



Hidalgo County Head Start Program

Policy Council Agenda

DATE: February 21, 2008

SUBJECT: Presentation for Discussion, Consideration and Approval of an Interlocal Agreement between the City of Peñitas and Hidalgo County Head Start Program

RATIONALE/NEED: There is a need for approval of an Interlocal Agreement with the City of Peñitas for use of the Peñitas Head Start Center, reflecting an increase of \$325.00 per month. (Additional information was requested by Policy Council at the January 15, 2008 meeting.)

RECOMMENDATION: Administration recommends approval.

COST: New Lease \$1,075.00/Month

RELATED INFORMATION INCLUDES: Letter/Interlocal Agreement and Information from Urban County.

INITIATED BY: Ambrosio Tovar, Procurement Director *A. Tovar*

REVIEWED BY: Edmundo Garcia, Assistant Program Director *EG*

EXECUTIVE DIRECTOR'S APPROVAL: *Jerres Flores*

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF PEÑITAS AND
THE HIDALGO COUNTY HEAD START PROGRAM**

This Lease is made and entered into by and between The City of Peñitas, herein referred to as the (“Lessor”) and the Hidalgo County Head Start Program, herein referred to as the (“Lessee”) in the Lease.

In consideration of the mutual covenants and agreements set forth in this Lease, and other good and valuable consideration, Lessor demises and leases to Lessee, and Lessee leases from Lessor, that certain building described as the Head Start Building lying and being situated at 1803 FM 1427, Peñitas, Texas in and depicted in Exhibit “A”, attached hereto. The premises leased hereunder are referred to in this Lease as “the Premises” or “the Leased Premises.”

ARTICLE 1. TERMS AND RENT

Term of Lease

1.01 The Leased Premises and/or land shall be used for the purpose of HEAD START CLASSROOMS AND PARENT’S MEETING subject to the special terms (if any) which may be listed below, and which shall be determined by mutual agreement of both parties. The Leased Premises are deemed for the purposes of this Interlocal Agreement to constitute all 100% percent of such building in which the Leased Premises are located.

1.02 Except as otherwise provided herein, the initial term of this lease shall be for Twelve (12) months commencing on January 1, 2008 (“Commencement Date”) and ending on December 31, 2008 (“Termination Date”) unless sooner terminated as provided in this Lease, or unless renewed and extended in accordance with Paragraph 1.03, hereof.

Renewal or Termination

1.03 Provided Lessee has not defaulted in any of the terms, conditions, or provisions thereof, Lessee shall be given the right of renewal and extending the term of the lease hereof, beginning on the first day of January, 2009, for a like term or other terms as may be subsequently agreed upon by both parties.

Lessor shall give Lessee and Lessee shall give Lessor Notice of Termination of the Lease in writing at least Thirty (30) days prior to the termination of this Agreement or any subsequent agreement, unless otherwise agreed. Lessee shall have the right to terminate the Lease Agreement with or without cause within Thirty (30) days written notice to Lessor.

1.04 Lessee shall comply with the Texas Department of Human Services Inspections in regards to the number of children that can safely occupy the building at any one time.

Base Rent

1.05 Lessee agrees to pay Lessor the maximum rent amount of \$12,900.00 in 12 equal monthly payments of \$1,075.00 per month payable on the 1st day of each month in a proportionate rate for any part of the month unexpired at the legal

termination of the Lease. Payment shall be mailed to The City of Peñitas, Attn: Mayor Servando Ramirez, P.O. Box 204, Peñitas, Texas 78576.

1.06 Lessor covenants and agrees that Lessee on paying the rent and other charges herein provided for and observing and keeping the covenants, conditions, and terms of this Lease on Lessee's part to be kept or performed, shall lawfully and quietly hold, occupy, and enjoy the leased Premises during the term of this Lease without hindrance or molestation of Lessor or any person claiming under Lessor except such portion of the Leased Premises, if any, as shall be taken under the power of eminent domain.

LESSEE shall accept possession Leased Premises and equipment (if any) in their present condition and location.

ARTICLE 2. TAXES

Taxes

2.01 LESSOR shall pay all real property taxes assessments until this lease either expires or terminates as provided herein.

2.02 LESSOR shall pay all personal property taxes and assessments on such Leased Premises as presently belong to LESSOR.

2.03 LESSEE shall be responsible for all personal property taxes and assessments on personal property it owns and uses on the Leased Premises.

ARTICLE 3. IMPROVEMENTS TO PROPERTY

Permitted Use

3.01 It is agreed that all permanent improvements made to or furnished by

the LESSEE on the Leased Premises shall be deemed to be and shall become part of the realty and shall belong to LESSOR upon expiration of the Lease or any extension hereof; provided, however, that all window air condition units, carpeting and lighting fixtures shall be deemed chattels temporarily attached to realty and shall remain the property of LESSEE and may be removed upon termination of the Lease or any extension hereof; provided, further, that all chattels that will not damage the permanent improvement, if removed, shall be deemed the property of LESSEE and may be removed upon termination of the Lease.

3.02 LESSEE may make alteration, paint the interior or exterior of said building and erect reasonable signs, and repair existing roof, but if major alterations which might adversely affect the exterior or interior of said building are desired by the LESSEE, such alterations shall not be made, nor signs erected without the written consent of LESSOR.

ARTICLE 4. MAINTENANCE ON PREMISES

4.01 LESSEE agrees to maintain the Leased Premises in a condition suitable for use for which this lease is intended.

4.02 LESSOR shall maintain the building roof, air conditioner, heating system before and during the lease of the building and will provide all major repairs at its own expense.

4.03 LESSEE shall provide housekeeping services for said premises, limited to sweeping, mopping and emptying trash cans, at most, every two (2) working days, and waxing floors not more often than every two (2) weeks.

4.04 In the event that the Leased Premises are destroyed by flood or other

casualty, the parties agree that this lease will be terminated and of no force and effect during that period of time while the Leased Premises cannot be used for the purposes intended by Agreement.

ARTICLE 5. UTILITIES

Utility Charges

5.01 Lessee shall pay the charges for the water, sewer, garbage, trash pick up services, telephone, gas and electricity furnished to the Lease premises during the term of this lease.

ARTICLE 6. INSURANCE AND INDEMNITY

Property Insurance

6.01 LESSOR shall insure the building and equipment covered by this lease against fire, accident, or natural disaster. In the event the building(s) and equipment if any or any part thereof shall during said term or any renewal hereof, be destroyed by fire, accident, or natural disaster so that the same shall be thereby rendered unfit for use and habitation, then and in such case, the rent heretofore reserved, or a just and proportionate part thereof, according to the nature and extent of the injury sustained, shall be suspended or abated until said Lease Premises shall have been put in proper condition for use and habitation by LESSEE or this lease Agreement shall thereby be terminated and ended at the election of LESSEE or his legal representatives. LESSEE must name LESSOR as additional insured.

6.02 LESSEE agrees to hold LESSOR harmless for any liability for any

accident or other legal cause of action based upon any tort which occurs on the Lease Premises, caused by LESSEE, its agent or employees.

6.03 LESSEE agrees to at all times during the term of this lease have in effect a liability insurance policy to protect LESSOR from any third party claims that may arise as a result of injuries caused to any person upon the premises herein described. The limits of this policy shall be not less than \$100,000.00 per person and \$300,000.00 per occurrence. LESSEE agrees to provide a copy of such policy of insurance to LESSOR at time of signing.

ARTICLE 7. MISCELLANEOUS

7.01 This agreement shall be binding upon and insure to the benefit of the parties hereto and their respective successors, but LESSEE shall not assign any part of the premises.

7.02 LESSEE will not cause to be carried on the premises any trade or business, which shall increase the rate of insurance premiums upon the Leased Premises, building(s) or contents.

7.03 LESSEE will permit LESSOR at all reasonable times to make such repairs as it may deem necessary for the protection of the premises.

7.04 This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of parties created hereunder are performable in Hidalgo County, Texas.

7.05 In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable provisions was never contained herein.

7.06 Commitment of Current Revenues Only. In the event that, during any term hereof, the Program does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then the LESSEE may terminate this Agreement upon sixty (60) days written notice to the other party. The LESSEE agrees, however to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend these provisions to be a continuing right to terminate this Agreement at the expiration of each budget period of the LESSEE, pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903.

7.07 LESSEE shall permit LESSOR and its agents to enter into and upon the Leased Premises at approved specified times after written notice to LESSEE for the purpose of inspecting the same or for the purpose of maintaining or making repairs to the Leased Premises required hereby. However, the LESSOR agrees to not disrupt or interfere with the LESSOR's Program.

Waiver of Breach

A waiver by either Lessor or Lessee of a breach of this Lease by the other party does not constitute a continuing waiver or a waiver of any subsequent breach of the Lease.

ARTICLE 8. MISCELLANEOUS

Notices and Addresses

8.01 All notices required under this Lease will be deemed delivered when deposited in certified or registered mail, addressed to the proper party, at the following addresses:

Lessor:

The City of Peñitas
Attn: Servando Ramirez, Mayor
P.O. Box 204
Peñitas, TX 78576

Lessee:

Hidalgo County Head Start Program
Attn: Teresa Flores, Executive Director
P.O. Box 0117
Edinburg, TX 78540-0117

Either party may change the address to which notices are to be sent it by giving the other party notice of the new address in the manner provided in this section.

Parties Bound

This agreement shall be binding upon, and inure to the benefit of, the parties to the Lease and their respective heirs, executors, administrators, legal representatives, successors and assigns when permitted by this agreement.

Texas Law to Apply

This agreement shall be construed under, and in accordance with, the laws of the State of Texas, and all obligations of the parties created by this Lease are performable in Hidalgo County, Texas.

Legal Construction

In case any one or more of the provisions contained in this agreement shall for any reason be held by the court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of the agreement, and this agreement shall be construed

as if the invalid, illegal, or unenforceable provision had never been included in the agreement.

Prior Agreements Superseded

This agreement constitutes the sole and only agreement of the parties to the agreement and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this agreement.

Amendment

No amendment, modification, or alteration of the terms of this agreement shall be binding unless it is in writing, dated subsequent to the date of this agreement, and duly executed by the parties to this agreement.

Rights and Remedies Cumulative

The rights and remedies provided by this lease agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive that party's right to use any or all other remedies. The rights and remedies provided in this Lease are in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

Attorney's Fees and Costs

If, as a result of a breach of this agreement by either party, the other party employs an attorney or attorneys to enforce its rights under this Lease, then the breaching or defaulting party agrees to pay the other party the reasonable attorney's fees and costs incurred to enforce the Lease.

Force Majeure

Neither Lessor nor Lessee shall be required to perform any term, conditions, or covenant in this Lease so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and other cause not reasonably within the control of Lessor or Lessee and which by the exercise of due diligence Lessor or Lessee is unable, wholly or in part, to prevent or overcome.

Estoppel Information

Lessee shall, at the request of lessor, provide any and all information with respect to this Lease to any person designated by Lessor.

Time of Essence

Time is of the essence of this agreement.

THE UNDERSIGNED Lessor and Lessee execute this Lease on the day of _____, 2008.

LESSEE:

BY: _____
J.D. Salinas, Hidalgo County Judge

BY: _____
Teresa Flores, Executive Director

LESSOR:

BY: _____
Servando Ramirez, Mayor
City of Peñitas

ATTEST:

BY: _____
Arturo Guajardo, Jr., Hidalgo County Clerk

APPROVED AS TO FORM:

BY: _____
Ricardo Gonzalez
OXFORD & GONZALEZ, Attorney
for Hidalgo County Head Start Program

BY: _____
Steve Crain
ATLAS & HALL
Attorney for Hidalgo County

Date Approved by Policy Council:
Date Approved by County Commissioner:

EXHIBIT "A"

Three (3) Classrooms located in the Roberto Zamora Neighborhood Center which is one (1) mile south of Highway 83 in The City of Peñitas, Hidalgo, Texas 78576.