

City of San Antonio  
Metropolitan Health District  
100 W Houston, 14th Floor  
San Antonio, Texas 78205

[name of corner store]  
[address]  
[address]

### **Memorandum of Agreement**

This Memorandum of Agreement (MOA or Agreement) is entered into between **[NAME OF CORNER STORE]** and the City of San Antonio's San Antonio Metropolitan Health District (Metro Health or City) (hereinafter collectively referred to as the Parties).

**WHEREAS**, the Healthy Corner Stores Program (HCSP) was first created and implemented in April of 2019 and expanded in October of 2020 to address a lack of access to grocery stores and healthy foods by many San Antonians; and

**WHEREAS**, the primary goals of HCSP is to improve health outcomes by increasing access to healthy foods, including fresh fruits and vegetables, within the corner stores that are already part of the local San Antonio landscape; and

**WHEREAS**, Metro Health seeks to provide subsidized produce at a reduced costs to stores for each new corner store that participates in the program on the condition that the corner store agrees to promote fresh produce in their stores, communicates with the program regarding successes and challenges throughout the program year, and fills the fridge with only approved healthy items.

**NOW THEREFORE**, this Memorandum of Agreement of the Parties delineates the responsibilities of each of the Parties.

### **I. PURPOSE**

1.1 The Parties have determined that through their mutual collaboration, the HCSP can be expanded from the original eight (8) corner stores to include numerous other corner stores, and that the HCSP can continue to improve health outcomes by increasing access to healthy foods, including fresh fruits and vegetables by increasing its partnerships with more corner stores.

### **II. TERM**

2.1 This agreement becomes effective on October 1, 2022 **[EDIT TO LATER START DATE IF START AFTER 10/1/21]** and terminates on September 30, 2023. The City shall have the option to renew this Agreement, in writing, for two (2) additional one-year terms (October 1 - September 30) subject to (a) the City's receipt of additional monies sufficient to fund the renewal term and appropriation; and (b) the Contractor satisfactorily meeting the performance requirements of this Agreement, as solely determined by the Director. The renewals shall be in writing and signed by the Director without further action by the San Antonio City Council. Lack of funding is not and will not be considered a breach of this Agreement; provided, however, that lack of funding will not excuse payment for services rendered.

### III. JOINT ACKNOWLEDGMENTS

3.1 **[NAME OF CORNER STORE]** agrees and understands that the City expects to purchase items contingent upon funding of the City's budget. Accordingly, if funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor **[NAME OF CORNER STORE]** will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

3.2 The pick-up and delivery of all equipment set out within this Agreement shall be coordinated upon the mutual agreement of the Parties.

### IV. RESPONSIBILITIES OF METRO HEALTH

4.1 **{INCLUDE THIS PROVISION IF BEING PROVIDED EQUIPMENT}** The City will procure the Equipment and **[NAME OF CORNER STORE]** agrees to provide services and support related to support and coordination for the expansion of the HCSP described herein in exchange for (1) subsidized and discounted produce and (2) the Equipment attached hereto and incorporated herein for all purposes in **Attachment I**.

4.2 **{INCLUDE THIS PROVISION IF BEING PROVIDED EQUIPMENT}** The City will provide the Equipment set out in Section 4.1 to **[NAME OF CORNER STORE]** for use in the HCSP, subject to the terms and conditions set out herein.

4.3 **{INCLUDE THIS PROVISION IF BEING PROVIDED EQUIPMENT}** The City will donate the Equipment set out in Section 4.1 to **[NAME OF CORNER STORE]** at the conclusion of the term of the Agreement, provided that it has exclusively been used for the display of produce and other healthy food items and that the retail prices of these items have stayed within the recommended ranges throughout the duration of the term.

4. **{IF NOT BEING PROVIDED EQUIPMENT THIS BECOMES 4.1}** Metro Health staff will provide input and guidance regarding the HSCP throughout the course of this Agreement to include:

- a. Connect the store with a produce vendor or vendors, approved by the program, to provide produce for the program at a 50% cost-share. If this agreement is renewed for a second term the vendor shall provide produce for the program at 20% cost-share. If this agreement is renewed for a third term the vendor shall provide produce for the program at 0% cost-share.
- b. Facilitate trainings at the participating store regarding storage and handling of fresh produce;

- c. Provide marketing support for the store's participation in the program to include promotional events and various advertising efforts including but not limited to: social media, neighborhood outreach, and signage in and around the store;
- d. Conduct visits to store at least quarterly, with additional visits as necessary, to determine whether produce is being stocked and the condition of the produce as well as answer any owner question and handle any signage needs; and
- e. Other actions as Metro Health deems appropriate.

## V. RESPONSIBILITIES OF **[NAME OF CORNER STORE]**

5.1 **[NAME OF CORNER STORE]** will work with a produce vendor to be specified by Metro Health (hereinafter referred to as Vendor), and will work with Metro Health staff directly to implement the HCSP within its store location.

5.2 **[NAME OF CORNER STORE]** agrees to provide services and support related to support and coordination for the expansion of the HCSP described herein in exchange for subsidized and discounted produce.

5.\_ **{INCLUDE THIS PROVISION IF BEING PROVIDED EQUIPMENT}** **[NAME OF CORNER STORE]** will accept all Equipment from the City "AS IS" condition and will be responsible for all maintenance and upkeep of all Equipment in its possession for the duration of the Agreement, to include maintaining and repairing all Equipment as necessary for safe operation, including providing parts and tools.

5.\_ **[NAME OF CORNER STORE]** will coordinate with Metro Health and Vendor to establish the HCSP at the following location for participation and completion as set out herein:

**[NAME OF CORNER STORE]**  
**[ADDRESS]**  
**[ADDRESS]**

5.\_ **[NAME OF CORNER STORE]** will periodically communicate with HCSP coordinator or his or her designee regarding the challenges and successes related to the HCSP for the term of this Agreement.

5.\_ **[NAME OF CORNER STORE]** will be responsible for oversight/implementation of the HCSP. Responsibilities will include the following:

5.\_.1 **[NAME OF CORNER STORE]** agrees that it will use its best efforts to continue the HCSP after the conclusion of the Agreement.

5.\_.2 Through coordination with Metro Health and the Vendor, **[NAME OF CORNER STORE]** will make fresh produce available for sale at **[ADDRESS]**.

- 5.\_.3 **[NAME OF CORNER STORE]** agrees that it will receive training from the Vendor on produce handling procedures.
- 5.\_.4 **[NAME OF CORNER STORE]** agrees that it will stock a commercial display refrigerator exclusively with fruits, vegetables, and other healthy food items;
- 5.\_.5 **[NAME OF CORNER STORE]** agrees that it will publicly display marketing materials advertising healthy foods as part of the HCSP, as well as relevant recipe sheets supplies by HCSP;
- 5.\_.6 **[NAME OF CORNER STORE]** agrees that it will publicly display relevant health and nutrition information provided by Metro Health;
- 5.\_.7 **[NAME OF CORNER STORE]** agrees that it will sell produce at the price recommended by the Vendor, which will be slightly under retail prices at competing retail grocers.
- 5.\_.8 **[NAME OF CORNER STORE]** agrees that it will engage in a 50% cost-share for produce from the vendor. If this agreement is renewed for a second term, **[NAME OF CORNER STORE]** agrees that it will engage in a 20% cost-share for produce from the vendor. If this agreement is renewed for a third term, **[NAME OF CORNER STORE]** agrees that it will engage in a 0% cost-share for produce from the vendor.
- 5.\_.9 {INCLUDE THIS PROVISION IF BEING PROVIDED EQUIPMENT} **[NAME OF CORNER STORE]** agrees that it will be responsible for the security of the Equipment provided by the City and will keep it securely stored at all times.
- 5.\_.10 {INCLUDE THIS PROVISION IF BEING PROVIDED EQUIPMENT} **[NAME OF CORNER STORE]** agrees that in the event that the HCSP ceases to operate for any reason during the term of this Agreement, that **[NAME OF CORNER STORE]** will immediately return the Equipment provided by Metro Health or shall reimburse Metro Health for Equipment not returned along with any supporting documentation to demonstrate the loss, damage, or provision of any piece of Equipment not returned.

## VI. RECORDS RETENTION

6.1 **[NAME OF CORNER STORE]** and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

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

6.3 The Public Information Act, codified in Texas Government Code Section 552.021, requires the City to make public information available to the public. Under Government Code Section 552.002(a), public information means information that is collected, assembled or maintained under a law or ordinance or in connection with the transaction of official business: 1) by a governmental body; or 2) for a governmental body and the governmental body owns the information or has a right of access to it. Therefore, if **[NAME OF CORNER STORE]** receives inquiries regarding documents within its possession pursuant to this MOA, **[NAME OF CORNER STORE]** shall within twenty-four (24) hours of receiving the requests forward such requests to City for disposition. If the requested information is confidential pursuant to state or federal law the **[NAME OF CORNER STORE]** shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days of **[NAME OF CORNER STORE]**'s receipt of such request. For the purposes of communicating and coordinating with regard to public information requests, all communications shall be made to the designated public information liaison for each Party. Each Party shall designate in writing to the other Party the public information liaison for its organization and notice of a change in the designated liaison shall be made promptly to the other Party.

## **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 herein.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days written notice, which notice shall be provided in accordance with Article VIII Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (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 by the City.

7.4 Defaults With Opportunity for Cure. Should the **[NAME OF CORNER STORE]** default in the performance of this MOA 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. **[NAME OF CORNER STORE]** shall have ten (10) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If the **[NAME OF CORNER STORE]** fails to cure the default within such tenday cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate.

- 7.4.1 Bankruptcy or selling substantially all of company's assets
- 7.4.2 Failing to perform or failing to comply with any covenant herein required
- 7.4.3 Performing unsatisfactorily

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

7.6 Regardless of how this Agreement is terminated, **[NAME OF CORNER STORE]** 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 **[NAME OF CORNER STORE]**, or provided to **[NAME OF CORNER STORE]**, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by **[NAME OF CORNER STORE]** 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 **[NAME OF CORNER STORE]**'s sole cost and expense. Payment of compensation due or to become due to City is conditioned upon delivery of all such documents, if requested.

7.7 Upon the effective date of expiration or termination of this Agreement and successful completion of store in the HCSP, as deemed by City, the ownership of the refrigeration unit will be transferred from the City to **[NAME OF CORNER STORE]**. If this Agreement is terminated prior to the successful completion of the term, **[NAME OF CORNER STORE]** shall not maintain ownership of the Equipment and shall be required to return the provided Equipment to the City.

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

## VIII. NOTICE

8.1 Any notice or communication required or permitted hereunder shall be given in writing, sent by (a) personal delivery, or (b) expedited delivery service with proof of delivery, (c) United



States mail, postage prepaid, registered or certified mail, or (d) via facsimile, telegram or e-mail, address as follows:

**If to the City:**

City of San Antonio  
Claude A. Jacob  
San Antonio Metropolitan Health District  
100 W Houston, 14th Floor  
San Antonio, TX 78205

**If to *[NAME OF CORNER STORE]*:**

*[NAME OF OWNER]*  
Store Owner  
*[NAME OF CORNER STORE]*  
*[ADDRESS]*  
*[ADDRESS]*

## **IX. FURTHER ADMINISTRATION OF AGREEMENT**

9.1 City may, at its discretion, conduct periodic, announced monitoring visits to ensure program and administrative compliance with this MOA and HCSP goals and objectives. City reserves the right to make unannounced visits to *[NAME OF CORNER STORE]* when it is determined that such unannounced visits are in the interest of effective project management and service delivery.

9.2 City agrees that it will present the findings of any such review to *[NAME OF CORNER STORE]* in a timely manner and will attempt to convey information of HCSP strengths and weaknesses and assist with Project improvement.

9.3 Unless otherwise provided herein, all reports, statements, records, data, policies and procedures or other information requested by Metro Health shall be submitted by *[NAME OF CORNER STORE]* to City within five (5) working days of the request. The parties agree that a shorter time frame may be necessary for response in the case of the single audit and shall cooperate to meet deadlines necessary to comply with the single audit requirements. In the event that *[NAME OF CORNER STORE]* fails to deliver the required reports or information or delivers incomplete information within the prescribed time period, the City may, upon reasonable notice, suspend reimbursements to *[NAME OF CORNER STORE]* until such reports are delivered to City. Furthermore, the *[NAME OF CORNER STORE]* ensures that all information contained in all required reports or information submitted to City is accurate.

9.4 Unless disclosure is authorized by the City, *[NAME OF CORNER STORE]* agrees to maintain in confidence all information pertaining to the Project or other information and materials prepared for, provided by, or obtained from City including, without limitation, reports, information, project evaluation, project designs, data, other related information (collectively, the "Confidential Information") and to use the Confidential Information for the sole purpose of performing its obligations pursuant to this Agreement. *[NAME OF CORNER STORE]* shall protect the Confidential Information and shall take all reasonable steps to prevent the unauthorized disclosure, dissemination, or publication of the Confidential Information. If disclosure is required (i) by law or (ii) by order of a governmental agency or court of competent jurisdiction, *[NAME OF CORNER STORE]* shall give the Director of Metro Health prior written notice that such disclosure is required with a full and complete description regarding such requirement. *[NAME OF CORNER STORE]* shall establish specific procedures designed to meet the obligations of this Article, including, but not limited to execution of confidential disclosure agreements, regarding

the Confidential Information with **[NAME OF CORNER STORE]**'s employees and subcontractors prior to any disclosure of the Confidential Information. Upon termination or expiration of this Agreement, **[NAME OF CORNER STORE]** shall return to City all copies of materials related to the Project, including the Confidential Information. All confidential obligations contained herein (including those pertaining to information transmitted orally) shall survive the termination of this Agreement. The Parties shall ensure that their respective employees, agents, and contractors are aware of and shall comply with the aforementioned obligations.

## **X. INSURANCE**

10.1 Prior to the commencement of any work under this Agreement, **[NAME OF CORNER STORE]** shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Health Department, which shall be clearly labeled "Healthy Corner Stores Program" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the Authorized Representative of the carrier, and list the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Health Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

10.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

10.3 A Contractor's financial integrity is of interest to the City; therefore, subject to **[NAME OF CORNER STORE]**'s right to maintain reasonable deductibles in such amounts as are approved by the City, **[NAME OF CORNER STORE]** shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at **[NAME OF CORNER STORE]**'s sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized 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:

<b><i>INSURANCE TYPE</i></b>	<b><i>LIMITS</i></b>
1. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability e. Independent Contractors	For Bodily Injury and Property Damage \$1,000,000 per occurrence; \$2,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage must be on a per project aggregate.



2. Property Insurance	For physical damage to the property of the agreement, including improvements and betterment to the leased property. Coverage for replacement value.
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10.4 **[NAME OF CORNER STORE]** agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverage required of **[NAME OF CORNER STORE]** herein, and provide a certificate of insurance and endorsement that names the **[NAME OF CORNER STORE]** and the CITY as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of **[NAME OF CORNER STORE]**. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

10.5 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. **[NAME OF CORNER STORE]** shall be required to comply with any such requests and shall submit requested documents to City at the address provided below within 10 days. **[NAME OF CORNER STORE]** shall pay any costs incurred resulting from provision of said documents.

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

10.6 **[NAME OF CORNER STORE]** agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

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

10.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, **[NAME OF CORNER STORE]** shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend **[NAME OF CORNER**

**STORE]**'s performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

10.8 In addition to any other remedies the City may have upon **[NAME OF CORNER STORE]**'s failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order **[NAME OF CORNER STORE]** to stop work hereunder, /or withhold any payment(s) which become due to **[NAME OF CORNER STORE]** hereunder until **[NAME OF CORNER STORE]** demonstrates compliance with the requirements hereof.

10.9 Nothing herein contained shall be construed as limiting in any way the extent to which **[NAME OF CORNER STORE]** may be held responsible for payments of damages to persons or property resulting from **[NAME OF CORNER STORE]**'s or its subcontractors' performance of the work covered under this Agreement.

10.10 It is agreed that **[NAME OF CORNER STORE]**'s insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

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

10.12 **[NAME OF CORNER STORE]** and any Subcontractors are responsible for all damage to their own equipment and/or property.

## **XI. INDEMNIFICATION**

11.1 **[NAME OF CORNER STORE]** covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to **[NAME OF CORNER STORE]**'s activities under this Agreement, including any acts or omissions of **[NAME OF CORNER STORE]**, any agent, officer, director, representative, employee, consultant or subcontractor of **[NAME OF CORNER STORE]**, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this MOA. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers, or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT **[NAME OF CORNER STORE]** AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS,

**WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

11.2 The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Both parties shall promptly advise the other in writing of any claim or demand against them related to or arising out of their activities under this Agreement.

11.3 Defense Counsel - CITY shall have the right to select or to approve defense counsel to be retained by CONTRATOR in fulfilling its obligation hereunder to defend and indemnify CITY, unless such right is expressly waived by CITY in writing. **[NAME OF CORNER STORE]** shall retain CITY approved defense counsel within seven (7) business days of CITY'S written notice that CITY is invoking its right to indemnification under this Contract. If **[NAME OF CORNER STORE]** fails to retain Counsel within such time period, CITY shall have the right to retain defense counsel on its own behalf, and **[NAME OF CORNER STORE]** 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.

## **XII. APPLICABLE LAW**

**12.1 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.**

12.2 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.

## **XIII. AMENDMENTS**

13.1 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 **[NAME OF CORNER STORE]**. The Director of Metro Health may execute contract amendments on behalf of City in the following circumstances a) budget adjustments authorized by the funding agency so long as the total dollar amount of the budget remains unchanged, b) modifications to the performance measures and cost-sharing amounts listed in the contract so long as the terms of the amendment stay within the parameters set forth in the statement of work of said contract and c) changes in state or federal regulations mandated by the funding agency.

## **XIV. SEVERABILITY**

14.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause

or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the 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.

## **XV. LEGAL AUTHORITY**

15.1 The signer of this Agreement for **[NAME OF CORNER STORE]** represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of **[NAME OF CORNER STORE]** and to bind **[NAME OF CORNER STORE]** to all of the terms, conditions, provisions and obligations herein contained.

## **XVI. ENTIRE AGREEMENT**

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

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

**CITY OF SAN ANTONIO**

**[NAME OF CORNER STORE]**

\_\_\_\_\_  
Claude A. Jacob  
Health Director  
San Antonio Metropolitan Health District

\_\_\_\_\_  
**[NAME OF OWNER]**  
Owner  
**[NAME OF CORNER STORE]**

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

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

Approved as to Form:

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

