

INTERLOCAL COOPERATION CONTRACT

THE STATE OF TEXAS
COUNTY OF HAYS

This Interlocal Cooperation Contract (this "Contract") is entered into by and between the Contracting Parties shown below pursuant to authority granted in and in compliance with the *Interlocal Cooperation Act, Chapter 791, Texas Government Code*.

I. Contracting Parties

The Receiving Party: **Texas State University-San Marcos ("Texas State")** an institution of higher education and agency of the State of Texas.
*Texas School Safety Center
Florence C. Raymond
350 N. Guadalupe, Suite 140, PMB 164
San Marcos, Texas 78666
877-304-2727*

The Performing Party: **City of Austin** a local government of the State of Texas
Chief Art Acevedo
715 E 8th St
Austin, TX 78701-3300

II. Statement of Services to be Performed

Performing Party will perform the following service(s):

Conduct **347** Controlled Buy/Stings and Follow-ups of tobacco permitted retail outlets using minors as decoys, to determine compliance with applicable laws in accordance with Health and Safety Code §161.082 – Sale of cigarettes or tobacco products to persons younger than 18 years of age prohibited: Proof of age required. Work shall be performed following the details outlined in attached Scope of Work – Exhibit A, Performance Measures, and Exhibit B.

III. Basis for Calculating Reimbursable Costs

Performing Party shall be paid \$75.00 for each correct and completed Controlled Buy/Sting and Follow-up reported on the Cigarette and Tobacco Controlled Buy/Sting Report form **(for a maximum of 347 Controlled Buy/Stings and Follow-ups x \$75.00 each for a total of \$26,025.00)**. Payment will be based on the receipt and approval of an invoice for services. All costs incurred for the purpose of conducting a complete Control Buy/Sting and Follow-up are the responsibility of the contractor. In order to receive full payment for the Controlled buy/Stings and Follow-ups billed for each performance reporting period, a completed Cigarette and Tobacco Controlled Buy/Sting Report must be attached for each along with additional information outlined in **Exhibit C, Payment For Services**.

IV. Contract Amount

The total amount of this Contract shall not exceed TWENTY SIX THOUSAND TWENTY FIVE DOLLARS AND NO/100 CENTS (\$26,025.00). This is the maximum amount collectable under the Contract as written.

V. Payment of Services

Receiving Party will remit payments to Performing Party for services satisfactorily performed under this Contract in accordance with the *Texas Prompt Payment Act, Chapter 225, Texas Government Code*.

Payments made under this Contract will (1) fairly compensate Performing Party for the services performed under this Contract, and (2) be made from current revenues available to Receiving Party in the form of a contract from the Department of State Health Services to fund local law enforcement agencies to enforce Health and Safety Code §161.082 – Sale of cigarettes or tobacco products to persons younger than 18 years of age prohibited: Proof of age required.

VI. Warranties

Receiving Party warrants that (1) the services are necessary and authorized for activities that are properly within its statutory functions and programs; (2) it has the authority to contract for the services under authority granted in Texas Government Code 403.105 – Permanent Fund for Health and Tobacco Education and Enforcement; (3) it has all necessary power and has received all necessary approvals to execute and deliver this Contract; and (4) the representative signing this Contract on its behalf is authorized by its governing body to sign this Contract.

Performing Party warrants that (1) it has authority to perform the services under authority granted in Chapter 161.088, Texas Health and Safety Code and Chapter 791, Texas Government Code; (2) it has all necessary power and has received all necessary approvals to execute and deliver this Contract; and (3) the representative signing this Contract on its behalf is authorized by its governing body to sign this Contract.

VII. Term of the Contract

This Agreement is effective **September 1, 2012** and shall terminate on **August 31, 2013**.

VIII. Termination

In the event of a material failure by a Performing Party to perform its duties and obligations in accordance with the terms of this Contract, the other party may terminate this Contract upon **30 days'** advance written notice of termination setting forth the nature of the material failure; provided that, the material failure is through no fault of the terminating party. The termination will not be effective if the material failure is fully cured prior to the end of the **30-day** period.

Executed effective as of the Effective Date by the following duly authorized representatives of the Contracting Parties:

Performing Party
City of Austin

Receiving Party
Texas State University-San Marcos

By_____

By _____

Name _____

Name: W. Scott Erwin

Title _____

Title Director of Sponsored Programs

Date: _____

Date: _____

By_____

Name_____

Title _____

Date_____

By_____

Name_____

Title _____

Date_____

By_____

Name_____

Title _____

Date_____

EXHIBIT A SCOPE OF WORK

The Contractor shall diligently render the following performance:

Contract funds shall be used to support the enforcement activities and additional programs requirements outlined in 1-4 of Exhibit A, Scope of Work. Contractor shall meet the assigned Performance Measures assigned in Exhibit B.

1. Enforcement Activities

Contractor shall:

- a. Conduct Controlled Buy/Stings and Follow-ups of tobacco permitted retail outlets using minors as decoys, to determine compliance with applicable laws in accordance with Health and Safety Code §161.082 – Sale of cigarettes or tobacco products to persons younger than 18 years of age prohibited: Proof of age required. Refer to Exhibit B Schedule – Performance Measures, for the number of Controlled Buy/Stings to be conducted.
- b. Record the results of the Controlled Buy/Stings conducted using the Texas Department of State Health Services (DSHS) Cigarette and Tobacco Controlled Buy/Sting Report form provided by the Texas School Safety Center at Texas State University-San Marcos.
- c. Use non-smoking male and female minors ages 14 – 16 in accordance with Health and Safety Code, Chapter 161.088 – Enforcement; Announced Inspections.
- d. Use the State Comptroller of Public Accounts most recent Tobacco Permitted Retail Outlet List for the Controlled Buy/Stings to obtain Retail Outlet name, address, and tobacco permit numbers.
- e. Conduct Follow-up Controlled Buys/Stings of retail outlets found to be in violation of state laws. Reasons for follow-up may include: 1) repeated violations, 2) knowledge of historical perspective of previous sales to minors, and /or 3) complaints received where a follow-up is needed. Follow-up Controlled Buys/Stings shall be conducted within two to ten (2-10) days of original Controlled Buy/Sting.
- f. Conduct Follow-up Inspections on complaints regarding retailer and/or other violations received on the state's 1-800 tobacco hotline.

2. Training Activities

Contractor shall:

- a. Assign appropriate agency representatives to participate in a live web-based training session conducted by Texas School Safety Center. Representatives shall include the person(s) assigned to the implementation of the contract activities, and/or the line supervisor overseeing the day-to-day activities of this contract, and the person(s) conducting the enforcement outlined in Exhibit A, Scope of Work.
- b. Participate in any and all ongoing technical assistance and training activities offered by the Texas School Safety Center at Texas State University-San Marcos.

3. Reporting Requirements

Contractor shall:

- a. Submit a monthly activity summary report for the Controlled Buy/Stings and Follow-ups conducted, using the Monthly Summary and Invoice form provided by the Texas School Safety Center at Texas State University-San Marcos.
- b. Provide a short summary of challenges and obstacles encountered in the course of conducting Controlled Buys/Stings and Follow-ups for performance reporting period, using the Monthly Summary and Invoice form provided by the Texas School Safety Center at Texas State University-San Marcos.
- c. Submit the Monthly Summary and Invoice form to include the number of Controlled Buy/Stings conducted along with the number of Citations issued within the performance reporting period. Controlled Buy/Stings conducted as part of a Follow-up shall also be included in the total of Controlled Buys/Stings conducted.
- d. Submit billing information for services provided in the invoice section of the Monthly Summary and Invoice form. Payment amount for services is outlined in Exhibit C, Payment for Services. The Monthly Summary and Invoice form shall be signed by the designated authorized official.
- e. The Monthly Summary and Invoice form shall be submitted to the Texas School Safety Center on the 4th of the month for activities of the previous month. The report may be mailed or faxed to the Texas School Safety Center, 350 N. Guadalupe – Suite 140, PMB 164, San Marcos, Texas 78666. Fax # 512-245-1133.
- f. Texas School Safety Center will provide violation information to the Comptroller of Public Accounts as required by law, (Health & Safety Code, Section 161.090 Reports of Violation) by the 10th working day of the month for activity of the previous month.

4. Additional Program Requirements

Contractor shall:

- a. Assign a minimum of one (1) agency representative to the implementation of the activities of this contract, and provide the name(s) of any key personnel changes that impact the requirements of this contract.
- b. Coordinate enforcement activities with other law enforcement agencies in the area. Coordination of services shall include but not limited to resources such as officers and minor decoys to maintain integrity of the undercover operation in testing compliance with tobacco sales to minors.
- c. Contractor shall maintain specific, detailed supporting documentation of all programmatic records used in the course of conducting the Controlled Buy/Stings for a minimum of 4 years.

EXHIBIT B PERFORMANCE MEASURES

The following performance measures will be used to measure compliance with the services rendered as described in Exhibit A, Scope of Work.

Contractor shall:

1. Conduct the number of activities for this contract period as follows:
 - a. Number of Controlled Buys/Stings and Follow-ups using minors as decoys: **347**
 - b. A performance measure will not be assigned for Follow-up of Controlled Buys/Stings as a result of local perspective of previous sales to minors and/or complaints received. However, contractor is required to conduct Follow-up of retail outlets not in compliance and report the activity monthly.
2. Contractor shall follow the Contractor's Program Work Plan monthly goal pre-established upon inception of the contract. The Contractor's Program Work Plan outlines monthly goals to follow from **September 2012 to August 2013**.
 - a. Deviation from the pre-established Contractor's Program Work Plan requires prior approval from TxSSC staff.

EXHIBIT C PAYMENT FOR SERVICES

Payment will be based on the receipt and approval of an invoice for services.

Contractor shall:

1. Be paid monthly upon submission of Parts 1-5 of the Monthly Summary and Invoice form and attachments as confirmation of services rendered.
2. Record the number of Controlled Buy/Stings conducted and attach complete Cigarette and Tobacco Controlled Buy/Sting Report forms for each Controlled Buy/Sting conducted for the Performance Reporting Period. The total activity reported shall correspond to the pre-established monthly goal listed in the Contractor's Program Work Plan.
3. Be paid \$75.00 for each correct and completed Controlled Buy/Sting reported on the Cigarette and Tobacco Controlled Buy/Sting Report form. All costs incurred for the purpose of conducting a complete Control Buy/Sting are the responsibility of the contractor. In order to receive full payment for the Controlled buy/Stings including follow-ups billed for each performance reporting period, a completed Cigarette and Tobacco Controlled Buy/Sting Report must be attached for each.
4. Submit invoices and attachments to:

Chad L. Nolte
Law Enforcement Contract Specialist
Tobacco Prevention & Community Services
Texas School Safety Center
Texas State University-San Marcos
350 N. Guadalupe, Suite 140, PMB 164
San Marcos, Texas 78666
Phone: 512-245-9665
Fax: 512-245-1133
Email: cn1082@txstate.edu

The Monthly Summary and Invoice form shall be reviewed by the 15th of the month and submitted for payment if information included in the report and attachments are correct. Payment shall be subject to laws of the State of Texas including Prompt Payment.

Notwithstanding the foregoing, the cumulative amount of Service Fees remitted by University to Contractor shall not exceed **\$26,025.00** without the prior written approval of the University.