

RESOLUTION NO. 01-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS APPOINTING A HEALTH AUTHORITY AND MEDICAL DIRECTOR FOR THE ABILENE TAYLOR COUNTY PUBLIC HEALTH DISTRICT.

WHEREAS, the Local Public Health Reorganization Act, Chapter 121, Texas Health and Safety Code provides that a governing body of a municipality or the commissioner's court of a county may enforce any law that is reasonably necessary to protect the public health; and

WHEREAS, the City of Abilene, Texas and Taylor County, Texas, have created the Abilene-Taylor County Public Health District to provide public health services in this region; and

WHEREAS, a Health Authority is a physician appointed under the terms of the Local Public Health Reorganization Act to administer state and local laws relating to public health within the appointing body's jurisdiction; and

WHEREAS, a Health Authority must be a competent physician with a reputable professional standing who is legally qualified to practice medicine in the state of Texas, and be a resident of the state of Texas, and

WHEREAS, the Health Authority shall serve a term of two years and may be appointed to successive terms; and

WHEREAS, Dr. Peter Norton has served as the Health Authority and Medical Director of the Abilene-Taylor County Public Health District for the preceding two year term and has agreed to continue to serve; and

WHEREAS, Dr. Peter Norton meets the qualifications to be appointed as the Health Authority and as the Medical Director of the Abilene-Taylor County Public Health District.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS:

PART 1. That Dr. Peter Norton is appointed as the Health Authority for the region covered by the Abilene-Taylor County Public Health District, and shall serve a term of two years.

PART 2. That Dr. Peter Norton is appointed as the Medical Director for the Abilene-Taylor County Public Health District.

PART 3. To approve the City Manager to negotiate and execute the contract attached as Exhibit A.

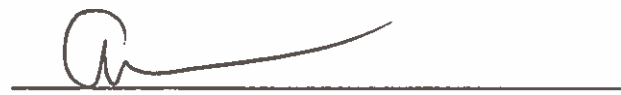
PART 4. That this Resolution shall be effective immediately upon adoption.

ADOPTED This 11 day of January 2018.

ATTEST:



Rosa Rios, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley Smith, City Attorney





PROFESSIONAL SERVICES CONTRACT

This contract is between the City of Abilene ("City"), and Dr. Peter K. Norton ("Professional"). This contract has a term of two years, expiring on January 29, 2020, and is renewable for an additional two years upon mutual written consent of both parties hereto. The Professional will provide physician services as stated in Attachment A, Scope of Work.

I. TERM

In consideration of the compensation stated in Paragraph II., the Professional must provide all services as described in Attachment A, which is incorporated by reference for all purposes.

II. PAYMENT

Payment is according to Attachment B.

III. ASSIGNMENT

The Professional may not assign in whole or in part any rights, duties, obligations or interest arising from this agreement without the City's prior written consent.

IV. AMENDMENT OR MODIFICATION

This contract, including attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent, which are not contained in this contract are of no effect. This contract may not be amended or modified except by both parties' written consent.

V. OWNERSHIP OF DOCUMENTS AND MATERIALS

Ownership of Documents and Materials is according to Attachment C.

VI. NONDISCLOSURE

The Professional may not show to any person or entity any documents, reports, plans, programs, reports, drawings, or any other materials which Professional prepares or acquires in performing this contract, including any duplicate copies kept by Professional. The Professional may not disclose to any person or entity any information regarding the City's activities. The City may, however, specifically authorize a limited disclosure at its discretion.

VII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

“City” shall mean all officers, agents and employees of the City of Abilene.

“Claims” shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

“Damages” shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorneys fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

“Premise Defects” shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

“Professional” includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

“Professional’s employees” shall mean any employees, officers, agents, subcontractors, licensee and invitees of Professional.

“Proven” shall mean that a court of competent jurisdiction has entered a final unappealable judgment on a claim adjudging an entity or person liable for a monetary judgment.

“Sole negligence” shall mean negligence of a party that is unmixed with the fault of any other person or entity.

B. Indemnity

The Professional must indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Professional's work and activities conducted in connection with this Contract.

The Professional is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Professional must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Professional or Professional's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Professional.

The City and Professional must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Professional or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND PROFESSIONAL EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE PROFESSIONAL TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

VIII. INSURANCE

A. GENERAL REQUIREMENTS

The Professional agrees to maintain professional liability insurance throughout the term of the agreement with the form of protection and amounts of coverage that a prudent professional would carry while performing physician services described in this agreement. The Professional is solely responsible for providing the required certificates of insurance. The City may terminate this agreement if the Professional fails to timely comply with the insurance requirements.

The required insurance must be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies are subject to examination and approval by the City's Office of Risk Management for their adequacy as to content, form of protection, and providing company.

The required insurance naming the City as additional insured must be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Evidence of the insurance required herein shall be provided to the person designated in this agreement as the contact person for the City. The insurance coverage shall provide for a minimum of 30 days advance written notice to the City of cancellation or material change. The required insurance shall contain an endorsement or other mechanism, evidencing that the coverage is applicable under this agreement.

The City reserves the right to increase the insurance requirement should the City determine a necessity to do so. Contractor understands that failure to comply with the insurance provision of this agreement shall be cause for termination of this agreement.

IX. VENUE, CHOICE OF LAW AND INTERPRETATION

Venue for any cause of action arising under this contract is Taylor County, Texas. This contract is governed by the laws of the State of Texas both as to interpretation and performance. This contract shall, in any dispute over its meaning or application, be interpreted fairly and reasonably, and not more strongly for or against either party.

X. TERMINATION

This contract may be terminated at any time upon 30 days written notice by City to Professional. In the event of termination, Professional will be compensated for work satisfactorily performed before the termination date.

If, through any cause, the Professional fails to fulfill his obligations under this contract, or if the Professional violates any of the agreements of this contract, the City has the right to terminate the contract by giving five days written notice to the Professional. The Professional will be compensated for work satisfactorily performed before the termination date.

The Professional, however, is not relieved of liability to the City for damages sustained by the City because of any breach of contract by Professional. The City may withhold any payments to Professional for the purpose of setoff until the exact amount of damages due the City from the Professional is determined and paid.

XI. PROJECT REPRESENTATION

The City agrees to appoint a Project Representative to assist in obtaining information from various City departments as requested by Professional and in coordinating, monitoring, and evaluating the project to its completion. The Project Representative has no control over the means, methods, techniques, or procedures employed by Professional. The City is interested only in the results obtained under this contract; the manner and means of obtaining those results is solely under the Professional 's control.

XII. NOTICE

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party at the address below. The name and address for notification may be changed by notice to the other party.

City - ATTN: Santos Navarrette, Jr.
Director of Health Services
Abilene-Taylor County Public Health District
850 N 6th
Abilene, Texas 79601

Professional - ATTN: Dr. Peter K. Norton
1201 Elmwood Dr
Abilene, Texas 79605

XIII. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

Professional, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Abilene, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Professional must obtain all necessary permits and licenses required in completing the work contracted for in this agreement.

XIV. NO INDEBTEDNESS

Professional agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty and interest. Professional is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty and interest.

XV. EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis

of bonafide occupational qualifications. The City shall continually review its employment practices and personnel procedures and take positive steps to assure that equality of employment opportunity in the City of Abilene, Texas, is a fact as well as an ideal.

XVI. VERIFICATION OF EMPLOYMENT ELIGIBILITY

Professional must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Professional -- not City -- must verify eligibility for employment as required by IRCA.

XVII. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the America's Small Business Development Center, 749 Gateway Street, Suite 301, Abilene, TX 79602, 325-670-0300.

XVIII. SALES TAX

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the "Tax Act"), and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Professional. The Professional must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Professional is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this contract and not completely consumed, or other taxable services used to perform this contract, or other taxes required by law in connection with this contract.

IN WITNESS HEREOF the parties have entered into this agreement this _____ day of _____, 20____.

CITY OF ABILENE

PROFESSIONAL

By: _____

By: _____

Title: Assistant City Manager

Title: Medical Director/Health Authority

Address: 1201 Elmwood Dr.
Abilene, Texas 79605

Phone Number: 325-669-8786

Federal Tax I.D.# 75-1516289

ATTEST:

ATTEST: (If Corporation)

City Secretary

Corporation's Secretary

APPROVED:

Corporate Seal (if available):

City Attorney

Risk Manager

ATTACHMENT A SCOPE OF WORK

Contractor Agrees to provide professional services as described in items A-G below, as required by City, and to be available to City to furtherance of these responsibilities.

A. Review, approve and sign Abilene-Taylor County Public Health District (ATCPHD) standing delegation orders (SDOs) for:

1. Immunization Clinic to include record reviews, vaccinations, emergency services and vaccinations for foreign travel inclusive of flu vaccines.
2. Laboratory Pregnancy Testing
3. Sexually Transmitted Diseases (STD) Clinic to include laboratory testing, diagnosis and treatment;
4. Human Immunodeficiency Virus to include laboratory testing and medications.
5. Texas Health Steps children's program to include examinations and laboratory testing;
6. Hepatitis A, B, C and panel to include record reviews and laboratory testing;
7. Women, Infant, and Children (WIC) Program to include laboratory testing, counseling and education;
8. Adult Health Clinics (Women's Health, Cholesterol, Diabetes, Hypertension) to include examinations and laboratory testing; Clinic Programs-Refugees, Primary Health Care, Healthy Texas Women, Family Planning Program to include examinations and laboratory testing;
9. Communicable Disease Monitoring to include examinations and laboratory testing;
10. Venipuncture's and finger punctures for all District Clinics and programs;
11. Tuberculosis Screening to include TB skin tests, Chest x-rays and examinations and laboratory testing;
12. Pre and post-exposure rabies vaccinations;
13. Oversee and supervise the medical care provided by the Physician Assistant(s) and/or Nurse Practitioner(s) providing services in the **Employee Medical Clinic (COACH clinic)** and **M.E.R.C.Y. Health Care Center**, maintain the appropriate Physician-Physician Assistant/Nurse Practitioner relationship required for compliance with all applicable Texas laws to include ongoing communication with the Physician Assistant/Nurse Practitioner(s) regarding patient care, assisting in situations of conflict with a patient and other health care professionals, and consulting on matters of patient welfare; Condemnation orders after property evaluation.
14. Screening and Testing for Blood Borne Pathogen exposures, to include service and exposed person care.
15. Develop and review medical evaluation and treatment protocols, and standard operating procedures for medical services provided, and other medications necessary to treat identified conditions in the **Employee Medical Clinic (COACH Clinic)** and **M.E.R.C.Y. Health Care Center**.

B. Provide Program Support for:

1. Primary Health Care Program to include staff consultations, referrals and development, revision of program formulary;
2. Family Planning Clinics to include consultation and control medications/devices;
3. Tuberculosis Control Clinics to include consultations and chart reviews;
4. STD Clinics to include consultations and chart reviews;
5. Environmental Health Programs to ensure compliance with City of Abilene Ordinances, including Chapter 11 (Food and Food Handlers), Chapter 13 (Standards for Treatment and Disposal of Sewage and Vector Control), Chapter 19 (Nuisances), Chapter 29.5 (Swimming Pools and Spas), and others as applicable

C. Perform other District duties/functions/tasks as needed:

1. Review and sign various Medicaid, Children's Health Insurance Program (CHIP) and other program applications; review and sign enrollment application for the Texas Vaccines For Children (TVFC) program
2. Serve as the **Medical Director** for the District;
3. Conduct epidemiological investigations;
4. Advise medical, environmental health, and other District Professional staff on medical aspects of disease conditions;
5. Answer questions from the news media concerning medical issues of public health concern including recorded interviews/press conferences;
6. Participate in and represent the Health District's medical views at Abilene-Taylor County Public Health District Advisory Board Meetings;
7. Serve as District Liaison to the Taylor-Jones-Haskell Counties Medical Society and the 17th District Dental Society;
8. Serve as the District's representative to Medical and Dental Communities in the District's service area;
9. Attend the Texas Department of State Health Services (DSHS) and other Public Medical Director and Health Authority meetings as needed to represent the District;
10. Fulfill all requirements of the District Agreement to include serving as the Health Authority for Taylor County and the City of Abilene;
11. Serve as the "Medical Expert" in situations where the City of Abilene's Health Services Department is involved, and be responsible for reviewing medical practices, orders and records, and decisions used in the various medical clinics conducted by the District;
12. Review reports of long-term care facilities within Taylor County as appropriate or required by DSHS;
13. Provide referrals to West Texas Rehabilitation Center for children identified as in need of rehabilitation services;
14. Serve as **Rabies Control Authority** for the City of Abilene and Taylor County as appropriate and/or assign responsibility for unincorporated portions of Taylor County to other offices or officials, and provide rabies vaccines prescription orders as appropriate;
15. Serve as **Radiation Safety Officer** for the District and sign appropriate documents pertaining to radiation equipment (x-ray and other) as required by DSHS;

16. Promote the District to non-profit agencies and other community groups in effort to enhance overall service delivery structure of (ATCPHD) from a collaborative perspective;

17. Establish and/or revise medication for the District Programs as appropriate;

18. Serve as District Liaison with other health care providers to improve overall health programs and delivery methods, health status indicators and essential public health services in Abilene-Taylor County;

19. Serve on the District's Quality Assurance Committee;

20. Provide medication prescriptions for various District Programs as needed;

21. Serve in capacities as outlined in appropriate annexes to the Abilene-Taylor County Emergency Operations plan; and;

22. Maintain 24-hour per day accessibility to provide medical advice to the District.

D. Perform the following Abilene Fire Department (AFD) duties/functions/tasks as:

1. Review and advise on the AFD Infectious Disease Control Programs;

2. Review, advise and sign AFD National Registry Certifications;

3. Review, advise and provide medical oversight of AFD physical fitness program;

4. Standing delegation order for blood borne pathogen exposure and subsequent lab testing to include HIV-Hepatitis B for source and exposed person.

E. Perform the following legal department duties/functions/tasks:

1. Upon the request of the City Attorney or his designee, review and evaluate medical records associated with claims and lawsuits to which the City is a party; and

2. Act as a consultant to City Attorney or his designee when requested regarding reasonable and necessary medical care and expenses reflected in a claimant's medical records.

F. Oversee Family Planning Program Physician Assistant(s) and Nurse Practitioner(s) to ensure medical service delivery is in standards with grant objectives.

1. Oversee and supervise the medical care provided by the Physician Assistant(s) and/or Nurse Practitioner(s) providing services in the Texas Health and Human Services Family Planning Program (FPP), maintain the appropriate Physician-Physician Assistant/Nurse Practitioner relationship required for compliance with all applicable Texas laws to include ongoing communication with the Physician Assistant(s)/Nurse Practitioner(s) regarding patient care, assisting in situations of conflict with a patient and other health care professional, and consulting on matters of patient welfare;

2. Develop and review medical evaluation and treatment protocols, and standard operating procedures for medical services provided, and other medications necessary to treat identified conditions in the Family Planning Program (FPP);

3. Standing Delegation orders for lab test required by HHSC and/or DSHS;

4. Oversight of FPP Clinic patients including Physician Assistant(s)/Nurse Practitioner(s) providing clinical care;

5. Oversight and signature of protocols as supervising physician for Physician Assistant(s) and Nurse Practitioner(s) providing clinical care to FPP patients;
6. Record reviews per state law for Physician Assistant(s) and Nurse Practitioner(s);
7. Establish or revision of medication formularies;
8. Provide program support for FPP to include staff consultations referrals and development/revision of program formulary.

G. Refugee Program

1. Perform all adult physical assessments/exams;
2. Perform physical assessments/exams on male teenagers over fourteen years of age, oversight of physical assessments and exams of children less than fourteen years of age completed by a registered nurse (RN);
3. After physical assessment and exams are completed, follow-up may include: recommendations, orders for care, prescription referrals, lab reports and analysis;
4. Standing delegation orders for required lab tests per Refugee grant contract.

ATTACHMENT B

**PAYMENT SCHEDULE
PARTIES TO INITIAL OPTION SELECTED**

OPTION 1 X

City will reimburse contractor a total of \$ 84,058.20 per year for services performed under the terms of this agreement. Payment will be made in equal monthly installments of \$ 7,004.85

Professional must submit monthly invoices to City accompanied by an explanation of charges, professional fees, and services. City will pay invoices according to its normal payment procedures.

City will also reimburse the contractor one-half (50%) of the contractor's annual premium for the insurance required by the terms of this agreement. Payment shall be made in one installment payable upon presentation to the City of the insurer's invoice for the required coverage.

For any professional consulting services performed by Contractor for the City of Abilene pursuant to Attachment A, Section E.:

1. The City will compensate Contractor for the professional services set forth in Section E at the rate of \$100 per hour for purely consulting professional services, and \$200 per hour for professional services involving lawsuits where Contractor would function as a testifying expert.

2. Contractor agrees that he will obtain prior approval from the City Attorney or his designee before spending more than three (3) hours on any single consulting project.

3. At the conclusion of each consulting project, the Contractor will submit to the City Attorney a written invoice indicating the amount of time spent on the consulting project and a general description of the associated professional services performed.

4. The City will pay the Contractor for the consulting services for each project within 30 days of receipt of the written invoice.

OPTION 2 _____

Payment is in a lump sum amount of \$ _____ upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subprofessionals, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Professional must execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subprofessionals, materialmen, mechanics and suppliers under this agreement

have been paid in full, and that there are no claims pending of which Professional has been notified.

OPTION 3 _____

Payment is a fixed fee amount of \$_____ payable per the schedule upon completion of the work and written acceptance by City's Project Representative.

No mechanic, contractor, subcontractor, materialman or other person can or will contract for or in any other manner have or acquire any lien upon any building or work covered by the contract or the land upon which the same is situated.

Before final acceptance of this project by the City, the Professional shall execute and provide City with an Affidavit that all bills for labor, materials and incidentals incurred by subprofessionals, materialmen, mechanics and suppliers under this agreement have been paid in full, and that there are no claims pending of which Professional has been notified.

**ATTACHMENT C
OWNERSHIP OF DOCUMENTS AND MATERIALS**

Parties to initial option chosen

(Option 1) ___ X ___

All documents and materials prepared by Professional under the terms of this contract are the City's property from the time of preparation, and Professional must deliver the documents and materials to the City or make them available for inspection whenever requested. Professional has the right to make duplicate copies of such documents or materials for its own file or for other such purposes as the City authorizes in writing.

(Option 2) _____

All documents and materials prepared by the Professional remain the property of the Professional; however, Professional must furnish City, at no additional cost, one set of reproducible mylars of the original drawings of the work and/or one copy of all documents prepared by the Professional pursuant to this Agreement.