

AN ORDINANCE 2006-02-16-0240

AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE SAN ANTONIO EDUCATION PARTNERSHIP IN THE AMOUNT OF \$139,200.00 IN SUPPORT OF THE AMBASSADOR PROGRAM AND FOR PROGRAM OUTREACH AND SCHOLARSHIP ELIGIBILITY DETERMINATION FOR STUDENTS ATTENDING TOM C. CLARK HIGH SCHOOL, WINSTON CHURCHILL HIGH SCHOOL AND JAMES MADISON HIGH SCHOOL FOR THE PERIOD ENDING SEPTEMBER 30, 2006.

* * * * *

WHEREAS, since 1988, the San Antonio Education Partnership (SAEP) has provided students the opportunity to earn scholarships to local colleges and universities in exchange for earning a grade average of 80 and having 95% attendance at graduation; and

WHEREAS, the City Council has adopted the FY 2006 Department of Community Initiatives budget which includes allocations for the San Antonio Ambassador Program to provide summer internships and training to students attending institutions of higher education; and

WHEREAS, the Ambassador Program is a workforce development initiative designed to attract college students, through summer internships and training in high pay/high demand occupations, to remain in or return to the City of San Antonio to live and work after graduation from college; and

WHEREAS, the City Council has adopted the FY 2006 Department of Community Initiatives budget which includes allocations for SAEP to provide program outreach to identify and verify eligibility for graduating seniors attending Tom C. Clark, Winston Churchill and James Madison High Schools to receive scholarships in Fall 2006; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager, or her designee, or the Director of the Department of Community Initiatives is authorized to execute a contract with the San Antonio Education Partnership (SAEP) in an amount not to exceed \$139,200.00 for administration and oversight in support of the summer internship portion of the San Antonio Ambassador Program, and for scholarship program outreach and eligibility determination at Tom C. Clark High School, Winston Churchill High School and James Madison High School for the period October 1, 2005 through September 30, 2006. A copy of said contract, in substantially final form, is attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 2. The City Manager, or her designee, or the Director of the Department of Community Initiatives is authorized to execute all necessary documents with the SAEP in connection with the programs set forth in Section 1 herein.

SECTION 3. Funds for this expenditure are available in Fund 11001000, General Fund, Cost Center 3801010001, DCI MANAGEMENT, and Cost Center 3816070003, SAEP ON-TIME SCHOLARSHIP, General Ledger 5201040, Fees to Professional Contractors as part of the FY06 budget.

SECTION 4. Payment of \$139,200.00 is authorized to the San Antonio Education Partnership (\$79,200.00 from CC 3801010001 GL 5201040 and \$60,000.00 from CC 3816070003 GL 5201040) and should be encumbered with a purchase order.

SECTION 5. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 6. This ordinance shall become effective on and after February 26, 2006.

PASSED AND APPROVED this 16th day of February 2006.


M A Y O R
PHIL HARDBERGER

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

**City of San Antonio
Recusal and Disclosure**

*For use of this form, see Section 2-43 and 2-44 of the City Code (Ethics Code)
Attach additional sheets if space provided is not sufficient*

READ REVERSE SIDE PRIOR TO COMPLETION OF THIS DISCLOSURE

LAST NAME	FIRST NAME	MIDDLE NAME
HAASS	CHRISTOPHER	
SELECT TYPE OF RECUSAL		
<input type="checkbox"/> Improper Economic Benefit		<input type="checkbox"/> Unfair Advancement Of Private Interests
STATUS OF REPORTING PARTY: CHECK APPROPRIATE BOX AND FILL IN REQUIRED BLANK		
<input type="checkbox"/> CITY OFFICIAL ¹	BOARD/COMMISSION TITLE	
<input type="checkbox"/> CITY EMPLOYEE ²	JOB CLASS/DEPARTMENT	
<input checked="" type="checkbox"/> ELECTED OFFICIAL	OFFICE HELD	CITY COUNCIL, DISTRICT 10
<p>I certify that I must recuse myself from the below identified official action as it may be likely to affect substantially the economic interests of an individual or entity appearing in Section 2-43(a)(1) – (a)(9) or Section 2-44(a) on the reverse of this form, I further certify that I will immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter:</p> <p><u>Here Define Official Action Recused From:</u></p> <p>Item 24B</p>		
<p><u>Here Disclose The Nature And Extent Of The Prohibited Conduct:</u></p>		
<p>Signature:</p> 		<p>Date:</p> <p>2-16-06</p>

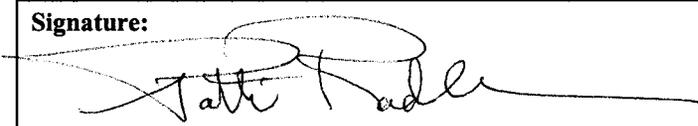
¹ a member of a board shall promptly disclose the conflict to other members of the board and shall not be present during the board's discussion of, or voting on, the matter.

² a supervised employee shall promptly bring the conflict to the attention of his or her supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person.

**City of San Antonio
Recusal and Disclosure**

*For use of this form, see Section 2-43 and 2-44 of the City Code (Ethics Code)
Attach additional sheets if space provided is not sufficient*

READ REVERSE SIDE PRIOR TO COMPLETION OF THIS DISCLOSURE

LAST NAME	FIRST NAME	MIDDLE NAME
RADLE	PATTI	
SELECT TYPE OF RECUSAL		
<input type="checkbox"/> Improper Economic Benefit	<input type="checkbox"/> Unfair Advancement Of Private Interests	
STATUS OF REPORTING PARTY: CHECK APPROPRIATE BOX AND FILL IN REQUIRED BLANK		
<input type="checkbox"/> CITY OFFICIAL ¹	BOARD/COMMISSION TITLE	
<input type="checkbox"/> CITY EMPLOYEE ²	JOB CLASS/DEPARTMENT	
<input checked="" type="checkbox"/> ELECTED OFFICIAL	OFFICE HELD	CITY COUNCIL, DISTRICT 5
<p>I certify that I must recuse myself from the below identified official action as it may be likely to affect substantially the economic interests of an individual or entity appearing in Section 2-43(a)(1) – (a)(9) or Section 2-44(a) on the reverse of this form, I further certify that I will immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter:</p> <p><u>Here Define Official Action Recused From:</u></p> <p>Item 24B</p> <p>2/16/06 items 24 A+B</p>		
<u>Here Disclose The Nature And Extent Of The Prohibited Conduct:</u>		
<p>I am a member of the board of the Education Partnership</p>		
Signature:		Date:
		2/16/06

¹ a member of a board shall promptly disclose the conflict to other members of the board and shall not be present during the board's discussion of, or voting on, the matter.

² a supervised employee shall promptly bring the conflict to the attention of his or her supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person.

- 2.3 CONTRACTOR agrees to provide CITY with invoices to support the expenditures under this CONTRACT no later than thirty (30) days from the date the CONTRACTOR makes such expenditures.
- 2.4 CITY shall not be obligated or liable under the CONTRACT to any party, other than CONTRACTOR, including any subcontractors, for payment of any monies for provision of any goods or services.
- 2.5 All expenses necessary to provide and complete the services required hereunder, including project related and administrative expenses, shall be included in the total costs of the CONTRACT referenced in Section 2.1 of the CONTRACT.
- 2.6 Accounting records for all expenditures shall be maintained by CONTRACTOR in accordance with generally accepted accounting practices, and shall be subject to audit by the City or its contracted auditor. These records shall be maintained for a period of three years from the effective date of this contract.
- 2.7 Any literature, signs, or print advertising of any type appearing on any medium which refers to or which is paid for by funds received as a result of this Agreement shall contain the words, "Paid for by The City of San Antonio."
- 2.8 In the event that all of the above-described funds are not used for the purposes set out in Section 1 of this Agreement and in accordance with all terms and provisions hereof, CONTRACTOR agrees to refund any amounts to the CITY which were not used in accordance with these terms within thirty (30) days of the end of the Project, or September 30, 2006, whichever occurs earlier.
- 2.9 None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

III. SCOPE OF SERVICES

- 3.1 The CONTRACTOR will provide, oversee, administer, and carry out all activities and services in a manner satisfactory to the CITY and in compliance with the Statement of Work and Budget, attached hereto as Attachment "A". The CONTRACTOR understands and agrees that Attachment A is a part of the CONTRACT, as though fully set out herein, and that all obligations, conditions, tasks, products, and representations set forth in said documents are required to be fulfilled by the CONTRACTOR as completely and fully as the obligations, conditions, tasks, products, and representations imposed by this CONTRACT.

IV. TERMINATION

- 4.1 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.
- 4.2 **TERMINATION BY NOTICE:** The CONTRACT may be canceled by either party upon written notice, provided such notice specifies an effective date of termination, which shall be not less than thirty (30) calendar days nor more than ninety (90) calendar 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) calendar days after receipt of the notice by the other party. All files are the property of the CITY and, at the CITY'S request, will be delivered at no cost to the CITY or its designated recipient at the effective date of termination. Any CITY funds held in any

escrow account(s) shall be returned to the CITY within thirty (30) calendar days after the effective termination date.

- 4.3 **TERMINATION FOR CAUSE:** Should either party default in the performance of any of the terms or conditions of this CONTRACT, the other party shall deliver to the defaulting party written notice thereof specifying the matters in default. The defaulting party shall have ten (10) calendar 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, this CONTRACT shall terminate at 11:59 p.m. on the tenth day after the receipt of the notice by the defaulting party.
- 4.4 **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, this CONTRACT shall automatically terminate as of the effective date of such prohibition.
- 4.5 **EFFECT OF TERMINATION:** The period between notice of termination and the effective date of termination shall be used to effect an orderly transfer of records and funds, if any, from the CONTRACTOR to the CITY or to such person(s) as the CITY may designate. Any records transfer shall be completed within fifteen (15) calendar days of the termination date. Any such transfer of records or funds shall be completed at the CONTRACTOR'S sole cost and expense.
- 4.6 Within thirty (30) calendar days of the effective date of termination (unless an extension is authorized in writing by the CITY), the CONTRACTOR 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.
- 4.7 Upon termination or cancellation of this CONTRACT, the CITY may immediately commence an audit of the CONTRACTOR'S books, accounts, and records. Within thirty (30) calendar days after being notified by the CITY of the results of said audit, the CONTRACTOR shall pay the CITY any amount shown by said audit to be owed the CITY or its employees. No waiver of existing default shall be deemed to waive any subsequent default.
- 4.8 In the event that through action or no action initiated by the CITY of San Antonio, the CITY'S legislative body does not appropriate funds for the continuation of a CONTRACT and has no funds to do so from other sources, the CONTRACT may be terminated. To effect this termination, the CITY shall, 30 days prior to the period for which funds are not appropriated, send the CONTRACTOR written notice stating that the CITY of San Antonio failed to appropriate funds.

V. INDEPENDENT CONTRACTOR

- 5.1 It is expressly understood and agreed that the CONTRACTOR is and shall be deemed to be an independent CONTRACTOR, responsible for its respective acts or omissions and that the CITY shall in no way be responsible therefor, and that neither party hereto has authority to bind the other nor to hold out to third parties that it has the authority to bind the other.
- 5.2 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.
- 5.3 Any and all of the employees of the CONTRACTOR, wherever located, while engaged in the performance of any work required by the CITY under this CONTRACT shall be considered employees of the CONTRACTOR only, and not of the CITY, and any and all claims that may

arise from the Workers' Compensation Act on behalf of said employees while so engaged shall be the sole obligation and responsibility of the CONTRACTOR.

VI. CONFIDENTIALITY

- 6.1 No reports, information, project evaluation, project designs, data or any other documentation developed by, given to, prepared by, or assembled by CONTRACTOR under this CONTRACT shall be disclosed or made available to any individual or organization by CONTRACTOR without the express prior written approval of CITY. In the event CONTRACTOR receives any such request, CONTRACTOR shall forward such request to CITY immediately.
- 6.2 CONTRACTOR shall establish a method to secure the confidentiality of records and information that CONTRACTOR 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.
- 6.3 CONTRACTOR shall comply with the 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.
- 6.4 If the CONTRACTOR receives inquiries regarding documents within their possession pursuant to the CONTRACT, the CONTRACTOR shall immediately forward such request to the CITY for disposition.

VII. OWNERSHIP OF DOCUMENTS

- 7.1 In accordance with Texas law, CONTRACTOR acknowledges and agrees that all local 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 CONTRACTOR pursuant to this CONTRACT shall be the subject of any copyright or proprietary claim by CONTRACTOR.

The term "*local government record*" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.

- 7.2 The CITY shall own the copyright of whatever nature or extent and in all media whatsoever to any documents and records produced through the expenditure of public funds as provided by Section 201.005, Texas Local Government Code. CONTRACTOR and its employees, officers and agents, if any, shall be responsible for furnishing appropriate documentation confirming and/or transferring such copyright ownership in and to the CITY. Provided, however, nothing herein contained is intended nor shall it be construed to require CONTRACTOR to transfer any ownership interest in CONTRACTOR's best practice and benchmarking information to the CITY.

VIII. INTELLECTUAL PROPERTY

- 8.1 CONTRACTOR shall pay all royalties and licensing fees. CONTRACTOR shall hold the CITY harmless and indemnify the CITY from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged

infringement of copyrights, patents, materials and methods used in the Project. It shall defend all suits for infringement of any Intellectual Property rights. Further, if Contractor has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the CITY.

8.2 Upon receipt of notification that a third party claims that the program(s), hardware or both the program(s) and the hardware infringe upon any United States patent or copyright, CONTRACTOR will immediately:

8.2.1 Either:

a) obtain, at CONTRACTOR 's sole expense, the necessary license(s) or rights that would allow the CITY to continue using the programs, hardware, or both the programs and hardware, as the case may be, or,

b) alter the programs, hardware, or both the programs and hardware so that the alleged infringement is eliminated, and

c) reimburse the CITY for any expenses incurred by the CITY to implement emergency backup measures if the CITY is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

8.2.2 CONTRACTOR further agrees to:

a) assume the defense of any claim, suit, or proceeding brought against the CITY for infringement of any United States patent or copyright arising from the use and/or sale of the equipment or software under this CONTRACT,

b) assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and

c) indemnify the CITY against any monetary damages and/or costs awarded in such suit;

Provided that:

- CONTRACTOR is given sole and exclusive control of all negotiations relative to the settlement thereof, but that Contractor agrees to consult with the CITY Attorney of the CITY during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the CITY,

- that the Software or the equipment is used by the CITY in the form, state, or condition as delivered by CONTRACTOR or as modified without the permission of CONTRACTOR, so long as such modification is not the source of the infringement claim,

- that the liability claimed shall not have arisen out of the CITY's negligent act or omission, and
- that the CITY promptly provide CONTRACTOR with written notice within 15 days following the formal assertion of any claim with respect to which the CITY asserts that CONTRACTOR assumes responsibility under this section.

IX. RECORDS

- 9.1 CONTRACTOR is responsible for reporting its program activities including, but not limited to, number participants in the program(s) and number of scholarships provided.
- 9.2 Upon completion of the Project, all records, data, finished or unfinished documents, reports, charts, schedules, or other appended documentation pertaining to the Project, and any related responses, inquiries, correspondence and material, shall become the property of the CITY, and CITY shall be entitled to utilize the work product for appropriate purposes without further compensation to CONTRACTOR.
- 9.3 CONTRACTOR shall deliver all documents to the CITY no later than ninety (90) days from the termination date of the CONTRACT at CONTRACTOR sole expense.
- 9.4 The CONTRACTOR shall retain all records owned by or to which the CITY has access to, for the retention periods set forth in the Texas Local Government Records Act.
- 9.5 CITY shall be notified immediately by CONTRACTOR of any requests, by a third party, for information pertaining to documentation and records obtained and/or generated under the CONTRACT. As such, CONTRACTOR understands and agrees that CITY will process and handle all such requests.

X. RIGHT OF REVIEW AND AUDIT

- 10.1 CONTRACTOR and its subcontractors, if any, shall properly, accurately, and completely maintain all books, documents, papers, accounting records, and other evidence pertaining to this CONTRACT and shall make such materials available to CITY, at all reasonable times and as often as CITY may deem necessary during the CONTRACT term, including any renewal and extension hereof, for the purpose of auditing, examining and making copies by CITY, and any of its authorized representatives.

XI. LICENSES AND CERTIFICATIONS

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

XII. CONFLICT OF INTEREST

- 12.1 CONTRACTOR acknowledges that it is informed that the Charter of the CITY of San Antonio and its Ethics Code prohibit a CITY officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any CONTRACT with the 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 the 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.

12.2 Pursuant to section 12.1 of this CONTRACT, CONTRACTOR warrants and certifies, and this CONTRACT is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the CITY. CONTRACTOR further warrants and certifies that is has tendered to the CITY a Discretionary contracts Disclosure Statement in compliance with the CITY'S Ethics Code.

XIII. INSURANCE

13.1 CONTRACTOR agrees to comply with the following insurance provisions:

(a) No later than thirty (30) days from the date of execution of this CONTRACT, CONTRACTOR shall furnish an original completed Certificate(s) of Insurance to the CITY's Community Initiatives Department, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. The original certificate(s) must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the CITY. The CITY shall have no duty to pay or perform under this CONTRACT until such certificate shall have been delivered to the CITY's Community Initiatives Department and the CITY Clerk's Office, and no officer or employee, other than the CITY's Risk Manager, shall have authority to waive this requirement. If the CITY in its sole discretion determines that CONTRACTOR is in violation of the above requirements, the CITY shall have the right to dispatch auditors of its choosing to conduct the required audit. In such an event, CONTRACTOR shall pay for such audit.

(b) The CITY reserves the right to review the insurance requirements of this section during the effective period of this CONTRACT and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by the CITY's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this CONTRACT, but in no instance will the CITY allow modification whereupon the CITY may incur increased risk.

(c) A CONTRACTOR's financial integrity is of interest to the CITY, therefore, subject to CONTRACTOR's right to maintain reasonable deductibles in such amounts as are approved by the CITY, CONTRACTOR shall obtain and maintain in full force and effect for the duration of this CONTRACT, and any extension hereof, at CONTRACTOR's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the CITY, in the following types and amounts:

<u>TYPE</u>	<u>AMOUNT</u>
1. Workers' Compensation*	Statutory
2. Employers' Liability	\$1,000,000.
3. Commercial General Liability	\$1,000,000 ea occ \$2,000,000 gen agg
4. Business Automobile Liability*	\$1,000,000 CSL

(d) The CITY shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the CITY, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by the CITY, the CONTRACTOR shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

(e) CONTRACTOR agrees that with respect to the above required insurance; all insurance CONTRACTs and Certificate(s) of Insurance will contain the following required provisions.

- Name the CITY and its officers, employees, volunteers and elected representatives as additional insureds as respects operations and activities of, or on behalf of, the named insured performed under CONTRACT with the CITY, with the exception of the workers' compensation and professional liability policies;
- The CONTRACTOR's insurance shall be deemed primary with respect to any insurance or self insurance carried by the CITY of San Antonio for liability arising out of operations under the CONTRACT with the CITY of San Antonio; and
- Workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of the CITY.

(f) CONTRACTOR shall notify the CITY in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days notice for cancellation due to non-payment of premiums, which notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the CITY at the following address:

**CITY of San Antonio
Community Initiatives Dept.
ATTN: Contract Services
P.O. Box 839966
San Antonio, TX 78283-3966**

(g) If CONTRACTOR fails to maintain the aforementioned insurance, or fails to secure maintain the aforementioned endorsements, the CITY may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the CONTRACT; however, procuring of said insurance by the CITY is an alternative to other remedies the CITY may have, and is not the exclusive remedy for failure of CONTRACTOR to maintain said insurance or secure such endorsement. In addition to any other remedies the CITY may have upon CONTRACTOR's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the CITY shall have the right to order CONTRACTOR to stop work hereunder, and/or withhold any payment(s) which become due, to CONTRACTOR hereunder until CONTRACTOR demonstrates compliance with the requirements hereof.

Nothing herein contained shall be construed as limiting in any way the extent to which CONTRACTOR may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's or its subcontractors' performance of the work covered under this CONTRACT.

(h) It is expressly understood and agreed to by CONTRACTOR that additional insurance (e.g. professional liability, motor truck cargo insurance, payment and performance bonds, builders risk, pollution, a fuel storage tank, environmental, commercial crime/fidelity bond, or other insurance as required by the CITY's Risk Manager) may have to be purchased by the CONTRACTOR if the CITY determines at the time of CONTRACT execution that such insurance is applicable.

XIV. INDEMNITY

- 14.1 **CONTRACTOR** covenants and agrees to **FULLY INDEMNIFY**, and **HOLD HARMLESS**, the **CITY** and the elected officials, employees, officers, directors, volunteers, and representatives of the **CITY**, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the **CITY** directly or indirectly arising out of, resulting from or related to **CONTRACTOR**'s activities under this **CONTRACT**, including any acts or omissions of **CONTRACTOR**, any agent, officer, director, representative, employee, **CONTRACTOR** or subcontractor of **CONTRACTOR**, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this **CONTRACT**, all without however, waiving any governmental immunity available to the **CITY** under Texas Law and without waiving any defenses of the parties under Texas Law. **IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS CONTRACT.** The provisions of this **INDEMNITY** are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. **CONTRACTOR** shall promptly advise the **CITY** in writing of any claim or demand against the **CITY** or **CONTRACTOR** known to **CONTRACTOR** related to or arising out of **CONTRACTOR**'s activities under this **CONTRACT** and shall see to the investigation of and defense of such claim or demand at **CONTRACTOR**'s cost. The **CITY** shall have the right, at its option and at its own expense, to participate in such defense without relieving **CONTRACTOR** of any of its obligations under this paragraph.
- 14.2 It is the **EXPRESS INTENT** of the parties to this **CONTRACT**, that the **INDEMNITY** provided for in this Section, is an **INDEMNITY** extended by **CONTRACTOR** to **INDEMNIFY**, **PROTECT** and **HOLD HARMLESS**, the **CITY** from the consequences of the **CITY**'s **OWN NEGLIGENCE**, provided however, that the **INDEMNITY** provided for in this section **SHALL APPLY** only when the **NEGLIGENT ACT** of the **CITY** is a **CONTRIBUTORY CAUSE** of the resultant injury, death, or damage, and shall have no application when the negligent act of the **CITY** is the sole cause of the resultant injury, death, or damage. **CONTRACTOR** further **AGREES TO DEFEND**, **AT ITS OWN EXPENSE**, and **ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY**, any claim or litigation brought against the **CITY** and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this **INDEMNITY** shall apply, as set forth above.

XV. AMENDMENT

- 15.1 This **CONTRACT**, together with its authorizing ordinance and attachments, if any, shall constitute the full and final **CONTRACT** between the parties hereto.
- 15.2 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 **CONTRACTOR** and dated subsequent to the date hereof and evidenced by passage of a subsequent City ordinance, as to City approval.

- 15.3 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. The CONTRACTOR expressly agrees to comply with all applicable federal, state, and local laws.

XVI. NOTICE

- 16.1 Any notice required, permitted or appropriate under this CONTRACT shall be deemed sufficient if in writing and sent certified mail, return receipt requested, postage prepaid, to CITY or CONTRACTOR at the respective address set forth below or to any other address of which written notice of change is given:

CITY

CITY of San Antonio
Attn: Dennis J. Campa, Director
Department of Community Initiatives
115 Plaza de Armas, Suite 210
San Antonio, Texas 78205

CONTRACTOR

San Antonio Education Partnership
1017 N. Main Street, Suite 101
San Antonio, Texas 78212

XVII. LEGAL AUTHORITY

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

XVIII. SUBCONTRACTING AND ASSIGNING INTEREST

- 18.1 City agrees that CONTRACTOR may subcontract payroll services from a third party. Any other subcontracts or assignments entered into by CONTRACTOR concerning work tasks for this CONTRACT shall be communicated in writing to CITY prior to the effective date of this CONTRACT and prior to commencement of any work subsequent to this CONTRACT's effective date. CONTRACTOR shall not assign, sell, pledge, transfer or convey any interest in this CONTRACT, nor delegate the performance of any duties hereunder, by transfer, by subcontracting, or by any other means, to any other party without prior written consent of CITY, evidenced by passage of an ordinance to that effect by the San Antonio CITY Council. Any such attempt at an assignment will be void *ab inito*, and shall confer no rights on the purported assignee. Should CONTRACTOR assign, transfer, convey, delegate or otherwise dispose of any part of, or all of, its right, title or interest in this CONTRACT, the CITY may, at its option, cancel this CONTRACT and all rights, titles and interest of CONTRACTOR shall thereupon cease and terminate, notwithstanding any other remedy available to CITY under this CONTRACT. The violation of this provision by CONTRACTOR shall in no event release CONTRACTOR from any obligation under the terms of this CONTRACT, nor shall it relieve or release CONTRACTOR from the payment of any damages to CITY which CITY sustains as a result of such violation.

- 18.2 **CONTRACTOR's** subcontractors may not voluntarily assign, transfer, subcontract or pledge, in whole or in part, any **CONTRACT** with **CONTRACTOR** arising from or in relation to this **CONTRACT**, nor shall any involuntary transfer or assignment result in a transfer of any rights conferred by this **CONTRACT**. **CONTRACTOR** shall indicate this limitation in all contracts with approved subcontractors.
- 18.3 **CONTRACTOR** agrees to notify **CITY** any changes in ownership interest greater than 10%, or control of its business entity, not less than sixty (60) days in advance of the effective date of such change. Notwithstanding any other remedies that are available to **CITY** under this **CONTRACT**, any such change of ownership interest or control of its business entity may be grounds for termination of this **CONTRACT** at the sole discretion of the **CITY**.
- 18.4 In no event shall such written consent, if obtained, relieve **CONTRACTOR** from any and all obligations hereunder or change the terms of this **CONTRACT**.
- 18.5 **CITY** must approve all substitutions of subcontractors to determine if the disadvantaged business enterprise goal will be decreased by substitution of a disadvantaged subcontractor with a non-disadvantaged subcontractor.

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, **CONTRACTOR** may not assign this **CONTRACT** without prior written consent of **CITY** in accordance with Section XVII hereof.

XX. NON WAIVER

- 20.1 The granting or acceptance of extensions of time to complete the work or furnish the materials or reports required herein will not operate as a release to the **CONTRACTOR** from any covenants and conditions required in this **CONTRACT**.

XXI. COMPLIANCE

- 21.1 **CONTRACTOR** shall provide and perform all services under this **CONTRACT** in compliance with all applicable federal, state, local laws, rules and regulations.
- 21.2 The **CONTRACTOR** 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. Failure to comply with the above referenced law and regulations could subject the **CONTRACTOR** to suspension of payments, termination of **CONTRACT**, and debarment and suspension actions.
- 21.3 **CONTRACTOR** shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation. Specifically, **CONTRACTOR** agrees to abide by all applicable provisions of San Antonio **CITY** ordinance number 69403 on file in the **CITY** Clerk's Office. Additionally, **CONTRACTOR** 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 those laws.

21.4 The funding level of this CONTRACT is based on the grant awarded to the Department of Community Initiatives by the City of San Antonio FY05 General Fund. The grant is based on an appropriation for the Family Resource & Learning Center Division and Department of Community Initiatives receipt of grant through the City of San Antonio FY05 General Fund. The budget to this CONTRACT may be adjusted to correspond to the actual grant awarded. In the event that any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this CONTRACT or its governing rules, regulations, laws, codes or ordinances, CITY, as the party ultimately responsible for all matters of compliance, shall have the final authority to render or secure an interpretation.

XXII. VENUE AND GOVERNING LAW

22.1 **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.**

22.2 **ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

XXIII. SEVERABILITY

23.1 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 and renewal hereof, 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.

XXIV. GENDER

24.1 Words of any gender used in this CONTRACT shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XXV. CAPTIONS

25.1 The captions contained in this CONTRACT are for convenience of reference only and shall in no way limit or enlarge the terms and conditions of this CONTRACT.

XXVI. ENTIRE CONTRACT

26.1 This CONTRACT, together with its authorizing ordinance and attachments, if any, embodies the final and entire CONTRACT of the parties hereto, superseding all oral or written previous and contemporary CONTRACTs between the parties and relating to matters in this CONTRACT. No other CONTRACTs, 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.

EXECUTED this the _____ day of _____, _____.

CITY

CITY of San Antonio, Texas

Dennis J. Campa, Director
Department of Community Initiatives

CONTRACTOR

San Antonio Education Partnership

Gilberto Ramón
Executive Director

APPROVED AS TO FORM:

Assistant City Attorney

**San Antonio Education Partnership
Statement of Work and Budget**

Attachment A

I Statement of Work

1. In support of the City of San Antonio's Ambassador program, the CONTRACTOR shall:

1.1 Administer program oversight for the Ambassador program to include:

- 1.1.1 Recruit Ambassador program students
- 1.1.2 Maintain a roster of selected students to facilitate payments
- 1.1.3 Process payment for allowable work hours to student at a rate of \$9.00 per hour

1.2 Coordinate program operations with the City of San Antonio Department of Community Initiatives staff, to ensure CITY:

- 1.2.1 Selects Ambassador program students
 - Students selected meet eligibility criteria outlined in the San Antonio Ambassador guidelines
- 1.2.2 Maintains a roster of selected students
- 1.2.3 Maintains a tracking system to identify employer information where the students are assigned, to include:
 - a. Name, address and phone number of employer
 - b. Physical work location (address and phone number) where student is assigned
 - c. Work location supervisor's name and contact information
 - d. Type of work the student is performing
 - Type of work must be in support of San Antonio Ambassador program purpose
- 1.2.4 Verifies number of hours worked with the employer
- 1.2.5 Places students with local businesses identified within San Antonio's selected occupations as identified by CITY
- 1.2.6 Monitors students and selected employers to ensure students are assigned realistic work opportunities
- 1.2.7 Verifies selected employers are establishing a mentoring relationship with the students in support of workforce initiatives and job readiness programs

1.3 Ambassador Program includes:

- 1.3.1 - 1 week (25 hours) Customer Service Training
- 1.3.2 - 7 weeks (25 hours) Subsidized Internship
- 1.3.3 - Peer-to-Peer Lunches and Industry Presentations

1.3.4 - Program supplies

2. CONTRACTOR shall provide program outreach in order to identify and verify graduating seniors attending Clark, Churchill and Madison High Schools who are eligible to receive scholarships in the Fall of 2006, and who meet the following criteria:

- a. Must have at least a "B" high school grade average in sophomore, junior, and senior years.
- b. Must have attained at least 95% attendance while in high school, in grades 9-12.
- c. Must meet all high school graduation requirements.

- d. Must attend one of 10 institutions of higher education that are partners of the San Antonio Education Partnership.
- e. Must enroll as a full-time college student the Fall or Spring semesters after high school graduation in one of 10 colleges/universities identified by the San Antonio Education Partnership.

II. Budget

Total budget for the Project shall not exceed \$139,200.00 as indicated below:

- 1. Ambassador Program total budget of \$79,200 broken-down as follows:
 - o SAEP stipends (40 students, \$9.00/hr x25 hrs x 8 weeks) \$72,000
Or (50 students, 9.00/hr x 20 hrs x 8 weeks)
 - o SAEP administration \$ 7,200

Funds for scholarships for Clark High School, Churchill High School, and Madison High School

- 2. Amount for CONTRACTOR to use in identifying and verifying graduating students attending Clark, Churchill and Madison High Schools who are eligible to receive scholarships in the Fall of 2006 shall not exceed \$ 60,000.00. _____.