

Resolution No. \_\_\_\_\_

A resolution approving a contract for the Baby and Me Tobacco Free Program (BMTFP) between The Metropolitan Government of Nashville and Davidson County, acting by and through the Metropolitan Board of Health, and the Tennessee Department of Health to support a smoking cessation program providing counseling and non-cash voucher incentives to pregnant and postpartum women and eligible household members.

WHEREAS, Metropolitan Charter Section 10.104 provides that the Board of Health has the duty to contract for such services as will further the program and policies of the board, subject to confirmation by Resolution of Council; and,

WHEREAS, The Metropolitan Government of Nashville and Davidson County, acting by and through the Metropolitan Board of Health, wishes to contract with the Tennessee Department of Health for the Baby and Me Tobacco Free Program (BMTFP) to support a smoking cessation program providing counseling and non-cash voucher incentives to pregnant and postpartum women and eligible household members; and,

WHEREAS, it is to the benefit of the citizens of The Metropolitan Government of Nashville and Davidson County that this contract be approved.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

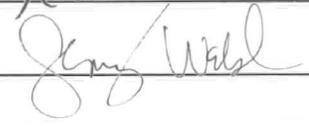
Section 1. That the contract by and between the Tennessee Department of Health and The Metropolitan Government of Nashville and Davidson County, acting by and through the Metropolitan Board of Health, to provide the Baby and Me Tobacco Free Program (BMTFP) to support a smoking cessation program providing counseling and non-cash voucher incentives to pregnant and postpartum women and eligible household members is hereby approved.

Section 2. That this resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

APPROVED AS TO AVAILABILITY  
OF FUNDS:

  
\_\_\_\_\_  
Kevin Crumbo, Director  
Department of Finance

INTRODUCED BY:

  
\_\_\_\_\_  
  
\_\_\_\_\_  
Member(s) of Council

APPROVED AS TO FORM AND  
LEGALITY:

*Derrick C. Smith*

Assistant Metropolitan Attorney



## NO COST CONTRACT

(an agreement— involving no monetary obligation between the parties— with a federal, Tennessee local, or quasi-governmental entity)

<b>Begin Date</b> July 1, 2020	<b>End Date</b> June 30, 2023	<b>Agency Tracking #</b> 34347-62321	<b>Edison Record ID</b>
<b>Contractor Legal Entity Name</b> Metropolitan Government of Nashville and Davidson County			<b>Edison Vendor ID (optional)</b> 4
<b>Service Caption</b> Tobacco Prevention Program Services			
OCR USE - NC			

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
TENNESSEE DEPARTMENT OF HEALTH  
AND  
METROPOLITIAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

This Contract, by and between the State of Tennessee, Department of Health, hereinafter referred to as the 'State' and Metropolitan Government of Nashville and Davidson County, hereinafter referred to as the "Contractor," is for the provision of Tobacco Prevention Program Services, as further defined in the "SCOPE OF SERVICES."

**A. SCOPE OF SERVICES**

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2. Service Definition

a. Pregnancy Smoking Cessation Program – A program providing education and support to assist pregnant women in quitting tobacco who currently use tobacco products or used tobacco products within three (3) months of becoming pregnant.

b. Baby and Me–Tobacco Free Program™ (BMTFP) – A smoking cessation program which provides counseling and non-cash voucher incentives to pregnant and postpartum women and eligible household members.

c. Postpartum – The period of time following childbirth, after delivery.

A.3. Service Goal. To improve birth outcomes and reduce infant and child secondhand smoke exposure by reducing the number of women who smoke during pregnancy.

A.4. Service Recipients. Eligible pregnant and postpartum women, one (1) eligible member of each enrollee's household, and staff at local health department sites in Davidson County.

A.5. Service Description. The Contractor shall support the state-designated Pregnancy Smoking Cessation Program, BMTFP, in its mission to improve birth outcomes and reduce infant and child secondhand smoke exposure by reducing the number of women who smoke during pregnancy. The Contractor agrees to the following:

- a. The Contractor shall provide an agency lead to be responsible for administering and overseeing the BMTFP in Davidson County.
- b. The Contractor shall ensure all Davidson County staff involved in BMTFP are trained by certified designated program educators.
- c. The Contractor shall conduct BMTFP using procedures established in the program manual which shall include all updates in protocols and procedures.
- d. The Contractor shall identify local healthcare/ community program referral agencies and educate them on how to refer pregnant smoking women to Davidson County's BMTFP.
- e. The Contractor shall screen all pregnant women served by the county agency for smoking status and offer to enroll eligible women in the BMTFP.
- f. The Contractor shall provide four (4) prenatal cessation counseling sessions to enrolled women using BMTFP curriculum and shall use a carbon monoxide monitor to test and

screen smoking status at each prenatal session, documenting the results. The Contractor shall provide a \$25.00 diaper voucher if the woman is smoke free in the third and fourth counseling session, and/or provide additional cessation education on quitting where necessary.

- g. The Contractor shall, for up to twelve (12) months postpartum, use a carbon monoxide monitor to test and screen enrolled women each month following delivery, documenting smoking status. The Contractor shall provide a \$25.00 diaper voucher if the woman is smoke free, and/or provide additional cessation education on quitting where necessary.
- h. The Contractor shall enroll one (1) household member where applicable, following the state-designated program guidelines, and provide an additional voucher to enrolled women postpartum when the household member tests smoke-free.
- i. The Contractor shall ensure a secure system for maintaining diaper vouchers and documenting their distribution and redemption.
- j. The Contractor shall participate in trainings, educational webinars and periodic conference calls provided by the State for state-designated program updates and information.
- k. The Contractor shall provide success stories of women enrolled in the state-designated program for sustainability and earned media messaging, as coordinated by the state-designated program.
- l. The Contractor shall receive and respond to referrals from outside agencies within three (3) business days in a manner provided by the State.
- m. The Contractor shall submit data to the vendor and State's Pregnancy Smoking Cessation Program Director on the 5<sup>th</sup> day of every month in a format provided by the State.
- n. The Contractor shall contract with state-designated vendor for program supplies and technical support not provided by the State.

## **B. TERM OF CONTRACT**

- B.1. This Contract shall be effective for the period beginning on July 1, 2020 ("Effective Date") and ending on June 30, 2023, ("Term"). The State shall have no obligation for goods delivered or services provided by the Contractor prior to the Effective Date.
- B.2. **Renewal Options.** This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months

## **C. PAYMENT TERMS AND CONDITIONS**

There shall be no cost to the State for the performance of services under this contract.

## **D. STANDARD TERMS AND CONDITIONS**

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and

regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation of services rendered under this Contract. The books, records and documents of the Contractor, insofar as they relate to work performed under this Contract, shall be maintained for a period of three (3) full years from the final date of this Contract and shall be subject to audit, at any reasonable time and upon reasonable notice, by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.
- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.20. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or

federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law. The obligations set forth in this Section shall survive the termination of this Contract.

**E. SPECIAL TERMS AND CONDITIONS**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Audrey Tooley MBA, Program Director  
Tennessee Department of Health  
Division of Family Health and Wellness  
710 James Robertson Parkway, 8<sup>th</sup> Floor  
Nashville, TN 37243  
(615) 741-4776  
[Audrey.Tooley@tn.gov](mailto:Audrey.Tooley@tn.gov)

The Contractor:

Sanmi Areola, PhD, Interim Director  
Metropolitan Public Health Department  
2500 Charlotte Avenue  
Nashville, TN 37209  
(615) 340-5622  
[Sanmi.Areola@nashville.gov](mailto:Sanmi.Areola@nashville.gov)

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
  - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.

- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.
- E.4. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

**SIGNATURES ON NEXT PAGE**

IN WITNESS WHEREOF, the parties have by their duly authorized representatives set their signatures.

**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

  
\_\_\_\_\_  
Director, Metro Public Health Department

3/12/2020  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Chair, Board of Health

3/12/2020  
\_\_\_\_\_  
Date

APPROVED AS TO AVAILABILITY OF FUNDS:

  
\_\_\_\_\_  
Director, Department of Finance

3-19-2020  
\_\_\_\_\_  
Date

APPROVED AS TO RISK AND INSURANCE:

  
\_\_\_\_\_  
Director of Risk Management Services

4/6/2020  
\_\_\_\_\_  
Date

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Metropolitan Attorney

04/07/2020  
\_\_\_\_\_  
Date

FILED:

\_\_\_\_\_  
Metropolitan Clerk

\_\_\_\_\_  
Date

DEPARTMENT OF HEALTH:

\_\_\_\_\_  
Lisa Piercey, MD, MBA, FAAP  
Commissioner

\_\_\_\_\_  
Date