



Maria Julian
 Executive Director
 Counter Tools
 205 Lloyd St. Ste. 211
 Carrboro, NC 27510

Please find below a Memorandum of Understanding between Counter Tools – Truth Initiative, a North Carolina Non-Profit Corporation, and the City of Columbia for a Columbia/Boone County Department of Public Health project and is effective on the date of signing by the party last executing this Agreement (“Effective Date”).

The project is scheduled to run from the Effective Date through August 22, 2020 and, if necessary for the purpose of the project, may be extended to the end of the term as established below. The below services are offered at no cost to Columbia/Boone County Department of Public for the duration of this pilot project.

About Counter Tools

Counter Tools is a 501(c)(3) nonprofit organization with a mission to empower communities to become healthier places. To do this, we offer consulting (technical assistance), training, and software tools to our partners working to promote health policies that affect the retail environment.

Scope of Work

A. Technical Assistance and Project Management

1. As your teams pursue their community education and environmental intervention goals, Counter Tools will:
 - a. Participate in monthly office hours with Columbia/Boone County Department of Public Health data collectors and monthly check-in calls with the Columbia/Boone County Department of Public Health coordinator/project manager to plan and discuss progress, troubleshoot or share important information, successes or challenges
 - b. Along with Truth Initiative, provide technical assistance materials to guide the data collection process
 - c. Along with Truth Initiative, provide technical assistance materials to support policy opportunities, including available and appropriate science regarding flavor and menthol tobacco products
 - d. As needed, respond to questions from project participants with guidance and/or expert referrals (related to POS, policy, and public health; separate from software-related questions)

- e. Subscribe project participants to the CounterTobacco.org monthly newsletter, which showcases valuable POS policy implementation information (e.g., emerging evidence and stories from the field) and is supported with funds from the CDC Office on Smoking and Health via ChangeLab Solutions (optional).
- f. Alert state and local level staff of the dates and topics of the Counter Tools/CounterTobacco.org Quarterly Webinar Series as details become available

B. Training on Software, Public Health Concepts, and/or Point of Sale Efforts

Counter Tools provides web-based training to state and local-level tobacco prevention and control/local public health practitioners across the city of Columbia.

1. **Software and Store Assessment Training:** Counter Tools will deliver a web-based training on the Store Audit Center and the process of conducting store assessments. This training would be tailored to pilot program participant communities and would be in addition to printable Store Audit Center manual and user guide. Topics addressed can include:
 - a. How to do observational assessments in tobacco retail outlets using the pilot assessment form, including tips on collecting high quality data and store etiquette
 - b. How to use the Store Audit Center® tool to conduct store assessments
 - c. Background on why the retail environment matters for health
2. **Agenda-Setting and Evaluation Convening:** The aforementioned client will attend an agenda setting event to be held in person (location TBD) or online. Topics will cover how to use data you have collected, lessons learned from the process and recommended next steps.

C. Software Tools/Technology for Productivity and Change

Counter Tools offers access to unique technology tools to state- and local-level tobacco prevention and control/local public health practitioners across the city of Columbia.

The development, release, and timing of any products, features, or functionality remain the sole discretion of Counter Tools.

3. **Store Audit Center®:** Key functions include:
 - a. Data collection team management
 - b. Retail store list management
 - c. Mobile data collection

Subscription includes: unlimited users, software server (hosting) fees, data back-ups, an email-based help desk for software-related questions, printable electronic manual (PDF) user guides, and pre-recorded video tutorials.

D. Data Reporting and Use

1. Counter Tools will provide assistance with data cleaning and preparation of descriptive (univariate) statistics of store assessment items

2. Counter Tools and Truth Initiative will produce and provide reports for Columbia based on your store assessment results as a way to package the data and help drive policy change.
3. Counter Tools and Truth Initiative will produce a white paper highlighting the importance of the data in moving policies forward by creating powerful stories about how flavor and menthol are marketed in various communities. Columbia/Boone County Department of Public Health partners will be credited for your data collection work and participation in the pilot.
4. Counter Tools and Truth Initiative will retain access to the data obtained from the Pilot assessments, from which Truth Initiative and Counter Tools, in partnership, can publish peer-reviewed articles and self-published papers. Counter Tools and Truth Initiative are authorized to use this data in perpetuity for any purpose consistent with their anti-tobacco research/evaluation objectives, whether or not specifically related to the Pilot. The Columbia/Boone County Department of Health also retains access to the data in perpetuity and can publish or use it as they see fit. All parties agree to cite each other in a manner agreed upon later in the program period.
5. To the fullest extent not prohibited by law, Counter Tools and Truth Initiative shall indemnify and hold harmless the City of Columbia, its directors, officers, agents and employees from and against all claims, damages, losses and expenses (including but not limited to attorney's fees) arising by reason of any negligent act or failure to act, or willful misconduct, of Counter Tools and Truth Initiative, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Counter Tools and Truth Initiative or a subcontractor for part of the services), of anyone directly or indirectly employed by Counter Tools and Truth Initiative or by any subcontractor, or of anyone for whose acts Counter Tools and Truth Initiative or its subcontractor may be liable, in connection with their use of the data obtained by the Columbia/Boone County Department of Public Health as provided in this Agreement. This provision does not, however, require Counter Tools and Truth Initiative to indemnify, hold harmless or defend the City of Columbia from its own negligence, except as set out herein.

E. Community Partner Commitments

As participants in this pilot project, Columbia/Boone County Department of Public Health partners will:

1. Recruit data collectors to complete store assessments representative of the city's retailer landscape within a 95% Confidence Interval
2. Retrieve and send Counter Tools a list of tobacco retailers, including vape shops, to pull a representative sample.
3. Ensure that data collectors attend the web-based training(s) as outlined in Section B.
4. Monitor data as it is collected and re-train data collectors as necessary
5. Site coordinators will attend regular check-in calls with Counter Tools and/or Truth Initiative
6. Participate in an evaluation of the pilot project to help assess the success of the pilot and next steps for scaling up the pilot flavor/menthol module of the assessment form.

F. Miscellaneous Provisions

1. **Term:** This agreement shall be in effect from the Effective Date until midnight December, 31, 2020.

2. **Termination:**

a. **By Mutual Agreement.** This Agreement may be terminated at any time during its Term upon mutual agreement by both Parties.

b. **By Convenience.** With thirty (30) days written notice, either Party may terminate this Agreement for convenience.

3. **No Assignment:** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.

4. **Notices:** Any notice, demand, request, or communication required or authorized by the Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

If to the City:

City of Columbia:

Columbia/Boone County Public Health and Human Services
1005 W Worley
Columbia, MO 65203

If to Counter Tools:

205 Lloyd St, Suite 211
Carrboro, NC 27510

5. **No Third-Party Beneficiary:** No provision of the Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such Person a third-party beneficiary under the Agreement.

6. **Governing Law and Venue:** This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this Agreement, shall be in the Circuit Court for Boone County, Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such court in the State of Missouri.

7. **Amendment:** No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.
8. **No Waiver of Immunities:** In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either Party's rights or defenses with regard to each Party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.

We offer this pilot program – including our software tools, training, public health expertise and technical assistance – with the purpose of assessing and addressing factors of the built environment that are known empirically to impact health behaviors. We look forward to a collaborative relationship and significant public health impact to reduce the unnecessary burden of tobacco use, in particular with regards to menthol and other flavored tobacco use, in Columbia!

[SIGNATURE PAGES FOLLOW]

Counter Tools

Maria Julian 
Counter Tools Representative

Date: 12-18-2019

City of Columbia, Missouri


By: _____
John Glascock, City Manager
JKB

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor/JKM 

I hereby certify that this Agreement is within the purpose of the appropriation to which it is to be charged, that is, account _____, and that there is an unencumbered balance to the credit of such account sufficient to pay therefore.

Matthew Lue, Director of Finance