

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Methodist Healthcare System (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director. However, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work prior to termination.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within fifteen (15) days of execution of this Agreement. At any time,

the City may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of eighteen (18) months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within thirty (30) days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to the City's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum employer utilizes for training or developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer.

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon thirty (30) calendar days' written notice to the other Party, 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

VII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

- 7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting;
- 7.3.2 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen (15) day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or

- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within thirty (30) calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

7.7 Regardless of how this Agreement is terminated, Employer shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Employer, or provided to Employer, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Employer 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 Employer's sole cost and expense. Payment of compensation due or to become due to Employer is conditioned upon delivery of all such documents, if requested.

7.8 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer 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 Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

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

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Legal Department
Methodist Healthcare System of San Antonio, Ltd., L.L.P.
15727 Anthem Parkway
San Antonio, TX 78249

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than thirty (30) days before the scheduled services under this Agreement, Employer must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than City's Risk

Manager, shall have authority to waive this requirement.

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

10.4 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. Employer will be given at least ten (10) days written notice of the mandated increased of coverage. If amount is unacceptable to Employer, Employer may immediately terminate this agreement.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at Employer'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 Employer claims to be self- insured, it must provide a copy of their declaration page so the City may review the deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
3. <u>Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
4. <u>Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. Employer 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 Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 Employer'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability and general 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, Employer shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Employer'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.

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

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

10.12 Employer'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.

10.13 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.

10.14 Employer and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 **EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

11.3 EMPLOYER shall advise the CITY in writing within twenty-four (24) hours of any claim or demand against the CITY or EMPLOYER known to EMPLOYER related to or arising out of EMPLOYER'S activities under this AGREEMENT.

11.4 The CITY shall advise EMPLOYER in writing within three (3) business days of any claim or demand against the CITY or EMPLOYER known to the CITY related to or arising out of the CITY'S activities under this AGREEMENT.

11.5 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.6 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of one hundred thousand dollars (\$100,000.00) or more that is to be paid wholly or partly from public funds of the governmental entity.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate

the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV. Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

**METHODIST HEALTHCARE
SYSTEM OF SAN ANTONIO, LTD.,
L.L.P.**

Daniel Miller
Daniel Miller / Apr 4, 2024 10:37 CDT

Name

CEO

Title

Apr 4, 2024

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 20 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
Example					4/1/2024	3 months	7/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and D.L. Bandy Constructors, INC. (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed TEN THOUSAND DOLLARS AND NO CENTS (\$10,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024 through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or

7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or

7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

D.L. Bandy Constructors, Inc.
Attn: David Bandy
P.O. Box 34715
San Antonio, TX 78265
Email: David@dlbandy.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

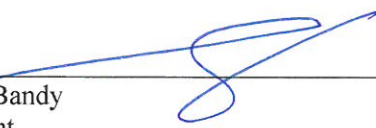
Michael Ramsey
Executive Director

Date

**D.L. BANDY CONSTRUCTORS,
INC.**

David Bandy
President

Date



4/4/2024

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 2 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and South Texas Allergy & Asthma Medical Professionals, PLLC ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the 'Party' or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("TWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final close out report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024 through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

South Texas Allergy & Asthma Medical Professionals, PLLC
Attn: Dr. Carlos Villarreal
341 East Hildebrand Avenue
San Antonio, TX 78212
Email: carlos@staampallergy.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> <u>a. Premises/Operations</u> <u>b. Products/Completed Operations</u> <u>c. Personal/Advertising Injury</u> <u>d. Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation - In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/device that can be used outside of training) in the cost of the training.

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 20 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

Approved as to Form:

Assistant City Attorney

**SOUTH TEXAS ALLERGY &
ASTHMA MEDICAL
PROFESSIONALS, PLLC**

Erika Gonzalez, MD
Chief Executive Officer

or

Carlos Villareal, MD
Vice President of Clinical Operations
and Biologic Research

Date


4/5/24

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Toyotetsu Texas Inc ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the "Party" or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("IWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

- 1.1 "City" is defined in the preamble of this Agreement and includes its successors and assigns.
- 1.2 "Employer" is defined in the preamble of this Agreement and includes its successors.
- 1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.
- 4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.
- 4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.
- 4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.
- 4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

- 5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer
- 5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Toyotetsu Texas Inc
Attn: Leslie Cantu
1 Lone Star Pass Bldg 38
San Antonio, TX 78264
Email: lcantu@ttna.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u>	<u>Statutory</u>
<u>*2. Employers' Liability</u>	<u>\$500,000/\$500,000/\$500,000</u>
3. <u>Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
4. <u>Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

TOYOTETSU TEXAS INC

Leslie Cantu

Leslie Cantu
Vice Present - Administration

4/1/24

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 30 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

**INCUMBENT WORKER TRAINING SERVICES
AGREEMENT**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Beldon Roofing Company ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the 'Party' or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("IWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

- 1.1 "City" is defined in the preamble of this Agreement and includes its successors and assigns.
- 1.2 "Employer" is defined in the preamble of this Agreement and includes its successors.
- 1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

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from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

- 3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024 through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

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operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Beldon Roofing Company
Attn: HR
5039 West Avenue
San Antonio, TX 78213
Email: hr@beldon.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u>	<u>Statutory</u>
<u>*2. Employers' Liability</u>	<u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.

- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and

- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

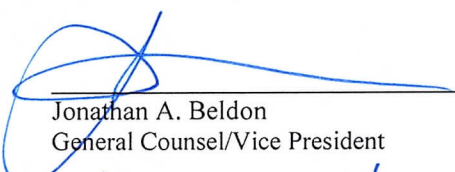
EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

BELDON ROOFING COMPANY



Jonathan A. Beldon
General Counsel/Vice President

MARCH 28, 2024
Date

Approved as to Form:

Assistant City Attorney

JAB
03/28/24

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 20 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employer has 12 months (one year) to train individuals, begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

**INCUMBENT WORKER TRAINING SERVICES
AGREEMENT**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development and Ascend Nonprofit and Business Solutions (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed FIVE THOUSAND DOLLARS AND NO CENTS (\$5,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property of Employer, including but not limited to writings, documents and information used by Employer in the course of

delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or

7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or

7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

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

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Ascend Nonprofit & Business Solutions
Attn: Arlene Siller
13322 Sage Heights Dr.
San Antonio, TX 78230
Email: arlene.siller@ascendnbs.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event (SA Ready to Work IWT Training Program) 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
*1. <u>Workers' Compensation</u> *2. <u>Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
3. <u>Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
4. <u>Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers’ compensation, employers’ liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER’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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER’S or its subcontractors’ performance of the work covered under this Agreement.

10.12 EMPLOYER’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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER’S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes

personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval,

shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City’s reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee

contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV. Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Michael Ramsey
Executive Director

Date

**ASCEND NONPROFIT AND
BUSINESS SOLUTIONS**

Arlene Siller

Arlene Siller
Founder & CEO

03/29/2024
Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 1 employee with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and George Plumbing Co Inc. ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the "Party" or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("IWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024 through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

George Plumbing Co Inc.
Attn: Michael King
12 Burwood Lane
San Antonio, TX 78216
Email: Accounting@yell4george.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event (SA Ready to Work IWT Training Program) 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

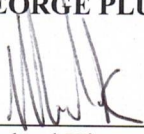
EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

GEORGE PLUMBING CO INC.



Michael King
Chief Financial Officer

4/4/2024

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 20 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

**INCUMBENT WORKER TRAINING SERVICES
AGREEMENT**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and BD HOLT Co. ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the 'Party' or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("IWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

BD Holt Co
Attn: Rebecca Hutchison
5665 SE Loop 410
San Antonio, TX 78222
Email: beki.hutchison@holtgrp.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
*1. Workers' Compensation	<u>Statutory</u>
*2. Employers' Liability	<u>\$500,000/\$500,000/\$500,000</u>
3. Commercial General Liability Insurance to include coverage for the following: a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
4. Professional Liability (Claims-made Coverage)	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 **EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,**

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

BD HOLT CO

Rebecca Hutchison
Sr. Vice President, Human Resources

Date *April 4, 2024*

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 300 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and CNG Engineering, PLLC. (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed THIRTY-SIX THOUSAND DOLLARS AND NO CENTS (\$36,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024 through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

CNG Engineering
Attn: Tiffoni Lewis
8302 Broadway
San Antonio, TX 78209
Email: tiffoni.lewis@cngengineering.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event (SA Ready to Work IWT Training Program) 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Alejandra Lopez
Assistance City Manager

Date

CNG ENGINEERING, PLLC.

Travis E. Wiltshire, P.E.

Travis E. Wiltshire
Owner/Principal

04/04/2024

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 8 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel

- Food
- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

**INCUMBENT WORKER TRAINING SERVICES
AGREEMENT**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Zeitgeist Wellness Group (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed FORTY THOUSAND DOLLARS AND NO CENTS (\$40,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary training or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Zeitgeist Expressions, Inc dba Zeitgeist Wellness Group
Attn: Patricia E Adams, President CMLC
5282 Medical Dr Suite 605
San Antonio, TX 78229-6114/ p 210-447-7373
Email: padams@zwgroup.net

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Alejandra Lopez
Assistant City Manager

Date

ZEITGEIST WELLNESS GROUP



Patricia Adams
CEO/President

04-02-2024

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with SA-AACD training provider to provide Customer Service / Marketing training to 8 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided at the Employer’s site 5282 Medical Dr Suite 605 San Antonio, TX 78229 and virtually or delivered in person at an agreed upon site of ZWG and ACCD. Employers have 12 months (one year) to train individuals, begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee.

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

**INCUMBENT WORKER TRAINING SERVICES
AGREEMENT**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and JMS CPA PLLC (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed FIFTEEN THOUSAND DOLLARS AND NO CENTS (\$15,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

JMS CPA PLLC
Attn: Juan Sanchez
282 W Wildwood
San Antonio, TX 78212
Email: juan@jms-cpas.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Michael Ramsey
Executive Director

Date

JMS CPA PLLC.

Juan Sanchez
President/CEO

Date

4/2/24

Approved as to Form:

Assistant City Attorney

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

JMS CPA PLLC.

Michael Ramsey
Executive Director

Juan Sanchez
President/CEO

Date

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 3 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Laxson Provisions (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed FIFTEEN THOUSAND DOLLARS AND NO CENTS (\$15,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024 through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Laxson Provisions
Attn: Mandy Craig
264 West Lachapelle
San Antonio, TX 78204
Email: mandy@laxsonprovisions.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

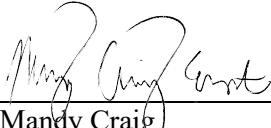
EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Michael Ramsey
Executive Director

Date

LAXSON PROVISIONS



Mandy Craig
VP Marketing and Sales

04/02/2024
Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 3 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and LOMA Behavior and Training LLC (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed EIGHT THOUSAND SEVEN HUNDRED NINETY DOLLARS AND NO CENTS (\$8,790.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Loma Behavior and Training
5804 Babcock Road, #372
San Antonio, TX. 78240
Email: info@lomabehavior.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
*1. <u>Workers' Compensation</u> *2. <u>Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
3. <u>Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
4. <u>Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers’ compensation, employers’ liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER’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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER’S or its subcontractors’ performance of the work covered under this Agreement.

10.12 EMPLOYER’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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER’S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes

personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval,

shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City’s reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee

contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV. Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Michael Ramsey
Executive Director

Date

**LOMA BEHAVIOR AND
TRAINING LLC**

Lorraine Martinez
CEO

Date

4/2/24

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 2 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and J.R. Ramon & Sons, Inc. (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed NINETY-NINE THOUSAND EIGHT HUNDRED AND FORTY DOLLARS AND NO CENTS (\$99,840.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

J.R. Ramon & Sons, Inc.
Attn: Delila Gutierrez
1325 Frio City road
San Antonio, TX 78226
Email: delila@ramondemolition.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----


EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

J.R. RAMON & SONS, INC.

Erik Walsh
City Manager

Date



Clayton Russell
Vice President

4.5.2024
Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 39 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Thank You Nurses, LTD ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the 'Party' or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("IWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

- 1.1 "City" is defined in the preamble of this Agreement and includes its successors and assigns.
- 1.2 "Employer" is defined in the preamble of this Agreement and includes its successors.
- 1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed TEN THOUSAND DOLLARS AND NO CENTS (\$10,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024 through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Thank You Nurses, LTD
Attn: Rick Flores
4440 South Piedras Drive Ste 145
San Antonio, TX 78228
Email: rflores@thankyounurses.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u>	<u>Statutory</u>
<u>*2. Employers' Liability</u>	<u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> <u>a. Premises/Operations</u> <u>b. Products/Completed Operations</u> <u>c. Personal/Advertising Injury</u> <u>d. Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation - In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by subcontracting or any other means, without the prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----Signature Page to follow-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Michael Ramsey
Executive Director

Date

THANK YOU NURSES, LTD



Rick Flores
Director of Operations

03/03/2024
Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 2 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Acadian Ambulance ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the 'Party' or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("IWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed TWENTY-EIGHT THOUSAND DOLLARS AND NO CENTS (\$28,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

 ended for Employer, to:

Acadian Ambulance Service, Inc.
P.O. Box 98000
Lafayette, LA 70509-8000
Attn: Taylor Richard
Email: taylor.richard@acadian.com

With a copy to:

Acadian Ambulance Service, Inc.
P.O. Box 92881
Lafayette, LA 70509-2881
Attn: Contracts Department
Email: contracts@acadian.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> <u>a. Premises/Operations</u> <u>b. Products/Completed Operations</u> <u>c. Personal/Advertising Injury</u> <u>d. Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence:</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, and general liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage

and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 CITY shall advise EMPLOYER in writing within three (3) business days of any claim or demand against the CITY or EMPLOYER known to the CITY related to or arising out of either Party's activities under this Agreement.

11.5 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.6 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written

contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Employer. City shall in no event be obligated to any third party, including any subcontractor of Employer, for performance of services or payment of fees.

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

(i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV. Amendments.

-----*Signature Page to follow*-----


EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Alejandra Lopez,
Assistant City Manager

Date

ACADIAN AMBULANCE



Taylor Richard
Senior Director of Staffing

04/05/2024

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 40 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

***Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.**

Total Contract Amount \$ _____

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and A-Ram Plumbing, Inc. ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the 'Party' or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("IWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed TEN THOUSAND DOLLARS AND NO CENTS (\$10,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or

- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

A-Ram Plumbing
Attn: Patricia Ramirez
7139 Eckhert Rd
San Antonio, TX 78238
Email: aram98.pr@gmail.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
*1. <u>Workers' Compensation</u> *2. <u>Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
3. <u>Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
4. <u>Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation - In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----Signature Page to follow-----

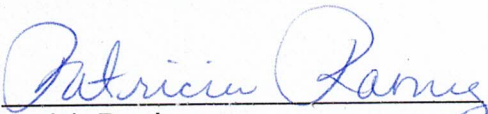
EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Michael Ramsey
Executive Director

Date

A-RAM PLUMBING INC



Patricia Ramirez
Vice President

4-3-24
Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 2 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post- training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Avanzar Interior Technologies LLC (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed NINETY THOUSAND DOLLARS AND NO CENTS (\$90,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Avanzar Interior Technologies LLC
Attn: Darrell Cook
Director of Human Resource Development
Email: darrell.cook@adient.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u>	<u>Statutory</u>
<u>*2. Employers' Liability</u>	<u>\$500,000/\$500,000/\$500,000</u>
3. <u>Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
4. <u>Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers’ compensation, employers’ liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER’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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER’S or its subcontractors’ performance of the work covered under this Agreement.

10.12 EMPLOYER’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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER’S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes

personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval,

shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee

contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV. Amendments.

-----*Signature Page to follow*-----

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

**AVANZAR INTERIOR
TECHNOLOGIES**

Erik Walsh
City Manager

Date

*Ronda
murphy*

Christian Guerra
President

Date

4.2.24

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 100 employee with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post- training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

**INCUMBENT WORKER TRAINING SERVICES
AGREEMENT**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and J&R Tile, Inc. ("Employer"), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the "Party" or collectively as the "Parties."

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the "Program") includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training ("IWT") for current employees ("Trainees"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 "Director" shall mean the director of City's Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed SEVENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$75,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024 through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

J&R Tile, Inc.
Attn: Erin Albrecht
73 Kinder Drive
San Antonio, TX 78212
Email: erin@jandrile.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event (SA Ready to Work IWT Training Program) 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation - In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----


EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

J&R TILE, INC.



Erin Albrecht
Owner

Date 4/2/2024

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio ("City") established the \$180M+ Ready to Work Workforce Development Program ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 15 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
 - Conferences
 - Company website design and development, website hosting and maintenance, software
-

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post- training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

INCUMBENT WORKER TRAINING SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Atlas AC Repair LLC (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Atlas AC Repair LLC
Attn: Tommy Carpenter
4754 Shavano Oak Ste. 101
San Antonio, TX 78249
Email: tommyc@atlasacrepair.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
*1. <u>Workers' Compensation</u> *2. <u>Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
3. <u>Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
4. <u>Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 **EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,**

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----


EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Alejandra Lopez
Assistance City Manager

Date

ATLAS AC REPAIR LLC



Tommy Carpenter
Controller
04/02/2024

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 6 employee with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	

**INCUMBENT WORKER TRAINING SERVICES
AGREEMENT**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Executive Director of Workforce Development, and Military City Air Conditioning and Heating (“Employer”), a for-profit entity registered in the State of Texas. Each of the City and Employer may be referred to as the ‘Party’ or collectively as the “Parties.”

RECITALS

WHEREAS, on November 3, 2020, City of San Antonio voters approved the SA: Ready to Work ballot initiative, authorizing a 1/8th cent sales and use tax for a period of four years to provide workforce development training and higher education to unemployed, underemployed, or underserved residents to obtain high-demand, well-paid careers, in accordance with Chapter 379A of the Texas Local Government Code ("the Better Jobs Act" or "Act"); and

WHEREAS, the SA: Ready to Work program (the “Program”) includes the following objectives: increase access to industry-recognized certification training and college; provide wraparound services and emergency funding to ensure successful completion of training and career placement; increase collaboration within the workforce ecosystem; and promote accountability and adaptability throughout the process; and

WHEREAS, City wishes to partner with Employer to provide services necessary to support the Program, namely incumbent worker training (“IWT”) for current employees (“Trainees”); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Employer and its subcontractors, if any, will provide the aforementioned training.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

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

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

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

1.3 “Director” shall mean the director of City’s Workforce Development Office.

II. TERM

2.1. This Agreement shall commence upon execution by both parties and continue for 18 months ending on September 30, 2025, unless extension or earlier termination shall occur pursuant to any of the provisions hereof.

2.2 It is expressly understood and agreed by Employer that City is providing funding under this Agreement

from current revenues available to City, specifically through a 1/8th cent sales tax collected in accordance with the voter-approved sales tax initiative for workforce training and tuition reimbursement. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory.

III. SCOPE OF WORK

3.1 Employer agrees to provide IWT trainings in accordance with the Training Log, which is attached and incorporated into this Agreement as Exhibit II, in exchange for the compensation described in Article IV. Payment to Employer. Exhibit II shall be submitted prior to training commencement.

3.2 Trainees must be current, full-time employees of Employer receiving wages paid through the Employer's normal and customary pay procedures. Trainees will be provided with all necessary instruction, equipment, and materials by Employer. Employer shall work to remove any barriers for trainees impeding successful completion of training. Employer shall market and inform its workforce of the opportunity to upskill and train under this model.

3.3 Employer shall maintain for Trainees an accurate log of training achieved. Employer agrees to retain these records for four (4) years after the completion of this Agreement.

3.4 Employer shall ensure Workers' compensation or comparable accident or liability insurance coverage for work-related injury or illness is in place for Trainees.

3.5 Employer shall notify the City when dismissing current Trainees on the first working day after dismissal. In the event of dismissal, the Employer retains ability to fill remaining training slot term with another incumbent worker.

3.6 Employer shall submit monthly "Training Logs" that detail reimbursable costs and a final closeout report at the end of the agreement term. Trainee information will be requested during the training cycle to monitor progress. Information may consist of trainee names, hire dates (termination dates, if applicable), IWT completion dates, contact information, trainees job titles, credentials earned, starting hourly wages, and wages at six-months post training.

3.7 City will not require Employers to conduct business on City premises in relation to the Scope of Services.

3.8 City shall have authority to inspect the Employer's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Work. All work performed by Employer hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties. City shall be under no obligation to pay for any work performed by Employer, 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 Employer's work not be satisfactory to Director, however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.9 In performing the services required hereunder, Employer shall:

3.9.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City

may request that Contractor provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

- 3.9.2 Ensure that any organizations or agencies that Employer works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.9.
- 3.9.3 Extend its full cooperation in sharing data and materials produced under this Agreement with SA: Ready to Work Program partners as needed for the success of the Program.

IV. PAYMENT TO EMPLOYER

4.1 In consideration of Employer's performance in a satisfactory and efficient manner, as determined solely by Director, of all obligations, services and activities set forth in this Agreement, City agrees to pay **Employer an amount not to exceed FIFTY THOUSAND DOLLARS AND NO CENTS (\$50,000.00), to be disbursed as follows:**

- a. Upon submission and approval of an invoice, for a period of 18 months beginning April 1, 2024, through September 30, 2025, to reimburse Training costs in accordance with Exhibit I. Scope of Work and Exhibit II, Training Log.

4.2 Employer shall submit invoices no later than the 15th of every month to the Workforce Development Office via email at workforce@sanantonio.gov which WDO shall pay within 30 days of receipt and approval by Director. Once an invoice is reviewed and approved by WDO staff, WDO will send the invoice to COSA's Accounts Payable team for official payment processing.

4.3 No additional fees or expenses of Employer shall be charged by Employer nor be payable by City. Total payments to Employer from City for the contract cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, subject to Article XV. Amendments.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. City shall not be obligated or liable under this Agreement to any party, other than Employer, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

5.1 With the exception of proprietary trainings or curriculum developed as a part of this Agreement to meet employer workforce needs, any and all writings, documents or information in whatsoever form and character produced by Employer pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Employer

5.2 Employer 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 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property

of Employer, including but not limited to writings, documents and information used by Employer in the course of delivering the services hereunder, and any know-how, methodologies, or processes used by the Employer to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole exclusive property of Employer. This includes any proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs.

5.4 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Employer under this Agreement, with the exception of proprietary trainings or curriculum developed as a part of this agreement to meet employer workforce needs, shall be disclosed or made available to any individual or organization by Employer without the express prior written approval of City, except as may be required by law or judicial or regulatory order. In the event Employer receives any such request or order, Employer shall forward such request to City immediately.

5.5 Employer shall establish a method to secure the confidentiality of records and information that Employer may have access to in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Agreement.

VI. RECORDS RETENTION

6.1 Employer and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("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, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Employer shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, Employer shall retain the records until the resolution of such litigation or other such questions. Employer 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 Employer to return said documents to City prior to or at the conclusion of said retention at Employer's expense.

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

VII. TERMINATION

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

7.2 Termination Without Cause. This Agreement may be terminated by either Party upon 30 calendar days' written notice to the other Party, 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 VII. 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 Violation by Employer of any law, rule, or regulation to which Employer is bound or shall be bound under the terms of this Agreement; or
- 7.3.3 Bankruptcy or selling substantially all of Employer's assets.

7.4 Defaults With Opportunity for Cure. Should Employer 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. Employer shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Employer fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Employer to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Employer against Employer'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 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or
- 7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under 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, Employer shall return all unearned payments to City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by City under Sections 3.2 and 4.4.

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

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, Employer 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 Employer to submit its claims within said 45 calendar days shall negate any liability on the part of City and constitute a **Waiver** by Employer of any and all right or claims to collect moneys that Employer may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, Employer shall cease all

operations of work being performed by Employer or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

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

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
100 W. Houston Street, suite 1800
San Antonio, Texas 78205
Email: workforce@sanantonio.gov

If intended for Employer, to:

Military City Air Conditioning & Heating
Attn: Alberto Gonzales
15202 Oak Spring St
San Antonio, TX 78232
Email: militarycityair@gmail.com

IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this contract, Employer 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.

X. INSURANCE

10.1 No later than 30 days before the scheduled services under this Agreement, EMPLOYER must provide a completed Certificate(s) of Insurance to City's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event in the Description of Operations block (SA Ready to Work IWT Training Program);
- 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,

10.2 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 City's Workforce Development Office. No officer or employee, other than CITY'S Risk

Manager, shall have authority to waive this requirement.

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

10.4 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.

10.5 Employer shall obtain and maintain in full force and effect for the duration of this Agreement, at EMPLOYER'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 LICENSEE claims to be self- insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
<u>*1. Workers' Compensation</u> <u>*2. Employers' Liability</u>	<u>Statutory</u> <u>\$500,000/\$500,000/\$500,000</u>
<u>3. Commercial General Liability Insurance to include coverage for the following:</u> a. <u>Premises/Operations</u> b. <u>Products/Completed Operations</u> c. <u>Personal/Advertising Injury</u> d. <u>Contractual Liability</u>	<u>For Bodily Injury and Property Damage of \$500,000 per occurrence;</u> <u>\$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage</u>
<u>4. Professional Liability (Claims-made Coverage)</u>	<u>\$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.</u>
<u>*If Applicable</u>	

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

10.7 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. EMPLOYER must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

City of San Antonio Workforce
Development Office
100 W. Houston Street, Suite 1800
San Antonio, Texas 78205

10.8 EMPLOYER'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.
- Employer shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and
- Provide 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.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, EMPLOYER shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend EMPLOYER'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.

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

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which EMPLOYER may be held responsible for payments of damages to persons or property resulting from EMPLOYER'S or its subcontractors' performance of the work covered under this Agreement.

10.12 EMPLOYER'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.

10.13 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.

10.14 EMPLOYER and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 EMPLOYER 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, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to EMPLOYER'S activities under this AGREEMENT, including any acts or omissions of EMPLOYER, any agent, officer, director, representative, employee, Employer or subcontractor of EMPLOYER, 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 elected officials,

employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT EMPLOYER 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 INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Employer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Employer 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 Employer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Employer shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Employer, 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 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 Employer or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

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

12.2 The use of any subcontractor(s) requires the prior written approval of Director.

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

12.4 Except as otherwise stated, Employer 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 prior written consent of Director. As a condition of such consent, if such consent is granted, Employer 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 without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Employer 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 Employer 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 Employer shall in no event release Employer from any obligation under the terms of this Agreement, nor shall it relieve or release Employer from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Employer covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Employer 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 Employers; that the doctrine of respondent superior shall not apply as between City and Employer, its officers, agents, employees, contractors, subcontractors and Employers, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Employer. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Employer under this Agreement and that the Employer has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as 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 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:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Employer warrants and certifies as follows:

- (i) Employer and its officers, employees and agents are neither officers nor employees of the City.

14.3 Employer acknowledges that City's reliance on the above warranties and certifications is reasonable.

XV. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Employer and subject to City Council approval when required, as evidenced by passage of an ordinance. The Executive Director shall have the authority to execute amendments of this Agreement under \$50,000.

15.2 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties 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; it is also the intention of the Parties 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.

XVII. LICENSES/CERTIFICATIONS

17.1 Employer warrants and certifies that Employer and any other person designated to provide services under this Agreement 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 under this Agreement.

XVIII. STATE PROHIBITIONS ON CERTAIN CONTRACTS

- (1) This Article only applies to a contract that 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.

18.1 "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.

18.2 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.

"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.

Employer 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.

18.3 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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.

"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).

Employer 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.

18.4 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

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.

"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.

Employer 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.

18.5 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization 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. Vendor 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 Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a

waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. 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 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 of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XX. LAW APPLICABLE

20.1 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.

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

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

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

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

XXIII. CAPTIONS

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

XXIV. INCORPORATION OF EXHIBITS

24.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit I. Scope of Work

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties 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, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV.

Amendments.

-----*Signature Page to follow*-----

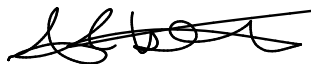
EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

**MILITARY CITY AIR
CONDITIONING AND HEATING**



Alberto Gonzales
AVP Workforce Planning and
Development

04/01/2024

Date

Approved as to Form:

Assistant City Attorney

Exhibit I

SCOPE OF WORK

Background

In 2022, the City of San Antonio (“City”) established the \$180M+ Ready to Work Workforce Development Program (“RTW”), which aims to train 15,000 qualifying San Antonio residents through 2025. The City engaged with employers throughout San Antonio to launch a pilot to execute an Incumbent Worker (IWT) Training model to reimburse businesses for the costs associated with training incumbent employees.

Incumbent worker training is a type of work-based learning focused on upskilling current employees to ensure they can acquire the skills necessary to retain employment and advance within the company or to acquire the skills necessary to avert a layoff. This IWT pilot will help local businesses upgrade the skills of current employees or support the retention of new hires.

Incumbent Worker Training Pilot

Employer will contract with a training provider to provide training to 10 employees with the goal of acquiring new or improved skills by earning a credential. Training will be provided either in person or virtually. Employer shall inform the City of which method it chooses. Employers have 12 months (one year) to train individuals, which begins upon first training start date.

An eligible IWT trainee is:

- Employed by the same Ready to Work Pledged Employer for greater than 6 months; and
- A full-time, W-2 employee;

The City will reimburse the following related costs:

1. Tuition,
2. Training,
3. Course,
4. Instructor; and/or
5. Curriculum development

Under this agreement, the City will reimburse Employer no more than \$5,000 per incumbent worker trained during the award period.

Employer must only build in curriculum development costs once and billed accordingly.

Employer is required to submit quarterly participant success stories and employer testimonials, upon request (no more than 4x per year), regarding the impact of the program.

Disallowed Costs

- Employee/trainee wages and fringe benefits
- Compensation or consultant fees
- Capital improvements
- Travel
- Food

- Membership fees/dues
- Conferences
- Company website design and development, website hosting and maintenance, software

The following are examples of training that cannot be funded:

- CPR and first aid.
- New hire orientation.
- Diversity and sexual harassment.
- English as a second language.
- Workplace literacy or soft skills.
- Training that uses grant funding for the purchase of equipment (such as iPads or other equipment/supplies/devices that can be used outside of training) in the cost of the training.

EXHIBIT II TRAINING LOG

1. Training Course Cost Information*

Training Course Name	
Training Provider Name	
Curriculum Cost	
Course Material Cost	
Instructor Cost	
Post-credential Certification Cost	
Tuition Cost	
Total Overall Costs	
Number of Participants	
Cost Per Participant	

*The above will need to be filled out for each individual training course offered

2.

A	B	C	D	E	F	G	H	I	J	K
*Participant First and Last Name	Social Security #	Job Title	Type Credential Earned	Description of the certificate or credential earned	Start Date of Training	Training Duration	End Date of Training	Wages at start of training	Wages post-training 6 months	Promotion Earned? (Yes/No)
					3/1/2024	3 months	6/1/2024			

*Employer must enter data for each employee taking training – multiple trainings and not to exceed cap per individual.

3. Overall Data Outcomes

A	B
Number of employees who completed the training program	
Number of employees who earned a credential	
Number of employees who earned a promotion	
Number of employees who earned a wage increase	
Number of existing jobs saved	
Number of new jobs created	