

# Hidalgo County Head Start Program Policy Council Agenda

**DATE:** November 17, 2010

**SUBJECT:** Presentation for Discussion, Consideration and Approval of an Inter-local Agreement between the McAllen Housing Authority and Hidalgo County Head Start Program

**RATIONALE/NEED:** There is a need for approval of an Inter-local Agreement with the McAllen Housing Authority for use of the McAllen V Head Start Center. There is a facility usage increase of three-hundred seventy-seven (377) square footage and a utility (water and sewer, and electricity) reimbursement percentage increase from 50% to 60%.

**RECOMMENDATION:** Administration recommends approval.

**COST:** \$12.00/Year for Lease  
\$185.00 Average Monthly Increase on Utilities

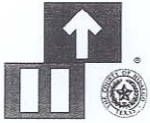
**RELATED INFORMATION INCLUDED:** Memo/Inter-local Agreement

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

**REVIEWED BY:** Mr. Edmundo Garcia, Assistant Director *E. Garcia*

**PROGRAM DIRECTOR'S APPROVAL:** *Jesus Flores*



## HIDALGO COUNTY HEAD START PROGRAM

P. O. BOX 0117 ♠ EDINBURG, TEXAS 78540♠ TEL: (956) 383-0706 ♠ FAX: (956) 380-2588

TO: Edmundo Garcia, Assistant Director  
FROM: Ambrosio Tovar, Procurement Director *A. Tovar*  
DATE: November 4, 2010  
SUBJ: Inter-local Agreement – McAllen V Head Start

The City of McAllen Housing Authority has requested a reimbursement percentage increase on the utilities of water, sewer, and electricity from 50% to 60%. The agreement rate will not change. We will continue to pay one dollar a month.

According to the Housing Authority Facilities Manager, the building square footage has increased from 4,144 square feet to 4,521 square feet. This is an increase of 377 square feet. The playground remains at 1,950 square footage.

Based on the monthly average cost, we're paying \$922.63 as a monthly average. With the reimbursement percentage change, we're looking at an estimated utility cost of \$1,107.15 per month. This is an estimated cost increase of \$184.53 a month.

Based on the estimated utility cost and the square footage of 4,521, the utility cost per square footage is \$.24.

Should you have any questions please me know. Thank you.

STATE OF TEXAS                   §  
   §  
COUNTY OF HIDALGO           §

**INTERLOCAL AGREEMENT BETWEEN  
THE MCALLEN HOUSING AUTHORITY AND  
HIDALGO COUNTY**

This Lease is made and entered into by and between the **McAllen Housing Authority**, herein referred to as the “LESSOR” and Hidalgo County through the 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 real property on which Head Start Building lies on and is situated at **1200 N. 25<sup>th</sup> St., McAllen, Texas** more particularly described on Exhibit “A”, attached hereto. The premises leased hereunder are referred to in this Lease as “the Premises” known by lessee as “McAllen V Center” or “the Leased Premises.”

**ARTICLE 1. TERMS AND RENT**

1.01 The Leased Premises and/or land shall be used for the purpose of HEAD START CLASSROOMS AND FOR HEAD START PARENTS’ MEETING subject to the special terms (if any) which may be listed below. The Leased Premises are deemed for the purposes of this 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 sixteen (12) months commencing on JANUARY 01, 2011 ("commencement date") and ending on December 31, 2011 ("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, commencing on the first day of January, 2012, for a one year term.

Each party shall give the other party notice of termination of the Lease, in writing, at least sixty (60) days prior to the termination of the this Agreement or any subsequent agreement, unless otherwise agreed by the parties. LESSEE shall have the right to terminate the Lease Agreement with or without cause with sixty (60) days written notice to LESSOR.

1.04 LESSEE shall comply with the Texas Department of Human Services Inspection 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 \$12.00 in TWELVE (12) equal monthly payment of \$1.00 per month payable on the 1<sup>st</sup> day of each month. Payment shall be mailed to the McAllen Housing Authority at, 23 Jasmine, McAllen, TX. Shown on Article VII, 7.01.

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 disruption by 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 of 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 owned by LESSOR.

## **ARTICLE 3. MAINTENANCE ON PREMISES**

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

3.02 LESSEE will keep all and singular the Leased Premises, including all of LESSOR'S fixtures, appurtenances, equipment and machinery in such repair as the same at the commencement of the term. All repairs shall be at

LESSOR'S expense and shall remain the property of the LESSOR at the termination of the lease. Reasonable use and wearing of said fixtures, appurtenances, equipment and machinery, damage thereto by accidental fire, accident, or natural disaster, shall be exempt from the provision.

3.03 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.

3.04 In the event that the Leased Premises are destroyed by flood or other casualty, the parties agree that this lease will be terminated and shall not be in force and effect during that period of time while the Leased Premises cannot be used for the purposes intended by this Agreement.

3.05 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 personal 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.

3.06 LESSEE may make alterations, paint the interior or exterior of said building, but if major alterations which might adversely affect the exterior or

interior of said building are desired by the LESSEE, such alteration shall not be made, nor signs erected without the written consent of LESSOR.

3.07 LESSEE 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.

#### **ARTICLE 4. UTILITIES**

##### **Utility Charge**

4.01 LESSEE shall pay 60% the charges of for the water, sewer, electricity and 100% on trash pickup services, telephone, furnished to the Lease Premises during the term of this lease.

#### **ARTICLE 5. INSURANCE AND INDEMNITY**

##### **Property Insurance**

5.01 LESSOR shall insure the building and equipment covered by this lease against fire, accident, or natural disaster. In the event the building(s), or equipment or any part thereof shall, during said term or any renewal hereof, be destroyed by fire, accident, or natural disaster 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 its legal representatives. LESSOR agrees to provide a copy of such policy of insurance to LESSEE at time of execution of this agreement.

5.02 To the extent allowable under law, LESSEE agrees to hold LESSOR harmless from any liability for any accident or other legal cause of action based upon any tort which occurs on the Lease Premises, caused solely by LESSEE, its agent or employees.

5.03 LESSEE agrees that during the term of this lease, it shall 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 per occurrence.

#### **ARTICLE 6. MISCELLANEOUS**

6.01 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.

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

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

6.04 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.

6.05 Commitment of Current Revenues Only. In the event that, during any term hereof, the County 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.

6.06 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.

#### **WAVIER OF BREACH**

A wavier by either LESSOR or LESSEE of a breach of this Lease by the other party shall not constitute a continuing wavier or waiver of any subsequent breach of the Lease.

### **ARTICLE 7. MISCELLANEOUS**

#### **Notices and Addresses**

7.01 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:**

McAllen Housing Authority  
Attn: Joe Saenz, Executive Director  
2301 Jasmine  
McAllen, Texas 78501

**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 in by giving the other party notice of the new address in the manner provided in this section.

### **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 Agreement**

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 cost incurred to enforce the Lease. As awarded by a court of competent jurisdictions

### **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 \_\_\_\_\_, 2010.

LESSEE:

BY: \_\_\_\_\_  
Ramon Garcia, County Judge

BY: \_\_\_\_\_  
Teresa Flores, Executive Director

LESSOR:

BY: \_\_\_\_\_  
Joe Saenz, Executive Director  
McAllen Housing Authority

APPROVED AS TO FORM:  
Oxford & Gonzalez

APPROVED AS TO FORM:  
Atlas & Hall, LLP

BY: \_\_\_\_\_  
Ricardo Gonzalez

BY: \_\_\_\_\_  
Stephen Crain

ATTEST:

BY: \_\_\_\_\_  
Arturo Guajardo, JR.,  
Hidalgo County Clerk

EXHIBIT "A"

A portion of the building attached hereto as Exhibit A1 highlighted in yellow located at 1200 North 25<sup>th</sup> Street, McAllen, Texas situated on a tract out of a portion of Lots 22 & 23, C.E. Hammonds Subdivision, Hidalgo County, Texas

