

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF SAN ANTONIO AND  
TEXAS A&M UNIVERSITY – SAN ANTONIO**

This Contract (“Contract”) is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation, acting by and through its Director of the Department of Human Services (“DHS”) pursuant to Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_, and Texas A&M University – San Antonio, a political subdivision of the State of Texas, acting by and through its duly authorized representative (hereinafter referred to as the "University"), both of which may be collectively referred to as the “Parties.”

WITNESSETH:

**WHEREAS**, both parties to this Contract are political subdivisions of the State of Texas, and desire to enter into this Contract in accordance with the provisions of the Interlocal Cooperation Act, being Chapter 791 of the Texas Government Code; and

**WHEREAS**, City and University have come to an agreement regarding mutually advantageous terms for University to provide educational services (“Summer Institute”) to City’s Head Start Program, funded by the U.S. Department of Health and Human Services, and both desire that such agreement be memorialized herein;

**NOW, THEREFORE**, in consideration of the mutual covenants and provisions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 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 accomplishments of the tasks hereinafter described.

**I. TERM**

1.1 This Contract shall commence on February 1, 2016 and shall terminate on January 31, 2017, unless termination shall occur earlier pursuant to any provision hereof. City shall have the option to renew for three (3) additional one (1) year periods with, if needed, an updated scope of services in Article II revised by City for each renewal period and without the necessity of seeking any further approval by City Council, upon the approval of the Director of DHS (hereinafter referred to as “Director”) and the satisfactory performance of University, as determined solely by Director.

**II. SCOPE OF SERVICES**

2.1 University agrees to provide the following services and abide by the following provisions related to the Summer Institute:

a. University will provide up to 9 summer hours of masters-level early childhood education coursework per student for up to 10 students (“Summer Institute participants”), both degree and non degree seeking;

- b. University will bill City's Head Start Program as a third party payer for Summer Institute participant coursework and will accept standard tuition and fee reimbursement from City in amounts not to exceed the standard in-state tuition;
- c. University will not bill City for more than 9 hours of coursework per Summer Institute participant during the term of this Contract, nor more than 18 hours per participant over the course of all renewals;
- d. University will make University's facility available for registration and orientation session meetings on designated dates agreeable to City;
- e. University will obtain the City's written approval of each student participating in the Summer Institute program; and
- f. University understands that City will not pay for (i) participant's books, parking or application fees, (ii) participants not enrolled and approved by City, or (iii) more than 18 hours of coursework per Summer Institute participant over the course of all renewals of this Contract.

### **III. COMPENSATION TO UNIVERSITY**

- 3.1 In consideration of University's performance of all services and activities set forth in this Contract, City agrees to pay University an amount not to exceed \$30,000.00 as total compensation for the services outlined in Article II, Scope of Services, to be paid to University for the cost of standard tuition and fees of up to 10 Summer Institute participants.
- 3.2 Within 30 days following registration, University shall submit the summer semester invoice to City, in a form acceptable to City, which City shall pay as a 3<sup>rd</sup> party on behalf of Summer Institute participants in accordance with the Texas Prompt Payment Act (Tex. Gov't Code Sec. 2251.021(a)). Invoices shall be submitted to: City of San Antonio, Department of Human Services, Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976.
- 3.3 The Parties hereby agree that all compensable expenses of University have been provided for in the total payment to University as specified in section 3.1 above. No additional fees or expenses of University shall be charged by University nor be payable by City, without prior approval and written agreement of the Parties.
- 3.4 Final payment due under the Contract will not be paid until all the work, reports, data, documents and any other unfinished services necessary to complete performance under the Contract have been received by City. City shall not be liable for any payment under this Contract for services which have not been authorized by City.
- 3.5 City shall not be obligated or liable under the Contract to any party, other than University, including any subcontractors, for payment of any monies for provision of any goods or services.
- 3.6 It is expressly understood and agreed by City and University that the parties' obligations under this Contract are contingent upon the actual receipt of adequate Grant Fund revenue. Should the parties not receive sufficient funds to make payments pursuant to this Contract or should awarded Grant Funds be reduced, the parties must collaborate within a reasonable

time after such fact has been determined and may, at City's option, either terminate this Contract or reduce the Scope of Work and Consideration accordingly.

#### **IV. INDEPENDENT CONTRACTOR**

- 4.1 University understands and agrees that University is and shall be deemed to be an independent contractor, and not an officer, agent, servant or employee of City, and that University is responsible for the acts or omissions of its officers, agents, employees, contractors, subcontractors and consultants, and that City shall in no way be responsible therefor. Nothing contained herein shall be deemed or construed by the Parties hereto or by any third party as creating the relationship of employer-employee, principal-agent, partners, joint venture, or any other similar such relationship, between the Parties hereto. University understands and agrees that City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the University under this Contract and that the University has no authority to bind City.

#### **V. CONFIDENTIALITY**

- 5.1 No reports, information, designs, data nor any other documentation developed by, given to, prepared by, or assembled by University under this Contract shall be disclosed or made available to any individual or organization by University without the express prior written approval of City. In the event University receives a request to disclose or produce documents, University shall inform the City immediately.
- 5.2 University shall comply with laws, regulations and rules pertaining to confidentiality and shall establish a method to secure the confidentiality of documents and information that University may have access to, in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting City's right of access to records or other information under this Contract.
- 5.3 Each party acknowledges that the other must strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information related to this Contract. This obligation supersedes any conflicting provisions of this Contract.

#### **VI. OWNERSHIP OF DOCUMENTS**

- 6.1 In accordance with Texas law, University acknowledges and agrees that all government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government records produced by or on behalf of University pursuant to the Contract shall be the subject of any copyright or proprietary claim by University.
- 6.2 University shall notify City immediately of any requests for information from a third party which pertain to documents obtained and/or generated pursuant to this Contract.

## **VII. RIGHT OF REVIEW AND RECORDS RETENTION**

- 7.1 University and its subcontractors, if any, shall properly, accurately and completely maintain all documents, and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Contract period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.
- 7.2 University shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Contract. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, University shall retain the records until the resolution of such litigation or other such questions. University acknowledges and agrees that City shall have access to any and all such documents reasonable times, as deemed necessary by City, during said retention period. City may, at its election, require University to return the documents to City at City's expense prior to or at the conclusion of the retention period. In such event, University may retain a copy of the documents.

## **VIII. LICENSES AND CERTIFICATIONS**

- 8.1 University warrants and certifies that University and any other person designated by it to provide services hereunder has the requisite training, license and/or certification to provide said services and that University meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

## **IX. COMPLIANCE**

- 9.1 This Contract is funded wholly or in part by the U.S. Department of Health and Human Services through the Head Start grant (CFDA # 93.600). University shall provide and perform all services under this Contract in compliance with all applicable federal, state, local laws, rules and regulations. Failure to comply with applicable laws and regulations could subject the University to suspension of payments, termination of Contract, and debarment and suspension actions
- 9.2 University certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988 and the Drug-Free Workplace Rules established by the Texas Worker's Compensation Commission effective April 17, 1991.
- 9.3 As a party to this Contract, University understands and agrees to comply with Texas A&M University System Policy 8.01, *Civil Rights Protection and Compliance*, and shall comply with all applicable legal requirements prohibiting discrimination. Also, University certifies that it will comply fully with the following nondiscrimination and equal opportunity provisions:
- a. Titles VI and VII of the Civil Rights Act of 1964, as amended;
  - b. Section 504 of the Rehabilitation Act of 1973, as amended;
  - c. The Age Discrimination Act of 1975, as amended;
  - d. Title IX of the Education Amendments of 1972, as amended; and
  - e. All applicable regulations implementing the foregoing laws.

## X. CONFLICT OF INTEREST

- 10.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in City's Ethics Code, from having a financial interest in any Contract with City or any City agency such as City owned utilities. An officer or employee has a "prohibited financial interest" in a Contract with the City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the Contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.
- 10.2 University warrants and certifies, and this Contract is made in reliance thereon, that it, its officers, employees and agents performing on this Contract are neither a City officer nor an employee as defined by Section 2-52 (e) of City's Ethics Code. University further warrants and certifies that it has tendered to City a Discretionary Contracts Disclosure Statement in compliance with City's Ethics Code.

## XI. INSURANCE

- 11.1 University and the City each maintain a self-insurance fund for general liability and worker's compensation claims and causes of action to meet their statutory obligations to each party's employees.

## XII. LIABILITY

- 12.1 The Parties acknowledge they are political subdivisions of the State of Texas and are subject to, and comply 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 or causes of action that may be asserted by third parties for accident, injury or death. The Parties shall each promptly notify the other in writing of any claims or demands that become known against them in relation to or arising out of activities under this Contract.**

## XIII. NON-DISCRIMINATION

- 13.1 As a condition of entering into this Contract, University represents and warrants that it will not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or treatment of subcontractors, vendors, suppliers, or customers, nor shall University retaliate against any person for reporting instances of such discrimination. University shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities.

#### **XIV. TERMINATION**

- 14.1 For purposes of this Contract, “termination” of this Contract shall mean termination by expiration of the Contract term or earlier termination pursuant to any of the provisions hereof.
- 14.2 **TERMINATION BY NOTICE:** The Contract may be terminated by either party upon written notice, provided such notice specifies an effective date of termination, which shall be not less than thirty (30) days from the date such notice is received by the other party. If the notice does not specify a date of termination, the effective date of termination shall be thirty (30) days after receipt of the notice by the other party.
- 14.3 **TERMINATION FOR CAUSE:** Should either party default in the performance of any of the terms or conditions of this Contract, the non-defaulting party shall deliver to the defaulting party written notice thereof specifying the matters of default. The defaulting party shall have ten (10) days after its receipt of the written notice to cure such default. If the defaulting party fails to cure the default within such ten (10) day period, the non-defaulting party may elect to terminate this Contract, in whole or in part, upon written notice, as of the date provided in the notice.
- 14.4 **TERMINATION BY LAW:** If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein or if any law is interpreted to prohibit such performance, and the Contract may not be continued by severance of the prohibited duties, this Contract shall automatically terminate as of the effective date of such prohibition.
- 14.5 **NON-APPROPRIATION:** In the event that through action or no action initiated by City, City’s legislative body does not appropriate funds for the continuation of this Contract and has no funds to do so from other sources, this Contract may be terminated. To effect this termination, City shall, thirty (30) days prior to the period for which funds are not appropriated, send University written notice stating that City failed to appropriate funds.
- 14.6 **EFFECT OF TERMINATION:** Upon the effective date of expiration or termination of this Contract University shall cease all operations of work being performed by University or any of its approved subcontractors pursuant to this Contract. The period between notice of termination and the effective date of termination shall be used to effect an orderly transfer of records and documents and funds, if any, from University to the City or to such person(s) as the City may designate, if so requested by City; otherwise, the documents shall be retained by University in accordance with Article VII, Right of Review and Records Retention. Any records or documents transfer shall be completed within fifteen (15) days of the termination date.
- 14.7 Within thirty (30) days of the effective date of termination (unless an extension is authorized in writing by the City), University shall submit to the City, its claim, in detail, for the monies owed by the City for services performed under this Contract through the effective date of termination. .
- 14.8 Upon termination of this Contract, the City may immediately commence an audit of University’s books, accounts, and records. Within thirty (30) days after being notified by the City of the results of said audit, University shall pay the City any undisputed amount shown by said audit to be owed the City.

- 14.9 Termination not sole remedy. In no event shall either Party's action of terminating this Contract, whether for cause or otherwise, be deemed an election of that Party's remedies, nor shall such termination limit, in any way, at law or at equity, that Party's right to seek damages from or otherwise pursue the other Party for any default hereunder or other action.

#### **XV. AMENDMENT**

- 15.1 Except where the terms of this Contract expressly provide otherwise, any amendment to this Contract shall not be binding on the Parties unless such amendment be in writing, executed by both City and University and dated subsequent to the date hereof.
- 15.2 It is understood and agreed by Parties hereto, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this Contract and that any such changes shall be automatically incorporated into this Contract without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

#### **XVI. NOTICE**

- 16.1 For purposes of this Contract, all official communications and notices among the parties shall be deemed sufficient if in writing and delivered in person, mailed by overnight or express service or mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

**CITY**

City of San Antonio  
Attn: Director  
Department of Human Services  
106 St. Mary's Street, 7th Floor  
San Antonio, Texas 78205

**UNIVERSITY**

Texas A&M University – San Antonio  
Attn: Dr. Lopez, College Dean  
Dr. Villegas, Department Chair  
One University Way  
San Antonio, Texas 78224

Notices of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of the change.

#### **XVII. LEGAL AUTHORITY**

- 17.1 The person signing on behalf of University represents and warrants and certifies that he has full legal authority to execute this Contract on behalf of University and has authority to bind University to all the terms, conditions, provisions and obligations contained herein.

#### **XVIII. SUBCONTRACTING AND ASSIGNING INTEREST**

- 18.1 University shall perform all necessary work or shall supply qualified personnel as maybe necessary to complete the work to be performed under this Contract. University shall obtain prior written approval from City before assigning or subcontracting any responsibilities under this Contract. The violation of this provision by University shall not release University from any obligation under the terms of this Contract, nor shall it relieve or release University from the payment of any damages to City which City sustains as a result of such violation.

18.2 Any services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Contract. Compliance by subcontractors with this Contract shall be the responsibility of University. City shall in no event be obligated to any third party, including any subcontractor of University, for performance of services or payment of fees.

#### **XIX. SUCCESSORS AND ASSIGNS**

19.1 This Contract shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and their assigns, however, University may not assign this Contract without prior written consent of City in accordance with Article XVIII hereof.

#### **XX. NON-WAIVER**

20.1 Unless otherwise specifically provided for in this Contract, a waiver by either party of a breach of any of the terms, conditions, covenants or guarantees of this Contract shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Contract shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. No act or omission by a party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

#### **XXI. VENUE AND GOVERNING LAW**

**21.1 ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY LEGAL ACTION, CLAIM OR DISPUTE ARISING DIRECTLY OR INDIRECTLY AS A RESULT OF THIS CONTRACT SHALL BE IN BEXAR COUNTY, TEXAS.**

#### **XXII. SEVERABILITY**

22.1 If any clause or provision of this Contract is held invalid, illegal or unenforceable under present or future laws during the term of this Contract, including any extension, it is the intention of the Parties hereto that the remainder of the Contract shall not be affected thereby, and that in lieu of each clause or provision of the Contract that is held invalid, illegal or unenforceable, a new clause or provision be added, as similar in terms and content, to be legal, valid, and enforceable under the Contract.



**XXIII. ENTIRE AGREEMENT**

23.1 Each Article in this agreement is an essential part of the Contract, which governs the rights and duties of the Parties. This Contract, together with its authorizing ordinance, exhibits and attachments, if any, embodies the final and entire agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties and relating to matters in this Contract. No other agreements, oral or otherwise regarding the matters of this Contract shall be deemed to exist or to bind the Parties unless same be executed in accordance with Section XV.

**FULLY EXECUTED** the date of the last party to sign below.

**CITY**

**City of San Antonio, Texas**

\_\_\_\_\_  
Melody Woosley, Director  
Department of Human Services

\_\_\_\_\_  
Date

**UNIVERSITY**

**Texas A&M University – San Antonio**

\_\_\_\_\_  
Dr. Cynthia Teniente -Matson  
President

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Assistant City Attorney