

**STATE OF TEXAS                   §       CITY OF SAN ANTONIO - UNIVERSITY OF**  
**COUNTY OF BEXAR       §       TEXAS AT SAN ANTONIO - CPS ENERGY**  
**§       INTERAGENCY PARTICIPATION**  
**§       AGREEMENT FOR DEVELOPMENT OF A**  
**§       CLIMATE ACTION AND ADAPTATION**  
**PLAN**

This Interagency Participation Agreement (hereinafter “Agreement”) regarding the development of a Climate Action and Adaptation Plan (“Climate Plan”) is made and entered into by and between the CITY OF SAN ANTONIO, TEXAS (the “City”) a Texas home-rule municipal corporation, the University of Texas at San Antonio (the “UTSA”) an agency of the State of Texas and academic component of The University of Texas System, and the City Public Service Board (“CPS Energy”), a municipally owned electric and gas utility owned by the City. Hereinafter, the City, UTSA, and CPS Energy shall be referred to individually as “Party” and collectively as “Parties.”

**WHEREAS**, the City of San Antonio City Council voted to approve a Resolution of Support for the Paris Climate Accord and the Mayor’s National Climate Action Agenda on June 22, 2017; and

**WHEREAS**, on September 22, 2010, CPS Energy and UTSA entered into that certain Collaboration Agreement under which CPS Energy agreed to fund approved research projects to be performed by UTSA intended to address key energy challenges facing the San Antonio community; and

**WHEREAS**, the development of the Climate Plan falls within the scope of the Collaboration Agreement; and

**WHEREAS**, CPS Energy has provided \$500,000 to UTSA for the development of a Climate Plan pursuant to the Collaboration Agreement; and

**WHEREAS**, the Scope of Work, attached as Appendix A, for the Climate Plan has been developed and agreed upon by the three Parties.

**NOW THEREFORE**, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. City Participation. The City agrees to:
  - (a) provide overall project management and oversight of the development of the Climate Plan;
  - (b) provide funding in the FY18 budget for a Climate Program Manager;
  - (c) review and comment on all materials and provide timely response;

- (d) ensure communication and coordination with CPS Energy through the plan development process;
- (e) provide UTSA with examples of best practices in the field of climate action and adaptation planning;
- (f) provide oversight and coordination with the Mayor, City Council, City Council Committees, the Mayor's Climate Leadership Committee, the Community Climate Steering Committee, the Technical Advisory Groups, key partner agencies, and City departments;
- (g) provide staff resources to support the committees, as well as actively participate and collaborate with the UTSA team to coordinate and facilitate all community engagement activities;
- (h) secure and involve additional pro bono support for the plan development, including technical assistance;
- (i) leverage current City planning and resources to support the development of the Climate Plan;
- (j) serve as point of contact for all media and public speaking requests associated with the Climate Plan
- (k) provide timely review and approval of:
  - Draft and Final Deliverables
  - All engagement, communications, website, and plan documents and materials prepared or conducted under the Scope of Work during the term of this Agreement.

Approval shall be based on performance of the work in accordance with the Scope of Work, Appendix A.

2. UTSA Participation. UTSA agrees to:

- (a) implement the project tasks and produce the deliverables listed in the Scope of Work according to the description provided, to best practices, and with oversight from the City; UTSA will perform the work in accordance with the agreed upon Scope of Work.
- (b) work in close collaboration and coordination with other key project partners and will address any feedback, comments, or suggestions received from those key partners within the guidelines of this document and best practices;
- (c) work to be conducted by UTSA will be under the direct supervision of Principal Investigator (PI), Dr. Hazem Rashed-Ali, or other investigator at the discretion of UTSA;
- (d) participate in regular coordination meetings between the project leads from the different key partners as well as through comments and feedback on different project deliverables;
- (e) provide material, attend, and solicit input from the project's Steering and Technical Committees, as well as city council meetings, and from the community through the community engagement process, as needed to carry out the Scope of Work;
- (f) acknowledge receipt of the \$500,000 funding under the Collaboration Agreement;
- (g) ensure that the deliverables are in accordance with the Scope of Work and meet the requirements of this Agreement;

- (h) identify a contact to serve as a volunteer coordinator for the general public to identify opportunities to participate in the Climate Plan process.
- (i) notify City Project Manager of all information requests, including media and public speaking requests, associated with the Climate Plan prior to providing comment or speaking about the Climate Plan to any parties or at any events.
- (j) provide monthly progress reports to the City and CPS Energy.

3. CPS Energy Participation. CPS Energy agrees to:

- (a) provided \$500,000 to UTSA for the completion of the Climate Plan from funds authorized by the terms of the Collaboration Agreement;
- (b) actively participate in the development of the Climate Plan and serve on executive, steering, and technical committees as needed; and
- (c) leverage current CPS Energy resources to support the development of the Climate Plan as authorized by CPS Energy's management team.

4. Controlling Agreement. In the event that the terms of this Agreement conflict or are inconsistent with provisions of the Collaboration Agreement, the Collaboration Agreement shall control.

5. Notices. To be effective, notices provided under this Agreement must be in writing, and shall be deemed to have been received for all purposes upon the earlier to occur of (a) actual receipt, or (b) three (3) days after the same are mailed by U.S. certified or registered mail, return receipt requested, and addressed as follows:

If to CPS: CPS Energy  
Attn: Director of Customer Solutions and Delivery  
P.O. Box 1771  
San Antonio, Texas 78296

With copy to: CPS Energy  
Attn: General Counsel  
P.O. Box 1771  
San Antonio, Texas 78296

With copy to: CPS Energy  
Rhonda Krisch  
CPS Energy CAAP Project Lead  
P.O. Box 1771  
San Antonio, Texas 78296

If to City: City Clerk  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

With copy to: Director, Office of Sustainability  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

If to UTSA: UTSA  
Attn: Hazem Rashed-Ali, Associate Professor  
501 W. Cesar Chaves Blvd.  
San Antonio, Texas 78207

With copy to: UTSA  
Attn: Amy Ossola-Phillips, Director Research Service Center  
Office of Sponsored Project Administration  
One UTSA Circle  
San Antonio, Texas 78249

With copy to: UTSA  
Attn: Jessica C. Fernandez, Director Contracts & Industry Agreements  
Office of Sponsored Project Administration  
One UTSA  
San Antonio, Texas 78249

Or addressed to such other address as is provided by written notice from one party to the other.

6. Termination for Cause. If UTSA fails to perform the services or deliver the deliverables contemplated herein and does not cure the failure within forty-five (45) calendar days of CPS Energy's written notice, CPS Energy may terminate this Agreement for breach. Parties acknowledge that repeated failures may constitute a material breach even if any failure taken individually does not constitute a breach or has been cured.

UTSA may terminate this Agreement, in whole or in part, in the event CPS Energy and/or City are in default of their material obligations under this Agreement and fail to remedy such default within forty-five (45) calendar days after receipt of written notice. This Agreement shall terminate upon expiration of the forty-five (45) day period.

Termination of this Agreement shall not affect the rights and obligations of the parties accrued prior to the termination. UTSA shall be entitled to payment for all reasonable expenses incurred or committed as of the effective termination date.

7. Termination at Will. CPS Energy may terminate this Agreement, in whole or in part, by giving UTSA thirty (30) calendar days' written notice. In the event of such termination, UTSA shall immediately stop work as to the terminated portion of the Scope of Work, notify all suppliers, subcontractors, and sub-suppliers to stop work on contracts for performance hereunder and to protect and preserve property in its possession in which CPS Energy has or may acquire an interest.

Termination of this Agreement shall not affect the rights and obligations of the parties accrued prior to the termination. UTSA shall be entitled to payment for all reasonable expenses incurred or committed as of the effective termination date.

8. Binding Effect. This Agreement will be effective and is conditioned upon approval from the CPS Board of Trustees by resolution, by the San Antonio City Council by ordinance, and by the UTSA's Authorized Signatory.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be fully performable and enforceable in Bexar County, Texas.

10. Formal Matters. The relationship between CPS Energy, UTSA and the City under this Agreement shall be that of independent contractors and not that of partners, joint ventures or any other relationship. This Agreement, with the attached Appendix A, sets out the entire agreement of the Parties in connection with the subject matter addressed herein, and may be modified or amended only in a writing executed by the Parties.

11. Joint Administrative Committee. The Parties shall form a Joint Administration Committee (the "Committee"). The Committee will address contractual matters related to the Climate Plan and will not address any content related to the development of the Climate Plan. The Committee shall consist of the following six (6) members: (a) City Representative No. 1, the Director of Office of Sustainability; (b) City Representative No. 2, Legal Representative; (c) CPS Energy Representative No. 1, CPS Energy Project Team Lead; (d) CPS Energy Representative No. 2, CPS Energy Legal Representative; (e) UTSA Representative No. 1, UTSA Project Lead; and (f) UTSA Representative No 2, Legal Representative.

The work of the Committee shall be approved by unanimous vote of the Committee members and a written record will be created every time the Committee meets. All such records will be maintained by the City. Any Party member may call a meeting of the Committee. An official meeting need not be called in order for the Committee to act. For example, decisions of the Committee may be made through written correspondence, including email, as long as the Committee unanimously approves of the decision to be made in writing. Each Committee member may designate another individual to serve on the Committee if he or she is unable to attend a Committee meeting. Any vacancy on the Committee shall be replaced by appointment of a new Committee member by the remaining member of the Party whose Committee member was unable or unwilling to continue to serve or their institution. If the seats for Committee members for any of the three Parties are vacant, a replacement will be promptly designated by the City, CPS Energy, and UTSA as the case may be. The Committee cannot take any action unless all its members have voted on and approved of an item, whether the Committee meets formally or communicates through correspondence. In either event, the Committee will develop minutes of its formal or virtual meeting. The Committee may be terminated by approval of all Parties once the Climate Plan is completed and accepted by the City and all contractual compliance requirements have been met.

12. Confidentiality. To the extent authorized by applicable law, no reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by UTSA under this Agreement shall be disclosed or made available to any individual or organization without either the express prior written approval of the Committee or in accordance with Section 13. In the event a party receives any such request, the party shall forward such request to the Committee as soon as possible.

Parties shall establish a method to secure the confidentiality of records and information that Parties may have access to under this Agreement, in accordance with the applicable federal, state, and local laws, rules and regulations. This provision shall not be construed as limiting UTSA's, City's or CPS Energy's right of access to records or other information under this Agreement.

Parties shall comply with their respective confidentiality procedures pertaining to records and other information in accordance with the applicable Federal laws, State laws, the San Antonio City Charter, City ordinance, rules and regulations.

However, the confidentiality obligations under this Agreement shall not apply to information that is:

- a) already in a Party's possession at the time of disclosure;
- b) later becomes part of the public domain through no fault of the recipient Party;
- c) received from a third party having no obligations of confidentiality to the disclosing party;
- d) independently developed by the recipient Party; or
- e) required by law or regulation to be disclosed.

In the event that information is required to be disclosed pursuant to subsection (e) above, the Party required to make disclosure shall notify the others to allow those Parties to assert whatever exclusions or exemptions may be available to it under such law or regulation.

13. Publication and Academic Rights. The Parties understand that UTSA is a state institution of higher education that engages in research services compatible with, consistent with, and beneficial to its academic role and mission; therefore, UTSA's Principal Investigator has the right to publish or otherwise publicly disclose information gained in the course of the research project under this Agreement, provided such publication or disclosure is consistent with the terms of the Collaboration Agreement. UTSA will, however, submit any prepublication material to City and CPS Energy for review and comment prior to any planned submission for publication. The City and CPS Energy will notify UTSA of any objections in a timely manner. UTSA shall have final authority to determine the scope and content of any publications, subject to any reasonable objections for the protection of confidential information and any contractual commitments under the Collaboration Agreement. UTSA shall acknowledge City's and CPS Energy's contribution and describe in any publications, and the scope and nature of City's and CPS Energy's contribution accurately and appropriately. Pursuant to the Collaboration Agreement CPS Energy and UTSA shall share ownership of copyrighted reports.

14. Ownership of Materials and Documents. Any and all drawings, documents or information in whatsoever form and character produced by UTSA pursuant to the provisions of this Agreement is the joint property of UTSA, City, and CPS Energy and any Party shall be allowed to make use of such material without requiring the approval of the other Parties. UTSA understands and acknowledges that as the joint owner of any and all writings, documents and information, City, and CPS Energy has the right to use all such writings, documents and information as the City and CPS Energy desires, without restriction. As the Climate Plan will be an official City Plan formally adopted by the City of San Antonio City Council and updated as needed, the City reserves the right to alter or amend the Climate Plan without approval from UTSA or CPS Energy. However, City will acknowledge UTSA did not participate in any amended or revised versions of the Climate Plan prepared without UTSA's contribution.

15. Amendments. Other than the Collaboration Agreement, this Agreement constitutes the entire and only agreement between the Parties relating to the Scope of Work under Appendix A, and all prior negotiations, representations, and understanding are superseded hereby. No agreements altering or supplementing the terms hereof may be made except by means of written document by duly authorized representatives of the Parties, provided that deliverables meet the requirements of the Collaboration Agreement.
16. Liability. Each Party shall be responsible for its own actions and those of its employees and/or persons acting by or on its behalf, along with any liability arising from such activities while carrying out the purpose of this Agreement. Each Party agrees to have sufficient insurance in place to cover all obligations assumed in this Agreement and any liabilities arising while carrying out those obligations.
17. Term. This Agreement is intended to be effective upon execution by the last Party, after approval from their governing bodies as required, through April 30, 2019, but may be terminated at an earlier time by written approval of the Parties or as indicated in Section 6 or section 7 of the Agreement.

**EXECUTED IN TRIPLET ORIGINALS, EACH OF WHICH SHALL BE  
CONSIDERED AN ORIGINAL.**

**CITY OF SAN ANTONIO**

\_\_\_\_\_  
By

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**UTSA**

\_\_\_\_\_  
By

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved as to Form:**

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

\_\_\_\_\_  
Date

**CPS ENERGY**

\_\_\_\_\_  
By

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**[INCLUDE THE MOST CURRENT SCOPE OF WORK AS APPENDIX A]**