

Agreement between the CITY OF SAINT PAUL'S DEPARTMENT OF SAFETY AND INSPECTIONS and the ASSOCIATION FOR NONSMOKERS-MINNESOTA

THIS AGREEMENT made and entered into this 1 day of March, 2011 by and between The Association for Nonsmokers-Minnesota, hereinafter referred to as ANSR and, the City of St. Paul's Department of Safety and Inspections, hereinafter referred to as a "Consultant."

ANSR and Consultant, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, agree as follows:

SECTION 1: SCOPE OF SERVICES

The Consultant agrees to participate with coalition partners, in their efforts to:

- Reduce the frequency of point-of-sale advertising and other marketing practices in the project area of Ramsey County, South Saint Paul, and West Saint Paul.
- Increase the number of nonprofit organizations and community events and festivals that have written tobacco-free funding policies in Ramsey County, South Saint Paul, and West Saint Paul.
- Educate decision-makers, community leaders, school leaders and parents about tobacco marketing, new tobacco products and the importance of updating school and local policies to include new tobacco products in definitional changes.

The Consultant agrees to specific tasks, deliverables, timelines, etc. that make up these services are described herein

A. Consultant will:

1. Provide technical assistance in the interpretation of relevant Saint Paul Code of Ordinances, herein after referred to as "codes";
2. Assist in analysis of data on point-of-sale approaches;
3. Assist in ordinance review and enforcement;
4. Provide information on the complaints received regarding relevant codes including but not limited to the illegal sale of: loosies, imitation tobacco products, novelty lighters, paraphernalia; and on sign code violations;
5. Provide information on all cigarette violations for 2011 as available;
6. Obtain written pre-approval from ANSR prior to making changes in the approved grant duties and/or the budget; producing media/communications pieces; conducting surveys and evaluations; equipment purchases, and out-of-state travel. As ANSR must get prior approval from the STATE, no changes may be carried out until ANSR has received that approval;
7. Meet in person or by phone at least quarterly with the sub-contact manager and participate in quarterly coalition meetings;

8. Attended quarterly coalition meetings and update coalition members on finding;
9. Reporting: By July 16, 2011; January 12, 2012; Consultant shall submit to ANSR a progress report in a format determined by ANSR on each of the above contract duties. Consultant will maintain all records for at least six (6) years following completion of the contract.

SECTION 2: TIME FOR COMPLETION

The services described in Section 1 shall be effective March 1, 2011 will be completed in accordance with the schedule mutually agreed upon with ANSR and the consultant. Contract period beginning March 1, 2011 ending Dec 31st, 2011.

SECTION 3: BILLING AND PAYMENT.

- A. No claim for services and/or Costs provided by the Consultant, not specifically provided for in the agreement will be honored by ANSR. Total costs for the project shall not exceed \$4,000.
- B. Consultant shall submit itemized invoices by: July 16, 2011 and Jan 12, 2012. Upon receipt of the invoice verification of the charges by the Project Director, payment shall be made by ANSR within forty-five (45) days.
- C. In the event the Consultant fails to comply with any terms or conditions of the Agreement or to provide in any manner the work of services as agreed to herein, ANSR reserves the right to withhold any payment until ANSR is satisfied that the corrective action has been taken or completed.
- D. Additional funds and a contract extension may take place for funding until December 31, 2012, if contractual duties are met.

SECTION 4: TERMINATION.

- A. This agreement will continue in full force and effect until completion of the project as described herein unless it is terminated at an earlier date by either party. Either party to this Agreement may terminate it by giving no less than thirty (30) days written notice of the intent to terminate to the other party.
- B. In the event of termination, ANSR will pay the Consultant for all service actually, timely, and faithfully rendered up to the receipt of the notice of termination and thereafter until the date of termination.

SECTION 5: AMENDMENT OR CHANGES TO THE AGREEMENT.

- A. ANSR or Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes and method of compensation must be authorized in writing in advance by ANSR.
- B. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when reduced to writing and duly signed by the parties.
- C. Consultant shall obtain written pre-approval from ANSR to make changes in approved grant duties, changes to the approved budget, media and communications pieces, surveys, evaluations, equipment purchases, and out-of-state travel. As ANSR must get prior approval from the STATE, no changes may

be carried out until ANSR has received that approval. The STATE reserves the right to disallow expenditures if grantees do not receive written approval.

SECTION 6: STATE AUDITS:

The books, records, documents, and accounting procedures and practices of the consultant relevant to this contract agreement shall be made available and subject to examination by the STATE, including the contracting Agency/division, Legislative Auditor, and State Auditor for a minimum period of six (6) years from the end of this contract term.

The STATE shall have the right to require transfer of all equipment purchased with contract funds (including title) to the STATE or to an eligible non-STATE party named by the STATE. This right will normally be exercised by the STATE only if the project or program for which the equipment was acquired is transferred from one grantee to another.

GRANTEE shall make available to the STATE any products or materials produced by activities supported with these funds.

GRANTEE and/or a subcontractor, mini-grantee or contractor shall not purchase commercial and/or traditional tobacco products without prior approval from the STATE Authorized Representative. Commercial and traditional tobacco products may only be purchased and used for educational purposes, must be stored in a secure location when not in use for educational purposes, and cannot be used or consumed for individual purposes. Upon grant expiration, products must be returned to the STATE and cannot be resold or consumed. The total dollar amount for purchases shall not exceed \$50 (fifty dollars) in 2011 unless approved by the STATE Authorized Representative.

GRANTEE and/or subcontractor, contractor or mini-grantee must obtain prior written approval from the STATE Authorized Representative to write for publication and/or prior to publishing any journal article, publication or other paper that includes STATE funded activities, survey findings, data or information pertaining to the STATE funded program.

GRANTEE must follow the protocol as outlined by the STATE.

GRANTEE and/or subcontractor, contractor or mini-grantee must include the following wording on all communication materials (broadcast, print or online), presentations, posters, surveys or other items developed with STATE funds: Funded by a Tobacco-Free Communities Grant from the Minnesota Department of Health, Office of Tobacco Prevention and Control.

SECTION 7: OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS

A. The STATE shall own all rights, title and interest in all of the materials conceived or created by the Consultant its employees or subcontractors, either individually or jointly with others and which arise out of the performance of this grant agreement, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form ("MATERIALS").

The Consultant hereby assigns to the STATE all rights, title and interest to the MATERIALS. Consultant shall, upon request of the STATE, execute all papers and perform all other acts necessary to assist the STATE to obtain and register copyrights, patents or other forms of protection provided by law for the MATERIALS. The MATERIALS created under this grant agreement by the consultant, its employees or subcontractors, individually or jointly with others, shall be considered "works made for hire" as defined by the United States Copyright Act. All of the MATERIALS, whether in paper, electronic, or other form, shall be remitted to the STATE by the Consultant, its employees and any subcontractors, shall not copy, reproduce, allow or cause to have the MATERIALS copied, reproduced or used for any purpose other than performance of the Consultant's obligations under this grant agreement without the prior written consent of the STATE'S Authorized Representative.

B. Consultant represents and warrants that MATERIALS produced or used under this grant agreement do not and will not infringe upon any intellectual property rights of another including but not limited to patents, copyrights, trade secrets, trade names, and service marks and names. Consultant shall indemnify and defend the STATE, at Consultant's expense, from any action or claim brought against the STATE to the extent that it is based on a claim that all or part of the MATERIALS infringe upon the intellectual property rights of another. Consultant shall be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages including, but not limited to, reasonable attorney fees arising out of this contract agreement, amendments and supplements thereto, which are attributable to such claims or actions. If such a claim or action arises or in Consultant's or the STATE'S opinion is likely to arise, Consultant shall at the STATE'S discretion either procure for the STATE the right or license to continue using the MATERIALS at issue or replace or modify the allegedly infringing MATERIALS. This remedy shall be in addition to and shall not be exclusive of other remedies provided by law.

SECTION 8: ENTIRE AGREEMENT.

It is understood and agreed that this entire Agreement supercedes all oral agreement and negotiations between parties relating to the subject matter herein.

The parties hereto have executed this Agreement, the day and year first written above.

For Association for Nonsmokers- Minnesota

Sandra D Sandell
~~Jeanne Weigum - President~~
Sandra D Sandell
Treasurer

6/6/2011
Date

For City of Saint Paul's Department of Safety and Inspections

[Signature]
Signature

May 18, 2011
Date

Director, Dept. of Safety & Inspections
Title

Approved as to Form:

[Signature]
Kyle Lundgren
Assistant City Attorney

May 19, 2011