is targeting. The plan should be submitted to Metro Health within a month of execution.

3.2.3 Hold educational sessions, following plan submitted to Metro Health, at no-cost to attending participants.

3.2.4 Provide practical strategies to participants, sharing reliable information regarding vaccines by exploring innovative and far-reaching approaches (e.g., social networking, webinars, outreach events) to expand community dialogue about vaccines, especially concerning dispelling vaccine myths and misinformation by sharing accurate, clear, easy-to-find information, including Metro Health provided resources.

3.2.5 Develop a report of misinformation and disinformation circulating in the community shared by community members. The report shall include identified trends, the subject matter, source, dates and online links, if any. The report should be submitted to Metro Health monthly.

3.2.6 Maximize making vaccines easy to access from local providers and referring participants to Metro Health's website and at [vaccines.gov](https://www.vaccines.gov) to know which providers carry the vaccines they need and/or know which providers participate in programs that make vaccines accessible to individuals who are uninsured or underinsured.

3.2.7 Provide a roster of participants who attend the education session and ensure participants submit pre- and post-evaluations of the curriculum presented. Metro Health will provide the CONTRACTOR with pre- and post-evaluations to be completed by the participants. A roster of attendees shall be submitted to Metro health for each session held.

3.2.8 CONTRACTOR shall comply with applicable terms and conditions associated with the City's grant from the U.S. Department of Health and Human Services (DHHS), Centers for Disease Control and Prevention; CDC-RFA-P19-1901 Immunization and Vaccines for Children, Grant Number FD36000068, the funding for this agreement. Requirements may include contract requirements from the DHHS and CDC, to include but not limited to the Notice of Award, federal laws, regulations, policies, 2 C.F.R. Part 200, entitled Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards and CDC general terms and conditions. CONTRACTOR must adhere to compliance requirements that are applicable to the specific funding source(s) from which funds paid to CONTRACTOR originated. CONTRACTOR shall agree to comply with all terms and

conditions associated with said funds as directed by the City or the funding entity(ies).

- 3.3 CONTRACTOR shall comply with applicable terms and conditions associated with the City's CDC grant, the funding source for this Agreement. Requirements may include contract requirements from the HHS and CDC, to include but not limited to: the Notice of Award, federal laws, regulations, policies, 2 C.F.R. Part 200, entitled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and CDC general terms and conditions. CONTRACTOR must adhere to compliance requirements that are applicable to the specific funding source(s) from which funds paid to CONTRACTOR originated. CONTRACTOR shall comply with all terms and conditions associated with said funds as directed by the City or the funding entity(ies).
- 3.4 All work performed by CONTRACTOR hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by CONTRACTOR, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should CONTRACTOR's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated in this Agreement, even should City elect not to terminate. City shall notify CONTRACTOR in writing of any decision to withhold payment or terminate this Agreement.

IV. COMPENSATION TO CONTRACTOR

- 4.1 In consideration of CONTRACTOR's performance in a satisfactory and efficient manner, as determined solely by the Director, of all services and activities set forth in this Agreement, City agrees to pay CONTRACTOR a total not to exceed \$100,000.00 as total compensation, to be paid to CONTRACTOR in accordance with section 4.2.
- 4.2 Contractor will invoice on a monthly basis \$125.00 per participant that has participated in the education session and has completed a pre- and post- evaluation. City and CONTRACTOR agree that reimbursement for eligible services shall be made within thirty (30) days after the date on which City receives an invoice which will be submitted monthly with appropriate documentation as required by City, from CONTRACTOR for said services.
- 4.3 No additional fees or expenses of CONTRACTOR shall be charged by CONTRACTOR nor be payable by City. The Parties hereby agree that all compensable expenses of CONTRACTOR have been provided for in the total payment to CONTRACTOR as specified in section 4.1 above. Total payments to CONTRACTOR cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all Parties evidenced in writing and approved consistent with appropriate City policy.
- 4.4 It is expressly understood and agreed by the City and CONTRACTOR that City's obligations under this Agreement are contingent upon the actual receipt of adequate grant funds from the CDC Grant to meet the City's liability hereunder. Lack of funding is not and shall not be considered a breach of this Agreement. If City does not receive adequate grant funds to pay obligations under this Agreement, then this Agreement shall terminate and neither CONTRACTOR nor City shall have any further obligations hereunder.
- 4.5 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to CONTRACTOR following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than CONTRACTOR, for the payment of any monies or the provision of any goods or services.
- 4.6 All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City.

- 4.7 Invoices shall include Purchase Order number provided by City and submit via email to City's Accounts inbox (Accounts.Payable@sanantonio.gov) with a copy to SAMHD.Invoices@sanantonio.gov and or by mail at the following address with a copy to:

City of San Antonio
Attn: Accounts Payable
PO Box 839976
San Antonio, TX 78283-3976

- 4.8 CONTRACTOR agrees to provide any and all documentation required for inclusion in any report required by the City or funding agency. Final acceptance of work products and services require written approval by City. The approving official shall be the Director. Payment will be made to CONTRACTOR following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than CONTRACTOR, for the payment of any monies or the provision of any goods or services.

V. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

- 5.1 Any and all writings, documents or information in whatsoever form and character produced by CONTRACTOR pursuant to the provisions of this Agreement are the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by CONTRACTOR.
- 5.2 CONTRACTOR understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.
- 5.3 In accordance with Texas law, CONTRACTOR acknowledges and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government records produced by or on behalf of CONTRACTOR pursuant to this Agreement shall be the subject of any copyright or proprietary claim by CONTRACTOR. Any intellectual property rights associated with the tool, work product or deliverables developed under this agreement shall be the property of City, and CONTRACTOR shall execute any documents necessary to assign said intellectual property rights to City. CONTRACTOR further agrees that any tool or work product developed under this agreement shall be a work-for-hire as defined in Title 17 USC Section 201 and any copyright shall be the property of City.

The term "*local government record*" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.

- 5.4 Intellectual property rights shall be in accordance with all terms and conditions outlined in the CDC Grant award including if applicable, regulations governing patents and inventions issued by the Department of Commerce at 37 CFR part 401.
- 5.5 The Federal government reserves a royalty-free, nonexclusive, and irrevocable license for the Federal government to reproduce, publish, or otherwise use the data produced and authorize others to do so for Federal purposes.

VI. RECORDS RETENTION

- 6.1 CONTRACTOR and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter

referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established in this Agreement, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

- 6.2 CONTRACTOR shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years or whatever period is determined necessary based on the Records Retention (hereafter referred to as "retention period") guidelines established by applicable law for this Agreement from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, CONTRACTOR shall retain the records until the resolution of such litigation or other such questions. CONTRACTOR acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require CONTRACTOR to return the documents to City at CONTRACTOR's expense prior to or at the conclusion of the retention period. In such event, CONTRACTOR may retain a copy of the documents at its sole cost and expense.
- 6.3 CONTRACTOR shall notify City, immediately, in the event CONTRACTOR receives any requests for information from a third party, which pertain to the documentation and records referenced in this Agreement. CONTRACTOR understands and agrees that City will process and handle all such requests.
- 6.4 CONTRACTOR agrees to comply with all applicable federal, state, and local laws, rules, and regulations governing documents and ownership, access and retention.

VII. TERMINATION

- 7.1 For purposes of this Agreement, "termination" of this Agreement made pursuant to this Agreement, shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.
- 7.2 Termination Without Cause. This Agreement may be terminated by City without cause upon 30 calendar days' written notice, which notice shall be provided in accordance with Article VIII. Notice.
- 7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement, as of the date provided in the notice, in whole or in part, upon the occurrence of one or more of the following events, each of which shall constitute an Event for Cause under this Agreement:
 - 7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting;
 - 7.3.2 Any material breach of the terms of this Agreement, as determined by City; or
 - 7.3.3 The failure to meet funding agency reporting requirements as set out and determined by City.
- 7.4 Defaults With Opportunity for Cure. Should CONTRACTOR default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. CONTRACTOR shall have 10 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If CONTRACTOR fails to cure the default within such 10-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and City shall have the right to terminate this Agreement and to contract with another CONTRACTOR to complete the work required by this Agreement. City shall also have the right to offset the cost of said new agreement with a new CONTRACTOR against CONTRACTOR's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

- 7.4.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article X. Assignment and Subcontracting;
 - 7.4.2 Bankruptcy or selling substantially all of company's assets;
 - 7.4.3 Failing to perform or failing to comply with any covenant herein required;
 - 7.4.4 Performing unsatisfactorily as determined by City;
 - 7.4.5 The failure to meet reporting requirements of the CDC Grant, as set out and determined by City; or
 - 7.4.6 Notification of any investigation, claim or charge by a local, state or federal agency involving fraud, theft or the commission of a felony.
- 7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties in this Agreement, or, if any law is interpreted to prohibit such performance, this Agreement, shall automatically terminate as of the effective date of such prohibition.
- 7.6 Regardless of how this Agreement, is terminated, CONTRACTOR shall effect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by CONTRACTOR, or provided to CONTRACTOR, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by CONTRACTOR in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at CONTRACTOR's sole cost and expense. Payment of compensation due or to become due to CONTRACTOR is conditioned upon delivery of all such documents, if requested by City.
- 7.7 Within forty-five (45) calendar days of the effective date of completion, termination, or expiration of this Agreement, CONTRACTOR shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by CONTRACTOR to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by CONTRACTOR of any and all right or claims to collect moneys that CONTRACTOR may rightfully be otherwise entitled to for services performed pursuant to this Agreement.
- 7.8 Upon the effective date of expiration or termination of this Agreement, CONTRACTOR shall cease all operations of work being performed by CONTRACTOR or any of its subcontractors pursuant to this Agreement.
- 7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue CONTRACTOR for any default hereunder or other action.
- 7.10 City shall pay CONTRACTOR for conforming services provided prior to the date of termination, offset by any amounts due and owing from the CONTRACTOR to City.

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Director, San Antonio Metropolitan Health District

If intended for CONTRACTOR, to:

Doin Well, LLC
Attention: Deborah Jennings

W. Houston, 14th floor
San Antonio, Texas 78205

14146 George Road
San Antonio, Texas 78240

XIX. NON-DISCRIMINATION

- 9.1 As a party to this Agreement, CONTRACTOR understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X. of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.
- 9.2 CONTRACTOR shall comply with all federal, State, or local laws, rules, and orders prohibiting discrimination, and 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. Consistent with the foregoing, CONTRACTOR agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented by regulations at 41 C.F.R. Part 60. CONTRACTOR further 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 VI and VII of the Civil Rights Act of 1964, as amended;
 - b) Section 504 of the Rehabilitation Act of 1973, as amended;
 - c) The Age Discrimination Act of 1975, as amended;
 - d) Title IX of the Education Amendments of 1972, as amended; (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.

X. INSURANCE

No later than 30 days before the scheduled services under this contract, CONTRACTOR must provide a completed Certificate(s) of Insurance to Metro Health. The certificate must be:

- clearly labeled with the legal name of the contract in the Description of Operations block;
- completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (CITY will not accept Memorandum of Insurance or Binders as proof of insurance);
- properly endorsed and have the agent's signature, and phone number.

Certificates may be mailed or sent via email, directly from the insurer's authorized representative. CITY shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by Metro Health. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

If the City does not receive copies of insurance endorsement, then by executing this Agreement, CONTRACTOR certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for the Event.

The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.

CONTRACTOR shall obtain and maintain in full force and effect for the duration of this Agreement, 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 below. If the CONTRACTOR claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<i>INSURANCE TYPE</i>	<i>LIMITS</i>
1. Workers' Compensation 2. Employers' Liability	Statutory \$500,000/\$500,000/\$500,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability *e. Independent Contractors *f. Sexual Abuse/Molestation	For Bodily Injury and Property Damage \$500,000 per occurrence; \$1,000,000 general aggregate.
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$250,000 per occurrence.
5. Professional Liability	\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.
*If Applicable	

CONTRACTOR must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of CONTRACTOR and provide a certificate of insurance and endorsement that names CONTRACTOR and CITY as additional insureds. CONTRACTOR shall provide CITY with subcontractor certificates and endorsements the subcontractor starts work.

If a loss results in litigation, then the CITY is entitled, upon request and without expense to the City, to receive copies of the policies, declaration page and all endorsements. CONTRACTOR must comply with such requests within ten (10) days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio
ATTN: San Antonio Metropolitan Health District
P.O. Box 839966
San Antonio, TX 78283-3966

CONTRACTOR's insurance policies must contain or be endorsed to contain the following provisions:

- Name CITY and 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 CITY. The endorsement requirement is not applicable for workers' compensation and professional liability policies.
- Endorsement that the "other insurance" clause shall not apply to CITY where CITY is an additional insured shown on the policy. CITY's insurance is not applicable in the event of a claim.
- CONTRACTOR shall submit a waiver of subrogation to include, workers' compensation, employers'

liability, general liability and auto liability policies in favor of CITY; and

- Provide thirty (30) days advance written notice directly to CITY of any suspension, cancellation, non-renewal or materials change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation, material change in coverage, 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 Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

In addition to any other remedies CITY may have upon CONTRACTOR's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, CITY may order CONTRACTOR to stop work and/or withhold any payment(s) which become due to CONTRACTOR under this Agreement until CONTRACTOR demonstrates compliance with requirements.

Nothing contained in this Agreement shall be construed as limiting 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 Agreement.

CONTRACTOR's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by City for liability arising out of operations under this Agreement.

The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of City shall be limited to insurance coverage provided.

CONTRACTOR and any subcontractor are responsible for all damage to their own equipment and/or property resulting from their own negligence.

XI. INDEMNIFICATION

- 11.1 **CONTRACTOR covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONTRACTOR'S activities under this Agreement, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, Contractor or subcontractor of CONTRACTOR, and their respective officers, agents employees, directors and representatives while In the exercise of the rights or performance of the duties under this Agreement. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF CITY, ITS OFFICERS OR EMPLOYEES, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL OR BODILY INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS 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.**
- 11.2 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. 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 and shall

see to the investigation and defense of such claim or demand at CONTRACTOR's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONTRACTOR of any of its obligations under this paragraph.

- 11.3 Defense Counsel. City shall have the right to approve defense counsel to be retained by CONTRACTOR in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. CONTRACTOR shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If CONTRACTOR fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and CONTRACTOR shall be liable for all reasonable costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and rat its own expense, without waiving the foregoing.
- 11.4 Employee Litigation. In any and all claims against any party indemnified hereunder by any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

- 12.1 CONTRACTOR shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement, shall be the employees or subcontractors of CONTRACTOR. CONTRACTOR, its employees or its subcontractors shall perform all necessary work.
- 12.2 It is City's understanding and this Agreement is made in reliance thereon, that CONTRACTOR intends to use the following subcontractors in the performance of this Agreement: None. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by the Director, prior to the provision of any services by said subcontractor.
- 12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. All expenditures by CONTRACTOR or any of its subcontractors must be made in accordance with all applicable federal, state and local laws, rules and regulations. Compliance by subcontractors with this Agreement shall be the responsibility of CONTRACTOR. City shall in no event be obligated to any third party, including any subcontractor of CONTRACTOR, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City.
- 12.4 Except as otherwise stated in this Agreement, CONTRACTOR may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City. As a condition of such consent, if such consent is granted, CONTRACTOR shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor CONTRACTOR, assignee, transferee or subcontractor.
- 12.5 Any attempt to transfer, pledge or otherwise assign this Agreement or the performance of any duties hereunder without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should CONTRACTOR assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of CONTRACTOR shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by CONTRACTOR shall in no event release CONTRACTOR from any obligation under the terms of this Agreement, nor shall it relieve or release CONTRACTOR from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

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

XIV. [Reserved]

XV. CONFLICT OF INTEREST

15.1 The Charter of the City of San Antonio and the City of San Antonio Code of Ethics prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with the City. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- a City officer or employee; his or her spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity;
- an entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10 percent or more of the voting stock or shares of the entity, or (ii) 10 percent or more of the fair market value of the entity; or
- an entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.

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

XVI. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and CONTRACTOR. The Director may execute contract amendments on behalf of the City without further action by the San Antonio City Council, in the following circumstances: (A) an increase in contract funding 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 increasing funding and executed without City Council approval pursuant to this subsection during the term of this contract shall not exceed the foregoing amount; (B) no cost extensions up to two years; (C) budget adjustments authorized by the funding agency so long as the total dollar amount of the budget remains unchanged; (D) modifications to the Scope of Work due to the adjustment described in subsection (A) of this Section or for any other reason, so long as the terms of the amendment are reasonably within the parameters set forth in the original Scope of Work; and (E) changes in state or federal regulations mandated by the funding agency.

XVII. SEVERABILITY

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

be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVIII. LICENSES/CERTIFICATIONS

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

XIX. AUDIT

- 19.1 If the CONTRACTOR expends \$1,000,000.00 or more of funds provided under this Agreement, or cumulative funds provided by or through City, then during the term of this Agreement, the CONTRACTOR shall have completed an independent audit of its financial statements performed within a period not to exceed one hundred twenty (120) days immediately succeeding the end of CONTRACTOR's fiscal year, expiration or early termination of this Agreement, whichever is earlier. CONTRACTOR understands and agrees to furnish Metro Health a copy of the audit report within a period not to exceed twenty (20) 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 Metro Health by CONTRACTOR within twenty (20) days upon receipt of said report or upon submission of said corrective action plan to the auditor.
- 19.2 CONTRACTOR agrees to reimburse the City or supplement any disallowed costs with eligible and allowable expenses based upon reconciled adjustments resulting from CONTRACTOR's Single Audit. Reimbursement shall be made within 20 calendar days of written notification regarding the need for reimbursement.
- 19.3 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 Metro Health within a period of ten (10) business days upon the CONTRACTOR's receipt of the report.
- 19.4 If CONTRACTOR expends less than \$1,000,000.00 of funds provided by or through the City, then during the term of this Agreement, 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 Agreement, 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.
- 19.5 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.
- 19.6 The City reserves the right to conduct or cause to be conducted an audit or review of all funds received under this Agreement 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 acknowledges that this provision shall not limit the City from additional follow-up to audits or reviews, as necessary, or from investigating items of concern that may be brought to the City's attention which are other than routine.
- 19.7 CONTRACTOR shall during normal business hours, make available to City and/or the applicable state or federal governing agency or any other auditing entity, records, documents, reports, and evidence with respect to all matters covered by this Agreement 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 Agreement. Said records shall be maintained for the required period beginning

immediately after Agreement termination, save and except there is litigation or if the audit report covering such agreement 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 Agreement, all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Agreement.

- 19.8 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 Agreement, and the CONTRACTOR shall abide by such requirements.
- 19.9 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.
- 19.10 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) business days from the date of notification of such disapproval or disallowance by the City. At its sole option, Metro Health 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) business 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 check, cashier's 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.
- 19.11 CONTRACTOR agrees and understands that all expenses, fees, fines and penalties 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 Agreement.
- 19.12 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.

XX. ADMINISTRATION OF AGREEMENT AND RESTRICTIONS ON USE OF FUNDS

- 20.1 CONTRACTOR agrees to comply with all the terms and conditions that the City must comply with as a recipient of the CDC Grant funding.
- 20.2 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 Agreement or its governing rules, regulations, laws, codes or ordinances, the City Manager or the Director of Metro Health, as representatives of the City and the Parties ultimately responsible for all matters of compliance with the CDC Grant funding and City rules and regulations, shall have the final authority to render or secure an interpretation.
- 20.3 CONTRACTOR shall not use funds awarded from this Agreement as matching funds for any federal, state or local grant without the prior written approval of the Director of Metro Health.
- 20.4 Within a period not to exceed thirty (30) calendar days after the expiration, or early termination, date of the Agreement, CONTRACTOR shall submit 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.
- 20.5 CONTRACTOR shall maintain financial records, supporting documents, statistical records, and all other books, documents, papers or other records pertinent to this Agreement or the grant in accordance with the

official records retention schedules established within the Local Government Records Act of 1989 and any amendments thereto, or for such period as may be specifically required by 45 C.F.R §75, as applicable, whichever is longer. Notwithstanding the foregoing, CONTRACTOR shall maintain all Agreement and related documents for no less than three (3) years from the date of City's submission of the annual financial report covering the funds awarded hereunder. If an audit, litigation, or other action involving the records has been initiated before the end of the three (3) year period, CONTRACTOR agrees to maintain the records until the end of the audit, litigation, or other action is completed, whichever is later.

- 20.6 CONTRACTOR shall make available to City, the State, funding agency or any of their duly authorized representatives such books, records, reports, documents, papers, policies and procedures as may be necessary for audit, examination, excerpt, transcription, and copy purposes, for as long as such records, reports, books, documents, and papers are retained. This right also includes timely and reasonable access to CONTRACTOR's facility and to CONTRACTOR's personnel for the purpose of interview and discussion related to such documents. CONTRACTOR shall, upon request, transfer certain records to the custody of City or the State, or funding agency when City, or State or funding agency determines that the records possess long-term retention value.
- 20.7 Metro Health is assigned monitoring, fiscal control, and evaluation of certain projects funded by the City with general, state or federal funds, including the Project covered by this Agreement. Therefore, CONTRACTOR agrees to permit City and/or State and/or the federal funding agency to evaluate, through monitoring, reviews, inspection or other means, the quality, appropriateness, and timeliness of services delivered under this Agreement and to assess CONTRACTOR's compliance with applicable legal and programmatic requirements. At such times and in such form as may be required by Metro Health, the CONTRACTOR shall furnish to Metro Health and the grantor of the funds, if applicable, such statements, reports, records, data, all policies and procedures and information as may be requested by Metro Health and shall permit the City and grantor of the funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement. CONTRACTOR agrees that the failure of the City to monitor, evaluate, or provide guidance and direction shall not relieve the Contractor of any liability to the City for failure to comply with the terms of the Project or the terms of this Agreement.
- 20.8 City may, at its discretion, conduct periodic, announced monitoring visits to ensure program and administrative compliance with this Agreement and Project goals and objectives. City reserves the right to make unannounced visits to CONTRACTOR, or CONTRACTOR subcontractor, sites when it is determined that such unannounced visits are in the interest of effective program management and service delivery.
- 20.9 City agrees that it will present the findings of any such review to the CONTRACTOR in a timely manner and will attempt to convey information of Program strengths and weaknesses and assist with Program improvement.
- 20.10 Unless otherwise provided herein, all reports, statements, records, data, policies and procedures or other information requested by Metro Health shall be submitted by CONTRACTOR to City within five (5) working days of the request. The Parties agree that a shorter time frame may be necessary for response in the case of the single audit and shall cooperate to meet deadlines necessary to comply with the single audit requirements. In the event that CONTRACTOR fails to deliver the required reports or information or delivers incomplete information within the prescribed time period, the City may, upon reasonable notice, suspend reimbursements to CONTRACTOR until such reports are delivered to City. Furthermore, the CONTRACTOR ensures that all information contained in all required reports or information submitted to City is accurate.
- 20.11 Unless disclosure is authorized by the City, CONTRACTOR agrees to maintain in confidence all information pertaining to the Project or other information and materials prepared for, provided by, or obtained from City including, without limitation, reports, information, project evaluation, project designs, data, other related information (collectively, the "Confidential Information") and to use the Confidential Information for the sole purpose of performing its obligations pursuant to this Agreement. 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 Metro Health 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, 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 shall not be construed to limit the funding agency's, State's or the City's authorized representatives' right to obtain copies, review and audit records or other information, confidential or otherwise, under this Agreement. Upon termination or expiration of this Agreement, CONTRACTOR shall return to City all copies of materials related to the Project, including the Confidential Information. All confidential obligations contained herein (including those pertaining to information transmitted orally) shall survive the termination of this Agreement. The Parties shall ensure that their respective employees, agents, and contractors are aware of and shall comply with the aforementioned obligations.

In addition, CONTRACTOR must take reasonable measures to safeguard protected personally identifiable information and other information the HHS awarding agency or City designates as sensitive or the City considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

- 20.12 Prohibited Political Activity. 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 Agreement be assigned to work for or on behalf of any partisan or non-partisan political activity.
- 20.13 CONTRACTOR agrees that no funds provided under this Agreement 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.
- 20.14 The prohibitions set forth in Sections 20.12 and 20.13 above 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.
- 20.15 To ensure that the above policies are complied with, CONTRACTOR shall provide every member of its personnel paid out of Agreement funds with a statement provided by CONTRACTOR 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 Metro Health. CONTRACTOR shall list the name and number of a contact person from Metro Health on the statement that CONTRACTOR's personnel can call to report said violations.
- 20.16 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 Agreement may, at the City's discretion, be withheld until the situation is resolved, or the appropriate member of the CONTRACTOR's personnel is terminated.

- 20.17 Sections 20.12 through 20.16 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 Agreement funds.
- 20.18 Adversarial proceedings. Except in circumstances where the following is in conflict with federal law or regulations pertaining to these funds, the CONTRACTOR agrees to comply with the following special provisions,
- (A) Under no circumstances will the funds received under this Agreement 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) The CONTRACTOR, at the City's option, could be ineligible for consideration to receive any future funding while any adversarial proceeding against the City remains unresolved.

XXI. COMPLIANCE

- 21.1 CONTRACTOR shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations including, as applicable, policies, and CDC General Terms and Conditions for Non-research awards at <https://www.cdc.gov/grants/federalregulationspolicies/index.html>, the Centers for Disease Control and Prevention (CDC) hereby incorporates Notice of Funding Opportunity (NOFO) number IP19-1901, entitled Immunization and Vaccines for Children which are hereby made a part of this Non-research award, hereinafter referred to as the Notice of Award (NoA), grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements (GPS), available at: <http://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgpsl07.pdf>, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS awards at 45 C.F.R. Part 75, requirements imposed by-program statutes and regulations, Executive Orders-and HHS grant administration regulations, as applicable; and any requirements or limitations in any applicable appropriations acts.
- 21.2 CONTRACTOR acknowledges that funds for this Agreement are provided by a federal entity. As such, CONTRACTOR agrees to comply with applicable terms and conditions associated with said funds as directed by the federal entity, City and as required in this Agreement, including but not limited to: 2 CFR Part 200, entitled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards incorporated herein by reference. CONTRACTOR must adhere to compliance requirements that are applicable to the specific funding source(s) from which funds paid to CONTRACTOR hereunder originated. CONTRACTOR agrees to comply with all terms and conditions associated with said funds as directed by the funding agency, City and as required in this Agreement to include provisions and certifications set out below:

a. Clean Air Act and the Federal Water Pollution Control Act

CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended. CONTRACTOR agrees to report each violation to City and understands that City will, in turn, report each violation as required to the federal agency providing funds for this Agreement and the appropriate EPA Regional Office. CONTRACTOR agrees to include these requirements in each subcontract to this Agreement exceeding \$150,000 financed in whole or in part with federal funds.

b. Debarment and Suspension

CONTRACTOR is required to verify that neither the CONTRACTOR nor its principals, as defined at 2 CFR 180.995, are excluded or disqualified as defined at 2 CFR 180.940 and 2 CFR 180.935, respectively.

The CONTRACTOR is required to comply with 2 CFR Part 180, Subpart C and must include the requirement to comply with 2 CFR Part 180, Subpart C in any lower tier covered transaction it enters into.

By signing this Agreement, CONTRACTOR certifies that:

Neither it nor its principals are presently debarred, suspended for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program; and

CONTRACTOR shall provide immediate written notice to City if, at any time during the term of this Agreement, including any renewals hereof, CONTRACTOR learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

The certification in this clause is a material representation of fact relied upon by City. If it is later determined that CONTRACTOR knowingly rendered an erroneous certification, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. CONTRACTOR agrees to comply with the requirements of 2 CFR Part 180, Subpart C while this offer is valid and throughout the period of any contract that may arise from this Agreement. CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

c. Procurement of Recovered Materials

CONTRACTOR and its subcontractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

d. Required Disclosures for Federal Awardee Performance and Integrity Information System (FAPIIS): Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the CDC, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the CDC and to the HHS OIG at the following addresses:

CDC, Office of Grants Services
Wayne Woods, Grants Management Specialist Centers for
Disease Control and Prevention
Branch 1
2939 Flowers Road, MS-TV-2Atlanta, GA 30341
Email: kuv1@cdc.gov (Include "Mandatory Grant Disclosures" in subject line)

AND

U.S. Department of Health and Human Services Office
of the Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator 330
Independence Avenue, SW
Cohen Building, Room 5527
Washington, DC 20201

Fax: (202)-205-0604 (Include "Mandatory Grant Disclosures" in subject line) or Email:
MandatoryGranteeDisclosures@oig.hhs.gov

Recipients must include this mandatory disclosure requirement in all subawards and contracts under this award.

XXII. NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms,

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

XXIII. LAW APPLICABLE

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

23.2 Unless this Agreement provides otherwise, all claims, counterclaims, disputes, and other matters in question between City and CONTRACTOR arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction. Venue of any court action brought directly or indirectly as a result of this Agreement shall be in Bexar County, Texas.

23.3 The Parties hereto expressly agree that, in the event of litigation, each party hereby waives its right to payment of attorneys' fees.

XXIV. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

XXV. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING CERTAIN ENERGY COMPANIES

This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and

- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described in (A).

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

XXVI. PROHIBITION ON CONTRACTS WITH COMPANIES THAT DISCRIMINATE AGAINST FIREARM AND AMMUNITION INDUSTRIES

This section only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

"Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

"Discriminate against a firearm entity or firearm trade association": (A) means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

XXVII. CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATIONS PROHIBITED

Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental

contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. CONTRACTOR hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on CONTRACTOR's certification. If found to be false, or if CONTRACTOR is identified on said list during the course of its contract with City, City may terminate the Contract for material breach.

XXVIII. LEGAL AUTHORITY

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

XXIX. PARTIES BOUND

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

XXX. CAPTIONS

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

XXXI. INCORPORATION OF ATTACHMENTS

Each of the Attachments listed below is an essential part of the Agreement, which governs the rights and duties of the Parties: None

XXXII. ENTIRE AGREEMENT

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

EXECUTED and **AGREED** to as of the dates indicated below.

CITY OF SAN ANTONIO

DOIN WELL, LLC

Claude A Jacob, DrPH, MPH
Health Director
San Antonio Metropolitan Health District

Deborah Jennings
Deborah Jennings
Founder

Date: _____

Date: 12/18/2024

Approved as to Form:

City Attorney