

**CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM GRANT AGREEMENT
BETWEEN THE CITY OF SAN ANTONIO AND BOOZ ALLEN HAMILTON INC.**

This Economic Development Program Grant Agreement (hereinafter referred to as this "Agreement") is made and entered into by and between the **City of San Antonio** (the "GRANTOR"), a municipal corporation of the State of Texas, acting by and through its City Manager or his designee, and **Booz Allen Hamilton Inc.** (hereinafter referred to as "GRANTEE"). Together, the GRANTOR and GRANTEE may be referred to herein as the "Parties."

WHEREAS, as of the Effective Date, GRANTEE employs 556 Full-Time Jobs in San Antonio at various client sites (combined, the "Client Sites"), two offices that GRANTEE maintains, namely a primary office located at Weston Center, 112 E Pecan Street, Suites 600 and 900, San Antonio, Texas 78205, (the "Primary Project Site"), and a secondary office located at Roberson Bldg., 3133 General Hudnell Drive, Suites 110, 130 and 210, San Antonio, Texas 78226 (the "Secondary Project Site") and home-based Full-Time Jobs located at personal residences in San Antonio (together with the Client Sites, the Primary Project Site, and Secondary Project Site, the "San Antonio Offices," all as more particularly described in **Exhibit A** attached and incorporated herein); and

WHEREAS, GRANTEE is engaged in an economic development project consisting of (1) retaining the current 556 Full-Time Jobs and investing in new internships and scholarships in San Antonio and (2) creating 250 new Full-Time Jobs (of which 188 will earn at least \$70,000 annually and 62 will earn at least \$50,000 annually) and investing at least \$700,000 in real and personal property improvements primarily at the Primary Project Site (the "Project"); and

WHEREAS, GRANTEE has requested economic development incentive funds to assist GRANTEE to offset costs incurred in the course of undertaking and completing the Project; and

WHEREAS, pursuant to Chapter 380 of the Texas Local Government Code, GRANTOR is authorized to grant funds to promote state or local economic development and to stimulate business and commercial activity in the municipality and pursuant to City Ordinance No. 100684 GRANTOR adopted an economic development program which meets the requirements of Chapter 380 of the Texas Local Government Code; and

WHEREAS, GRANTOR has identified funds to be made available to incentivize GRANTEE to undertake and complete the Project; and

WHEREAS, the City Council of GRANTOR has authorized the City Manager or his designee to enter into this Agreement with GRANTEE in accordance with City Ordinance No. _____, passed and approved on _____, 20____ to grant said funds; **NOW THEREFORE:**

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described:

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ARTICLE 1. DEFINITIONS

1. **"All Industry Wage"** means a wage at or exceeding SIXTEEN DOLLARS AND SIXTY-FIVE CENTS (\$16.65) an hour as of the Effective Date, exclusive of benefits, bonuses, overtime, commissions, shift differentials, and any other non-guaranteed wages. The Texas Workforce Commission publishes this wage annually. This rate is indexed quarterly and compiled by the Bureau of Labor Statistics and is subject to change.
2. **"Annual Certification"** is defined in ARTICLE 9.
3. **"Business Activities"** is defined in ARTICLE 4.
4. **"City Council"** means the City Council of the City of San Antonio, Texas.
5. **"Force Majeure"** is defined in ARTICLE 17 and in ARTICLE 18.
6. **"Full-Time Job"** means a job position in the San Antonio Offices classified by the GRANTEE or a Related Organization as a regular, full-time position in its system of record, so long as such position carries with it an expectation of working at least 35 hours per week.
7. **"Grant Term"** is defined in ARTICLE 6.
8. **"Living Wage"** means a wage of TWELVE DOLLARS AND THIRTY-EIGHT CENTS (\$12.38) an hour as of the Effective Date exclusive of benefits, bonuses, overtime, commissions, shift differentials, and any other non-guaranteed wages. This rate is indexed annually by the US Department of Health and Human Services based on the poverty level for a family of four and is subject to change.
9. **"OSHA"** means the Occupations Safety and Health Administration.
10. **"Performance Grant"** is defined in ARTICLE 5.
11. **"Performance Grant Cap"** is defined in ARTICLE 5.
12. **"Recapture Term"** is defined in ARTICLE 6.
13. **"Records"** is defined in ARTICLE 8.
14. **"Related Organization"** means a parent or subsidiary organization of GRANTEE or any entity which succeeds to or receives an assignment of GRANTEE's interest under this Agreement as a result of a merger, acquisition, or other corporate restructure or reorganization of GRANTEE, or any parent, subsidiary or affiliate of such entity.
15. **"Relocate", "Relocation" and "Relocated"** are defined in ARTICLE 17.

16. **“Retained Jobs”** is defined in ARTICLE 3.
17. **“San Antonio Offices”** is defined in Exhibit A.
18. **“Term”** is defined in ARTICLE 6.
19. **“Undocumented Workers”** is defined in ARTICLE 19.
20. **“Workforce Development Grant”** is defined in ARTICLE 5.
21. **“Workforce Development Grant Cap”** is defined in ARTICLE 5.

ARTICLE 2. AGREEMENT PURPOSE

The purpose of this Agreement is to provide an economic development grant, comprised of the Performance Grant and the Workforce Development Grant, to GRANTEE as an incentive for GRANTEE to undertake the Project. The GRANTOR anticipates that if GRANTEE undertakes the Project, the Project will promote local economic development and stimulate business and commercial activity in the City of San Antonio. As such, GRANTOR is willing to support the Project through the economic development grants provided in this Agreement to provide funds to be used to defer costs associated with undertaking and completing the Project.

ARTICLE 3. GRANTEE REQUIREMENTS

- A. In consideration of GRANTOR providing the Performance Grant and the Workforce Development Grant provided in **ARTICLE 5** of this Agreement, GRANTEE shall:
 - i. Own, hold a leasehold interest in or otherwise control the Primary Project Site for the Term of this Agreement.
 - ii. Invest at least SEVEN HUNDRED THOUSAND DOLLARS (\$700,000.00) in real and personal property improvements primarily at the Primary Project Site.
 - iii. Maintain the 556 Full-Time Jobs at the San Antonio Offices at or above their current annual salary existing as of the Effective Date of this Agreement (**“Retained Jobs”**).
 - iv. Create at least TWO HUNDRED FIFTY (250) new Full-Time Jobs primarily at the Primary Project Site, of which ONE HUNDRED EIGHTY-EIGHT (188) shall have an annual salary of at least SEVENTY THOUSAND DOLLARS (\$70,000.00) and SIXTY-TWO (62) shall have an annual salary of at least FIFTY THOUSAND DOLLARS (\$50,000.00) within five (5) years of the Effective Date in accordance with the schedule set out below:

Year 1	2019	Create at least 7 new Full-Time Jobs making at least \$70,000 annually and at least 3 new Full-Time Jobs making at least \$50,000 annually (10 total)
Year 2	2020	Create at least 22 new Full-Time Jobs making at least \$70,000 annually and at least 8 new Full-Time Jobs making at least \$50,000 annually (30 total)
Year 3	2021	Create at least 45 new Full-Time Jobs making at least \$70,000 annually and at least 15 new Full-Time Jobs making at least \$50,000 annually (60 total)
Year 4	2022	Create at least 57 new Full-Time Jobs making at least \$70,000 annually and at least 18 new Full-Time Jobs making at least \$50,000 annually (75 total)
Year 5	2023	Create at least 57 new Full-Time Jobs making at least \$70,000 annually and at least 18 new Full-Time Jobs making at least \$50,000 annually (75 total)

GRANTEE shall retain the Retained Jobs and the newly created Full-Time Jobs for which it receives grant funds throughout the Term of the Agreement.

- v. Use its commercially reasonable efforts to offer all of its Full-Time Jobs employed at the Primary Project Site commuter benefits, examples of which include, without limitation, secure onsite bicycle parking, onsite shower facilities, and/or telework or compressed workweek programs.
- vi. Pay one hundred percent (100%) of all employees in the San Antonio Offices, without regard to the number of jobs required to be created or maintained hereunder, at least the Living Wage.
- vii. In addition to the Living Wage requirement, pay at least seventy percent (70%) of all employees in the San Antonio Offices, without regard to the number of jobs required to be created or maintained hereunder, at least the All Industry Wage.
- viii. Offer all of its Full-Time Jobs an opportunity to participate in an employee benefits program to include a health plan that provides coverage for eligible dependents.
- ix. Offer additional paid internships in the San Antonio Offices (compared to the average internships offered during the two years prior to the Effective Date) and/or contribute additional scholarship funds to local colleges or universities (compared to the average contributions made during the two years prior to the Effective Date) designed to develop skills and knowledge to maintain a strong workforce pipeline for the San Antonio Offices.
- x. Comply with all applicable federal, state and local laws and regulations in performing its obligations under this Agreement, and develop and operate the Project in accordance with the terms and conditions of this Agreement.

- B. All wage requirements set forth in this **ARTICLE 3** shall be exclusive of benefits, bonuses, overtime, commissions, shift differentials, and any other non-guaranteed wages.

ARTICLE 4. BUSINESS ACTIVITIES

- A. GRANTEE and its Related Organizations shall conduct, at the Primary Project Site and at the Secondary Project Site, cybersecurity, data analytics, gaming design and development, software engineering and development, engineering, digital solutions, management consulting or other business and hi-tech services (all of such activities hereinafter collectively referred to as the "Business Activities"), and operate same at the Primary Project Site for the Term of this Agreement, except to the extent said Primary Project Site may be rendered unsuitable for such use due to a Force Majeure Event.
- B. Except as provided herein, GRANTEE covenants and agrees that the Business Activities will not be changed without the written consent of GRANTOR, such consent not to be unreasonably withheld, conditioned or delayed. However, such consent shall not be necessary if a Related Organization occupies the Primary Project Site and continues to use the premises for the Business Activities consistent with the terms and conditions of this Agreement. To be eligible for the benefits of this Agreement, the Related Organization must agree in writing, to comply with all applicable terms herein from and after the date it succeeds to GRANTEE's interest in this Agreement, and if requested by GRANTOR, the Related Organization must enter into an amendment to this Agreement evidencing such agreement. In the event of any such transfer to a Related Organization, GRANTEE must notify GRANTOR in writing of same no later than the thirtieth (30th) calendar day following the effective date of such transfer. GRANTEE acknowledges that any change in the principal use of the Primary Project Site from that contemplated herein without prior written approval of GRANTOR, to the extent same is required under this Agreement, may result in a loss or recapture of the economic development grants to be provided to GRANTEE under this Agreement.

ARTICLE 5. ECONOMIC DEVELOPMENT PROGRAM GRANT

In exchange for GRANTEE undertaking and completing the Project, GRANTOR will provide an economic development incentive grant comprised of two parts, a Performance Grant, and a Workforce Development Grant, to the GRANTEE as follows:

- A. Performance Grant. GRANTOR will provide GRANTEE with a grant ("Performance Grant") from the Economic Development Incentive Fund ("EDIF") in the amount of up to ONE HUNDRED EIGHTY-EIGHT THOUSAND DOLLARS AND 00 CENTS (\$188,000.00) (the "Performance Grant Cap") for the creation of the Full-Time Jobs in accordance with **ARTICLE 3(A)(iv)**, subject to the actual number of new Full-Time Jobs GRANTEE creates at each pay level and the minimum job creation requirement set forth in **ARTICLE 17**. GRANTOR'S payment of the grant funds, up to the Performance Grant Cap, is dependent upon GRANTEE being in compliance with this

Agreement and not in default of any material terms or obligations hereunder. The grant amount is as follows:

\$1,000 per Full-Time Job earning a minimum of \$70,000 annually (exclusive of benefits, bonuses, overtime, commissions, shift differentials, and any other non-guaranteed wages) up to 188 jobs.

- i. Performance Grant Disbursement. Following approval of this Agreement by a duly authorized City Ordinance and execution of the Agreement, GRANTOR will make the grant funds available to GRANTEE within 45 days after the receipt and review by GRANTOR of the Annual Certification (defined below) due from GRANTEE for the December 31st year-end report for each year of the Grant Term. The Parties acknowledge and agree the Performance Grant payments made by GRANTOR will be determined by how many actual new Full-Time Jobs paying a minimum of \$70,000 annually GRANTEE creates for each year during the Grant Term. The total amount of Performance Grant funds paid by GRANTOR shall not exceed the Performance Grant Cap.
- B. Workforce Development Grant. GRANTOR will provide GRANTEE with a grant to support GRANTEE's paid internship program and scholarships ("Workforce Development Grant") in the amount of up to SIXTY-TWO THOUSAND DOLLARS AND 00 CENTS (\$62,000.00) (the "Workforce Development Grant Cap"). City shall reimburse GRANTEE based on the actual cost expended for qualified paid internships actually filled and scholarships paid out by GRANTEE up to the Workforce Development Grant Cap as evidenced by qualifying supporting data submitted with GRANTEE's Annual Certification. Within ninety (90) days of the Effective Date, GRANTEE shall develop and submit to GRANTOR a workforce development plan and the Parties shall mutually agree in writing as to the requirements, associated costs that the paid internships and scholarships must meet to qualify for reimbursement, and the evidence that will be required to be submitted to substantiate the qualifying costs. The agreed to substantiating evidence of qualifying costs for paid internships and scholarships shall be submitted with GRANTEE's Annual Certification to qualify for reimbursement.

For those paid internships and scholarships that are deemed eligible for reimbursement, GRANTEE shall submit the agreed to receipts evidencing payment with the Annual Certification. GRANTOR'S payment of Workforce Development Grant funds, up to the Workforce Development Grant Cap, is dependent upon GRANTEE being in material compliance with this Agreement and not in default of any material terms or obligations hereunder. This Workforce Development Grant is provided to GRANTEE independently from the Performance Grant provided to GRANTEE pursuant to **ARTICLE 5(A)**. GRANTEE's failure to receive any or all of the Workforce Development Grant funds will have no impact on GRANTEE's ability to receive and/or retain any of such Performance Grant funds.

- i. Workforce Development Grant Disbursement. GRANTOR will make the Workforce Development Grant funds available to GRANTEE within 45 days after

the receipt and review by GRANTOR of the Annual Certification (defined below) due from GRANTEE for each year of the Grant Term. The Parties acknowledge and agree the Workforce Development Grant payments made by GRANTOR will be determined by the actual costs GRANTEE incurred for additional qualified paid internships and scholarships as substantiated by evidence agreed to by the Parties in the aforementioned workforce development plan. The total amount of Workforce Development Grant funds paid to GRANTEE shall not exceed the Workforce Development Grant Cap.

ARTICLE 6. TERM PERIOD

The "Term" referenced in this Agreement shall commence upon the Effective Date and shall continue in effect for a period of ten (10) years (the "Term"), and shall be comprised of the Grant Term and the Recapture Term, unless terminated as otherwise provided herein. The period when the grant disbursements will occur shall commence upon the Effective Date and continue for a period of five (5) years from the Effective Date ("Grant Term"), unless terminated as otherwise provided herein. The period when no further grants are to be made hereunder and GRANTEE remains subject to the terms hereof, including termination and recapture, shall commence upon the expiration of the Grant Term and continue for a period of five (5) years ("Recapture Term"), unless terminated as otherwise provided herein.

ARTICLE 7. GRANTOR'S OBLIGATIONS

- A. Payment. GRANTEE acknowledges that the payment of funds hereunder shall be subject to, and made solely from, annual appropriations of GRANTOR in the budget year in which they are to be paid as may be legally set aside for the implementation of ARTICLE III, Section 52A of the Texas Constitution, Chapter 380 of the Texas Local Government Code, or any other economic development or financing program authorized by statute or home-rule powers of GRANTOR under applicable Texas law, subject to any applicable limitations or procedural requirements. In the event that GRANTOR does not appropriate funds necessary to pay the grants in any budget year (as reflected in the GRANTOR's adopted budget for such year), GRANTOR shall not be liable to GRANTEE for such payments or expenditures unless and until such appropriation of funds is made provided, however, that, in such event, GRANTEE may, in its sole discretion, terminate this Agreement, in which event, so long as GRANTEE is not in material breach of this Agreement at the time GRANTOR fails to appropriate funds, GRANTEE shall not be obligated to repay any grant funds previously received and GRANTEE and GRANTOR shall have no further obligations under this Agreement including, but not limited to any obligations for the year in respect to which said unappropriated funds relate. In the event GRANTOR does not appropriate funds necessary to pay GRANTEE in a particular budget year, GRANTOR shall appropriate funds the following budget year(s) to pay funds due to GRANTEE. Failure of GRANTOR to appropriate funds in a particular budget year in which they are due and owing to GRANTEE shall not relieve GRANTOR of obligation to pay GRANTEE these funds in the subsequent year(s).

- B. No Liability for Costs. Except as set forth in this Agreement, GRANTOR will not be liable to GRANTEE or other entity for any costs, including but not limited to, direct, indirect or consequential damages, or lost opportunities costs, incurred by GRANTEE in connection with or reliance on this Agreement.

ARTICLE 8. RETENTION AND ACCESSIBILITY OF RECORDS

- A. Retention. GRANTEE shall maintain written and/or digital records and supporting documentation (the "Records") relating to and sufficient for City to commercially reasonably determine: (1) the amount of capital investment at the Primary Project Site; (2) the hire and termination dates of each Full-Time Job; (3) the wages paid for each Full-Time Job; (4) copies of receipts for payment of scholarships for which GRANTEE received Workforce Development Grant funds hereunder; (5) the number, duration and wages paid in association with each internship for which GRANTEE received Workforce Development Grant funds hereunder; (6) the healthcare benefits offered to all Full-Time Jobs; (7) copies of receipts for payment of commuter benefits provided to Full-Time Jobs at the Primary Project Site; and (8) the fulfillment of all obligations of GRANTEE under this Agreement. GRANTEE shall retain such records and any supporting documentation through the end of the Term.
- B. Access. Upon at least thirty (30) days' prior notice to GRANTEE, GRANTOR shall allow representatives of GRANTOR access to the Records at the San Antonio Offices or such other location in Bexar County where the Records are kept during normal business hours for inspection to determine if the obligations of GRANTEE hereunder and the terms and conditions of this Agreement are being met by GRANTEE. In lieu of providing access to the Records at the San Antonio Offices or such other location in Bexar County where the Records are kept, GRANTEE may provide the Records to GRANTOR in an electronic format commercially reasonably acceptable to GRANTOR. GRANTOR shall provide GRANTEE notice of any third party requests for information made pursuant to the Texas Public Information Act prior to disclosure to allow GRANTEE time to submit an argument to the Texas Attorney General for withholding such information. Should any good faith dispute or question arise as to the validity of the data inspected, GRANTOR reserves the right to require GRANTEE to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of GRANTEE. The rights to access the Records shall continue through the Term of this Agreement. Failure to provide commercially reasonable access to the Records to authorized GRANTOR representatives shall give GRANTOR the right to suspend or terminate this Agreement as provided for herein, or any portion thereof, for reason of default, and to exercise GRANTOR's right to recapture all disbursed grant funds. GRANTEE may require GRANTOR's representatives to be accompanied by GRANTEE representatives and such inspections shall be conducted in such a manner as to (a) not unreasonably interfere with the operation of Business Activities at the Primary Project Site, and (b) comply with GRANTEE's reasonable security requirements. Any information learned or disclosed in connection with any such audit is confidential information of GRANTEE and subject to the security, nondisclosure and nonuse obligations of this Agreement and any separate

Nondisclosure Agreement previously entered into by GRANTOR. Notwithstanding the foregoing or any other provision of this Agreement, GRANTEE shall not be required to disclose, permit the inspection of or examination of, or discuss, any document, information or other matter that (i) constitutes trade secrets of proprietary information, (ii) in respect of which disclosure is prohibited by law or any binding agreement or (iii) is subject to attorney-client or similar privilege, employee privacy or constitutes attorney work product. Notwithstanding the foregoing, GRANTEE shall provide GRANTOR access to such records as GRANTOR reasonably requires to verify that GRANTEE is complying with the terms of this Agreement and that the proceeds of the Performance Grant and Workforce Development Grant are used in accordance with the terms of this Agreement salaries, access to employee benefits program and dates of employment for positions for which GRANTEE has received Performance Grant Funds.

- C. GRANTOR agrees to take all commercially reasonable measures to avoid disclosure, dissemination, or unauthorized use of any Records, including, at a minimum, those measures it takes to protect its own confidential information of a similar nature. GRANTOR agrees to promptly notify GRANTEE in the event GRANTOR experiences a security breach that could have impacted any Records relating to this Agreement. GRANTOR agrees that to the extent GRANTEE is required to deliver sensitive employment related information (such as social security numbers, compensation information, employee names, employee addresses, job titles and hours worked) in connection with this Agreement, GRANTEE may deliver such information in accordance with GRANTEE'S data privacy policies and procedures.

ARTICLE 9. MONITORING AND REPORTING

- A. On or before January 31st of each year during the Term of this Agreement, GRANTEE shall provide GRANTOR's Director of Economic Development Department with a certification (the "Annual Certification") from an officer of GRANTEE attesting to the following information as of the preceding December 31st:
- i. the number of Full-Time Jobs maintained as of such date,
 - ii. the number of new Full-Time Jobs created,
 - iii. the hire and termination dates of each Full-Time Job,
 - iv. the healthcare benefits offered to all Full-Time Jobs and their respective eligible dependents,
 - v. the wages paid for each Full-Time Job during the twelve months preceding such date,
 - vi. the number of qualifying paid internships, the duration of each and the qualifying expenses, to include wages, incurred for each participant,
 - vii. the number and amount of qualifying scholarships awarded and paid with qualifying backup,
 - viii. the expenses associated with providing commuter benefits to employees at the Primary Project Site;
 - ix. the aggregate capital investments made prior to such date, and

- x. a written certification of compliance with the terms and conditions of the Agreement signed by an officer of GRANTEE

The information provided shall be on the form set forth in, or substantially similar to the form labeled "Incentive Monitoring Form" attached and incorporated herein as **Exhibit B**, as the same may be revised by GRANTOR from time to time. Failure by GRANTEE to take action specified in the monitoring report, and failure to cure any deficiency in the applicable Cure Period in accordance with **ARTICLE 16** herein, may be cause for suspension or termination of this Agreement, in accordance with **ARTICLE 16** and **ARTICLE 17** herein.

- B. GRANTEE acknowledges GRANTOR is subject to the Texas Public Information Act, which applies to information of every "governmental body" as set forth in section 552.003(1)(A) of the Texas Government Code. Public Information means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business. The Texas Public Information Act requires a governmental body to promptly produce public information for inspection, duplication, or both upon receipt of a written request for information from the public. GRANTOR shall provide GRANTEE notice of any third party requests for information made pursuant to the Texas Public Information Act prior to disclosure to allow GRANTEE to submit and argument to the Texas Attorney General for withholding such information. To that end, GRANTEE will endeavor to submit only such limited information as is required per the agreement with GRANTOR to allow GRANTOR to verify GRANTEE is meeting its requirements and obligations under this Agreement.
- C. In its efforts to comply with requests for public information under the Texas Public Information Act, GRANTEE shall remain immune from liability under both the State of Texas and federal doctrines of sovereign immunity.
- D. GRANTOR maintains a public website containing a summary report of all current and active economic incentive agreements and reports submitted in accordance with those agreements. GRANTEE acknowledges and agrees that GRANTOR will include and post this Agreement and any reports submitted to GRANTOR pursuant to this Agreement on the aforementioned website.

ARTICLE 10. CONFLICT OF INTEREST

If applicable, GRANTEE shall prohibit any employee, officer, or individual agent of GRANTOR from participating on behalf of GRANTEE in the selection, award or administration of a subcontract supported by funds provided hereunder if a conflict of interest would be involved. Such conflict of interest would arise when: (1) the employee, officer, or individual agent; (2) any member of his or her immediate family; (3) his or her partner; or, (4) any organization which employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform the subcontract and the relationship calls for payments to be made to such subcontractor on terms which are greater than those which are customary in the industry for similar services conducted on similar terms. To the extent GRANTEE hires any former or current employee or official of GRANTOR who would be subject to GRANTOR's ethics policy,

as same exists from time to time, GRANTEE shall take commercially reasonable efforts to ensure that such person complies with all applicable requirements of GRANTOR's ethics ordinance in dealings between GRANTOR and GRANTEE. GRANTEE shall comply with Chapter 171, Texas Local Government Code as well as the GRANTOR's Code of Ethics.

ARTICLE 11. SECTARIAN ACTIVITY

None of the performances rendered by GRANTEE under this Agreement shall involve, and no portion of the funds received by GRANTEE under this Agreement shall be used in support of, any sectarian or religious activity, nor shall any facility used in the performance of this Agreement be used for sectarian instruction or as a place of religious worship.

ARTICLE 12. LEGAL AUTHORITY

- A. Legal Authority. Each party assures and guarantees to the other that it possesses the legal authority to enter into this Agreement, to receive/deliver the funds authorized by this Agreement, and to perform their obligations hereunder.
- B. Signatories. Each party represents and warrants to the other that the person or persons signing and executing this Agreement on behalf of such party has been duly authorized to execute this Agreement on behalf of that party and to validly and legally bind that party to all terms, performances and provisions herein set forth.

ARTICLE 13. GOVERNING LAW AND VENUE

- A. Notice to City. GRANTEE shall give GRANTOR notice in writing of any (i) OSHA complaint filed by an employee of GRANTEE concerning the San Antonio Offices, or (ii) notice of any bankruptcy of GRANTEE, or (iii) any notice given by GRANTEE to its employees at the San Antonio Offices required under any applicable laws pertaining to contemplated job reductions at such premises. GRANTEE shall submit a copy of each such notice required hereunder to GRANTOR within thirty (30) calendar days after receipt or issuance, as applicable.
- B. Texas Torts Claims Act. GRANTEE acknowledges that GRANTOR is a political subdivision of the State of Texas and is subject to, and complies with, the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001 et. seq., and the remedies authorized therein regarding claims and causes of action that may be asserted by third parties for accident, injury or death.
- C. Venue. This Agreement shall be interpreted according to the Constitution and the laws of the State of Texas, without giving effect to conflict of law rules. For purposes of litigating any dispute that arises directly or indirectly from the relationship of the parties resulting from this Agreement, the parties hereby submit to and consent to the exclusive jurisdiction of the State of Texas and agree that such litigation shall be conducted only in the courts of Bexar County, Texas, or the federal courts for the United States for the

Western District of Texas, and no other courts, regardless of where this Agreement is made and/or to be performed.

ARTICLE 14. [INTENTIONALLY OMITTED]

ARTICLE 15. CHANGES AND AMENDMENTS

- A. Amendments in Writing. Except as provided below, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by the Parties to this Agreement.
- B. 380 Program. It is understood and agreed by the Parties hereto that performances under this Agreement shall be rendered in accordance with the laws and rules governing the Economic Development Program as set forth in Texas Local Government Code Chapter 380, and the terms and conditions of this Agreement.

ARTICLE 16. SUSPENSION

- A. Notice and Cure Period. Notwithstanding the provisions of Chapter 2251 of the Texas Government Code, if applicable, or anything else in this Agreement to the contrary, in the event GRANTEE fails to comply with the material terms of this Agreement, GRANTOR shall provide GRANTEE with written notification as to the nature of the material non-compliance and grant GRANTEE a sixty (60) day period following the date of GRANTEE's receipt of GRANTOR's written notification to cure any issue of material non-compliance. Should GRANTEE fail to cure any material default within this period of time, or such longer period of time as may be commercially reasonably necessary for GRANTEE to cure the material default in question if same cannot commercially reasonably be cured within such sixty (60) day period, GRANTOR may, upon written Notice of Suspension to GRANTEE, suspend this Agreement in whole or in part and withhold further payments to GRANTEE until the material default is cured. Such Notice of Suspension shall include: (1) the reasons for such suspension; (2) the effective date of such suspension; and, (3) in the case of partial suspension, the portion of the Agreement to be suspended.
- B. Lifting of Suspension. A suspension under this Section shall be lifted upon a showing by GRANTEE that the event of default has been cured or by a written waiver of GRANTOR of the term(s) in question.
- C. No Liability. GRANTOR shall not be liable to GRANTEE or to GRANTEE's creditors for costs incurred during any term of suspension of this Agreement.

**ARTICLE 17. DEFAULT, TERMINATION AND RECAPTURE, AND OTHER
REMEDIES**

- A. Relocation Defined. For purposes of this section, “Relocation” “Relocated” or “Relocate” shall mean GRANTEE or a Related Organization, or any other permitted transferee of GRANTEE’s rights under this Agreement, which has taken the place of GRANTEE, transferring all Business Activities from the Primary Project Site to a location outside of GRANTOR’s city limits for reasons other than the inability to conduct the Business Activities at the Primary Project Site due to casualty, condemnation or other reasons beyond the commercially reasonable control of GRANTEE or its Related Organizations or other permitted transferee of GRANTEE’s rights under this Agreement (any of the foregoing being a “Force Majeure Event”).
- B. Default of GRANTEE. GRANTEE shall be in default under this Agreement:
- i. Relocation. If during the Term of this Agreement, GRANTEE occupies and uses the Primary Project Site for its Business Activities and subsequently Relocates during the Term, then GRANTOR shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Relocation is completed. Unless GRANTEE presents credible evidence to clearly indicate a date of Relocation, GRANTOR’s determination of a date of Relocation shall be final and conclusive. Upon termination, GRANTOR shall have the right to recapture from GRANTEE all funds previously disbursed to the GRANTEE, and/or for the benefit of GRANTEE, under this Agreement and not previously recaptured by GRANTOR in accordance with the recapture schedule set forth in **ARTICLE 17(C)** below and GRANTOR shall be entitled to the payment of the amounts to which it is entitled within sixty (60) calendar days from the date it notifies GRANTEE in writing of termination and its election to recapture such amounts.
 - ii. Cessation of Business Activities. If GRANTEE occupies and uses the Primary Project Site for its Business Activities and subsequently ceases conducting Business Activities at the Primary Project Site for a continuous period of three (3) months during the Term of this Agreement for any reason, except if such cessation is caused by a Force Majeure Event or is necessary to complete renovations, restorations or repairs, then GRANTOR shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the cessation occurred. Unless GRANTEE presents credible evidence to clearly indicate a date of cessation, GRANTOR’s determination of a date of cessation shall be final and conclusive. Upon termination, GRANTOR shall have the right to recapture from GRANTEE all funds previously disbursed to the GRANTEE under this Agreement and not previously recaptured by GRANTOR in accordance with the recapture schedule set forth in **ARTICLE 17(C)** below and GRANTOR shall be entitled to the payment of the amounts to which it is entitled within sixty (60) calendar days from the date it notifies GRANTEE in writing of termination and its election to recapture such amounts.

iii. Number of Jobs During Grant Term.

- a. GRANTOR may terminate this Agreement if, during the Grant Term, GRANTEE or its Related Organizations, for any reason other than a Force Majeure Event, fails to:
 - i. Maintain at least eighty percent (80%) of the 556 Retained Jobs (80% of 556 = 445); or
 - ii. Create at least eighty percent (80%) of the requisite 188 Full-Time Jobs (80% of 188 = 150) each earning a minimum annual salary of \$70,000; or
 - iii. Create at least fifty percent (50%) of the requisite 62 Full-Time Jobs (50% of 62 = 31) each earning a minimum annual salary of \$50,000.

Upon such termination, GRANTOR may recapture all Performance Grant funds previously disbursed to the GRANTEE under this Agreement and not previously recaptured by GRANTOR in accordance with the recapture schedule set forth in **ARTICLE 17(C)** and GRANTOR shall be entitled to the payment of the amounts to which it is entitled within sixty (60) calendar days from the date it notifies GRANTEE in writing of such termination and its election to recapture such amounts.

- b. Should GRANTEE during the Grant Term create more than 150 Full-Time Jobs earning at least \$70,000 annually, for which GRANTEE receives Performance Grant funds, but fails to maintain those Full-Time Jobs for which it has received Performance Grant funds throughout the Grant Term, GRANTOR shall be entitled to recapture a prorata amount of the Performance Grant dispersed by GRANTOR (\$1,000/Full-Time Job paying at least \$70,000 annually for which GRANTEE received Performance Grant funds). The recapture amount shall be calculated by multiplying the reduction in the Full-Time Jobs earning at least \$70,000 annually for which GRANTEE receives Performance Grant funds in excess of 150 by \$1,000, subject to the recapture provisions of **ARTICLE 17(C)**. (Example: if GRANTEE at the end of Grant Year 3 has created and has received Performance Grant Funds for 188 Full-Time Jobs paying a minimum of \$70,000 annually, but maintains only 170 jobs in Grant Year 4, GRANTEE would pay City $18 \times \$1,000 = \$18,000$).

Under no circumstances shall GRANTOR be entitled to recapture grant funds paid for a particular position more than once for a shortfall or loss of a position for which GRANTEE received grant funds.

GRANTOR shall be entitled to the payment of such recaptured funds within sixty (60) calendar days from the date it notifies GRANTEE in writing.

iv. Number of Jobs During Recapture Term.

- a. GRANTOR may terminate this Agreement if, during the Recapture Term, GRANTEE or its Related Organizations, for any reason other than a Force Majeure Event, fails to:
- i. Maintain at least eighty percent (80%) of the 556 Retained Jobs (80% of 556 = 445); or
 - ii. Maintain at least eighty percent (80%) of the requisite 188 Full-Time Jobs (80% of 188 = 150) each earning a minimum annual salary of \$70,000; or
 - iii. Maintain at least fifty percent (50%) of the requisite 62 Full-Time Jobs (50% of 62 = 31) each earning a minimum annual salary of \$50,000.

Upon such termination, GRANTOR may recapture all Performance Grant funds previously disbursed to the GRANTEE under this Agreement and not previously recaptured by GRANTOR in accordance with the recapture schedule set forth in **ARTICLE 17(C)** and GRANTOR shall be entitled to the payment of the amounts to which it is entitled within sixty (60) calendar days from the date it notifies GRANTEE in writing of such termination and its election to recapture such amounts.

- b. If, during the Recapture Term, GRANTEE created at least 150 Full-Time Jobs earning at least \$70,000 annually, for which GRANTEE received Performance Grant funds, but fails to maintain the total number of Full-Time Jobs earning at least \$70,000 annually for which GRANTEE received Performance Grant funds exceeding 150 such Full-Time Jobs throughout the Recapture Term, GRANTOR shall be entitled to recapture a prorata amount of the Performance Grant funds dispersed by GRANTOR (\$1,000/Full-Time Job paying at least \$70,000 annually). The recapture amount shall be calculated annually by multiplying the shortfall in the Full-Time Jobs in excess of 150 required pursuant to **ARTICLE 17(B)(iv)(a)** by \$1,000, subject to the recapture provisions of **ARTICLE 17(C)**. Any reduction in Full-Time Jobs earning at least \$70,000 annually below 150 shall be governed by **ARTICLE 17(B)(iv)(a)**. Any payment due under this **ARTICLE 17(B)(iv)(b)** shall be payable as of the due date of the final Annual Certification (Example: if GRANTEE at the end of the Recapture Term has created and been paid for 188 Full-Time Jobs paying a minimum of \$70,000 annually, but maintains only 170 in Recapture Years 6-10, GRANTEE would pay GRANTOR $18 \times \$1,000 = \$18,000$).

Under no circumstances shall GRANTOR be entitled to recapture grant funds paid for a particular position more than once for a shortfall or loss of a position for which GRANTEE received grant funds.

- C. Recapture of Grant Funds. If GRANTOR, pursuant to the terms of the Agreement, is entitled to recapture funds and elects to recapture funds disbursed hereunder, the portion subject to recapture shall be as follows:

<u>YEAR IN WHICH RECAPTURE OCCURS:</u>	<u>PERCENTAGE OF GRANT FUNDS ELIGIBLE FOR RECAPTURE:</u>
----------------------------------------	----------------------------------------------------------

2019 to 2023	100%
2024	100%
2025	80%
2026	60%
2027	40%
2028	20%

GRANTOR shall be entitled to the payment of such disbursed funds within sixty (60) calendar days from the date it notifies GRANTEE in writing.

- D. Limitation on Recapture. Notwithstanding the foregoing, any such recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which GRANTEE may be entitled at law or under this Agreement. The termination and/or recapture of grant funds provided in this **ARTICLE 17** are not applicable to situations involving minor changes to the Business Activities conducted by GRANTEE at the Primary Project Site, or GRANTOR-approved changes in ownership or in management thereof, so long as GRANTEE, any Related Organization, and/or other GRANTOR-approved assignee allowed under the terms of this Agreement, continues conducting Business Activities or other authorized activities thereon as provided hereinabove.
- E. Bankruptcy. If GRANTEE, any Related Organization, and/or other GRANTOR-approved assignee permitted under this Agreement files any petition for bankruptcy, then this Agreement shall automatically be deemed to have terminated one (1) day prior to the filing of the petition for bankruptcy and, upon such termination, all funds previously disbursed to GRANTEE, and/or for the benefit of GRANTEE, under this Agreement which have not been previously recaptured by GRANTOR may be recaptured by GRANTOR according to the schedule set forth in **ARTICLE 17(C)**.
- F. Limitation on Remedies. The foregoing termination and recapture rights shall be GRANTOR's sole and exclusive remedies in the event GRANTEE shall default under this Agreement. As such, notwithstanding any other provision of this Agreement, the maximum aggregate liability or repayment amount due by GRANTEE under this Agreement shall not exceed the total amount of grant funds actually received by GRANTEE from GRANTOR under this Agreement.
- G. GRANTEE'S Termination Right. If at any time before the expiration of the Term, GRANTEE decides to terminate its obligations under this Agreement, GRANTEE shall provide thirty (30) days prior written notice to GRANTOR and pay to GRANTOR any

grant funds that have been actually received by GRANTEE to date within thirty (30) days after the termination is effective.

ARTICLE 18. AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)

In addition to relief expressly granted in this Agreement, GRANTEE shall be granted relief from performance of this Agreement to the extent GRANTEE is prevented and/or impaired from compliance and performance by any Force Majeure Event. In addition to the events mentioned in **ARTICLE 17(A)** above, a "Force Majeure Event" shall also include, but not be limited to, an act of war, order of legal authority, act of God, terrorism, social unrest, strike, natural disaster, supply shortage, or other unavoidable cause not attributed to the fault or negligence of the GRANTEE. It also includes an explosion or other casualty or accident, which is not the result of negligence, intentional act or misconduct on the part of GRANTEE. The burden of proof for the need for such relief shall rest upon GRANTEE. To obtain relief based upon this **ARTICLE 18**, GRANTEE must file a written notice with the GRANTOR's Economic Development Department specifying the Force Majeure Event and the performance under this Agreement that such event is impairing.

ARTICLE 19. SPECIAL CONDITIONS AND TERMS

GRANTEE, in accordance with Chapter 2264 of the Texas Government Code, agrees not to knowingly employ any worker during the Term of this Agreement who is not lawfully admitted for permanent residence to the United States or who is not authorized under law to be employed in the United States ("Undocumented Workers"). If GRANTEE is convicted of a violation under 8 U.S.C. Section 1324a (f), then GRANTEE shall repay GRANTOR the amounts granted by this Agreement for the year(s) covered under this Agreement during which such violation occurred. Such payment shall be made within one-hundred twenty (120) business days after the date GRANTEE is notified by GRANTOR of such violation. GRANTOR, in its sole discretion, may extend the period for repayment herein. Additionally, GRANTEE shall pay interest on the amounts due to GRANTOR under this **ARTICLE 19** at the rate of five percent (5%) per annum from the date of such violation notice until paid. GRANTEE shall not be liable for a violation of Chapter 2264 by a subsidiary, affiliate or franchisee or by a person with whom GRANTEE contracts.

ARTICLE 20. TIME IS OF THE ESSENCE & REASONABLENESS

The Parties acknowledge that time is of the essence with respect to their obligations under this Agreement. The Parties further agree to act commercially reasonably and in good faith when acting under the terms of this Agreement.

ARTICLE 21. NO WAIVER

Failure by either party to exercise any right or remedy hereunder available to it shall not constitute a waiver of the right to exercise that or any other right or remedy at any time in the future, absent a written agreement to the contrary.

ARTICLE 22. NON-ASSIGNMENT

- A. GRANTEE shall not transfer or assign this Agreement, or any part thereof, without having first obtained GRANTOR's prior written consent, which may not be unreasonably withheld and which may be given by GRANTOR'S Director of Economic Development Department. Notwithstanding the foregoing, GRANTEE may assign this Agreement to a Related Organization without the prior written consent of GRANTOR, although written notice to GRANTOR of any such assignment shall be provided by GRANTEE as soon as is commercially reasonably practicable thereafter.
- B. Each transfer or assignment to which there has been consent shall be by instrument in writing, in form satisfactory to GRANTOR and shall be executed by the transferee or assignee who shall agree in writing for the benefit of GRANTOR to be bound by and to perform the terms, covenants, and conditions of this Agreement. Four executed copies of such written instrument shall be delivered to the Director. Failure to first obtain in writing GRANTOR's consent or failure to comply with the provisions herein contained shall operate to prevent any such transfer or assignment from becoming effective and shall enable GRANTOR to terminate this Agreement and exercise its rights under this Agreement, subject to **ARTICLE 16** of this Agreement.
- C. Notwithstanding the foregoing, GRANTEE and/or any successor to GRANTEE's interest in the this Agreement may collaterally assign and/or grant a security interest in the payments to be received by GRANTEE hereunder without GRANTOR's consent if required by any lender providing financing to any such entity or any parent, subsidiary, or affiliated company of such entity.

ARTICLE 23. ENTIRE AGREEMENT

- A. All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement. This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon.
- B. This Agreement is made solely for the benefit of the Parties, and no other person shall have any right, benefit or interest under or because of this Agreement, except as otherwise specifically provided herein.

ARTICLE 24. NOTICE

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees

prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified. Any notice mailed in the above manner shall be effective two (2) business days following its deposit into the custody of the United States Postal Service or one (1) business day following its deposit into the custody of such nationally recognized delivery service, as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

TO GRANTOR:

TO GRANTEE:

(Whether personally delivered or mailed):

City of San Antonio
Attn: Economic Development
P.O. Box 8399
San Antonio, Texas 78283-3966

Stephen Bell
Booz Allen Hamilton Inc.
8283 Greensboro Dr.
McLean, VA 22102

- If by personal or overnight delivery:

Economic Development
Attn: Director
19th Floor
100 Houston St.
San Antonio, Texas 78205

ARTICLE 25. INCORPORATION OF EXHIBITS

Each of the Exhibits and Attachments listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below:

Exhibit A – San Antonio Offices

Exhibit B – Incentive Monitoring Form

-----Signatures appear on next page-----


WITNESS OUR HANDS, EFFECTIVE as of _____, 2019 (the
“**EFFECTIVE DATE**”):

Accepted and executed in triplicate originals on behalf of the City of San Antonio pursuant to the
attached Ordinance Number _____ and GRANTEE pursuant to its authority.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

Erik Walsh
City Manager

BOOZ ALLEN HAMILTON INC.
a Delaware Corporation



Laura S. Adams,
Vice President, Controller and
Chief Accounting Officer

ATTEST:

Leticia Vacek
CITY CLERK

APPROVED AS TO FORM:

Andrew Segovia
CITY ATTORNEY

EXHIBIT A
San Antonio Offices

Client Sites

USA, TX, Fort Sam Houston (2108 9th St)
USA, TX, Lackland AFB (2261 Hughes Ave)
USA, TX, Randolph AFB (395 B St E)
USA, TX, San Antonio (102 Hall Blvd)
USA, TX, San Antonio (143 Billy Mitchell)
USA, TX, San Antonio (230 Hall Blvd)
USA, TX, San Antonio (250 Donald Goodrich Dr)
USA, TX, San Antonio (3133 General Hudnell Dr) Client Site
USA, TX, San Antonio (3515 S General McMullen)
USA, TX, San Antonio (4241 Piedras E)
USA, TX, San Antonio (469 Moore St)
USA, TX, San Antonio (485 Quinten Roosevelt Dr)
USA, TX, San Antonio (7700 Potranco Rd)

Non-Client Sites

USA, TX, San Antonio (112 E Pecan St) – Primary Project Site
USA, TX, San Antonio (3133 General Hudnell Dr) – Secondary Project Site

EXHIBIT B



**City of San Antonio
Economic Development Department
Incentive Reporting Form**

Company Name: _____

Reporting Period: _____

Contact Information: _____

Real Property: expenditures associated with real property improvements during reporting period (Verification may include AIA forms, receipts, invoices, request for payment from contractor, etc.)	
1. Real Property improvements reported last reporting period	\$
2. Real Property improvements made since last reporting period	\$
3. Total cumulative Real Property improvements made (Attach supporting documents.)	\$
Personal Property: expenditures associated with personal property improvements during reporting period (Verification may include receipts, invoices, requests for payment, etc.)	
4. Personal Property improvements reported last reporting period	\$
5. Personal Property improvements made since last reporting period	\$
6. Total cumulative Personal Property improvements made (Attach supporting documents.)	\$
Inventory/Supplies: (Verification may include receipts, invoices, requests for payment, etc.)	
7. Inventory and Supplies improvements reported last reporting period	\$
8. Inventory and Supplies improvements made since last reporting period	\$
9. Total cumulative investment on Inventory and Supplies made (Attach supporting documents.)	\$
Jobs: full-time (2,080 straight-time paid hours) jobs created during reporting period (Verification: payroll registers with total number of employees, dates of hire, hourly wages, etc.)	
10. Total number of jobs reported at the facility last reporting period.	
11. Jobs created during reporting period (For supporting documents, see above.)	
12. Jobs retained during reporting period.	
13. Total number of jobs reported at the facility this reporting period (For supporting documents, see above.)	
14. What is the minimum hourly wage paid at the facility? (For supporting documents, see above.)	
15. What percentage of the total company workforce at the facility earns at least the All-Industry Wage? (Minimum of 70%)	
Additional Contractual Obligations (As applicable per your Agreement)	
16. Percent of workforce that is local.	%
17. Percent of workforce that is economically disadvantaged (attach information regarding company's good-faith efforts).	%
18. Are employee benefits offered to all full-time employees and eligible dependents? (Please attach separate sheet demonstrating compliance with your agreement.)	
Certification:	
I certify, under penalty of perjury, that the information provided in this report and the attached documents is correct, and that the company has complied with all terms and conditions of its agreement with the City of San Antonio.	

Signature: _____

Date: _____

Printed Name: _____

Title: _____

Mail original signed form, with supporting documents, to: Economic Development Department, Operations & Monitoring, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966. For questions regarding this report please contact Pamela Cruz, Sr. Management Analyst, at 210-207-0150 or e-mail: monitoringandops@sanantonio.gov.

Rev. 1.0 2019