

# Hidalgo County Head Start Program Policy Council Agenda

**DATE:** December 14, 2016

**SUBJECT:** Presentation for Discussion, Consideration and Approval of a One Year Interlocal Agreement for the Lease of Two Facilities (Head Start Center & Central Kitchen) between the Edcouch-Elsa Independent School District and Hidalgo County Head Start Program

**RATIONALE/NEED:** This Interlocal Agreement will allow Head Start services to continue to be provided to eligible children in the community.

**RECOMMENDATION:** Administration recommends approval.

**COST:** Head Start (HHS-ACF) funds are available

**RELATED INFORMATION INCLUDED:** Interlocal Agreement

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

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

**EXECUTIVE DIRECTOR'S APPROVAL:** *Lorena Flores*

**EDCOUCH  
HEAD START CENTER**



Agreement shall be for two years (2) year commencing on **January 01, 2017** (“commencement date”) and ending on **December 31, 2018** (“termination date”) unless sooner terminated as provided in this Agreement, 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 to extend the term of the Agreement hereof, commencing on the first day of **January 2019**, for a term or other terms as may be subsequently agreed to upon by both parties.

Either LESSEE or LESSOR shall have the right to terminate this Agreement with or without cause with sixty (60) days written notice to the other.

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 Five Hundred and no/100ths Dollars (\$500.00) per month payable on the first day of each calendar month during the term. Payment shall be mailed to the Edcouch-Elsa Independent School District, P.O. Box 127, Edcouch, Texas 78538.

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 Agreement 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 Agreement 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 Agreement 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 Agreement is intended.

3.02 LESSOR 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 Agreement. 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 Agreement 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 this Agreement 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 this Agreement or any extension hereof; provided, further, that all removal of such chattels will not damage the permanent improvement and if removed, shall be deemed the property of LESSEE and may be removed upon termination of this Agreement.

3.06 LESSEE may make minor alterations such as painting 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 LESSOR shall maintain the building roof, air conditioner, heating system during the term of this Agreement of the building and will provide all major repairs at its own expense.

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

##### **Utility Charge**

4.01 LESSEE shall pay all of the charges for the water, sewer, and electricity; trash pickup services, telephone, and gas furnished to the Leased Premises during the term of this Agreement.

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

##### **Property Insurance**

5.01 LESSOR shall insure the building and equipment covered by this Agreement 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 Leased 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 to 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 for any liability for any accident or other legal cause of action based upon any tort which occurs on the Leased Premises, caused solely by LESSEE, its agent or employees.

5.03 LESSEE agrees that during the term of this Agreement, 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 Leased Premises.

6.02 LESSEE will not cause to be conducted upon the Leased 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 Leased 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, either party hereto does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then such party may terminate this Agreement upon sixty (60) days written notice to the other party. Both parties agree, however to use their 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 parties.

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 LESSEE's program.

#### **WAVIER OF BREACH**

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

#### **ARTICLE 7. MISCELLANEOUS**

##### **Notices and Addresses**

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

LESSOR:

Edcouch-Elsa I.S.D.  
Attn: Dr. Richard Rivera, Superintendent  
P.O. Box 127  
Edcouch, Texas 78538

LESSEE:

Hidalgo County Head Start Program  
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 Agreement 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 Agreement, then the breaching or defaulting party agrees to pay the other party the reasonable attorney's fees and cost incurred to enforce this Agreement, as awarded by a court of competent jurisdiction.

### **Force Majeure**

Neither LESSOR nor LESSEE shall be required to perform any term, condition, or covenant in this Agreement 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 Agreement to any person designated by LESSOR.

**Time of Essence**

Time is of the essence of this Agreement.

THE UNDERSIGNED LESSOR and LESSEE execute this Agreement on the day\_\_\_\_\_ of \_\_\_\_\_, 2016.

**LESSEE:**

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

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

**LESSOR:**

BY: \_\_\_\_\_  
Dr. Richard Rivera, Superintendent  
Edcouch-Elsa I.S.D.

**ATTEST:**

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

**APPROVED AS TO FORM:**  
Oxford & Gonzalez

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

**APPROVED AS TO FORM:**  
Atlas & Hall, LLP

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

Date Approved by Policy Council:  
Date Approved by County Commissioners:

## EXHIBIT "A"

### Physical Address:

The Edcouch-Elsa I.S.D. building located at 201 N. Yellow Jacket Drive, Elsa, Texas and designated as Head Start classrooms, administrative office space and playground area.

### Legal Description Being:

A portion out of a 40.0 acre tract out of West Tract Subdivision, Farm Tract 548, an addition to the City of Edcouch, Hidalgo County, Texas, as per map or plat of said subdivision and addition recorded in the office of the County Clerk of Hidalgo County, Texas, to which map or plat reference is here made for more particularity of description.

**EDCOUCH  
KITCHEN**

STATE OF TEXAS  
COUNTY OF HIDALGO

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§  
§

**INTERLOCAL AGREEMENT BETWEEN  
THE EDCOUCH-ELSA INDEPENDENT SCHOOL DISTRICT AND  
HIDALGO COUNTY**

This Agreement is made and entered into by and between the **Edcouch-Elsa Independent School District** herein referred to as the “**LESSOR**” and **Hidalgo County** acting through its Head Start Program, herein referred to as the “**LESSEE**” in the Agreement.

In consideration of the mutual covenants and agreements set forth in this Agreement, and other good and valuable consideration, **LESSOR** demises and leases to **LESSEE**, and **LESSEE** leases from **LESSOR**, that certain described real property on which Head Start building lies on and is situated at **831 E. Edinburg Hwy 107, Elsa, Texas** more particularly described on Exhibit “A”, attached hereto. The premises leased hereunder are referred to in this Agreement as “the Premises” known by lessee as the “**Edcouch Central Kitchen**” or “the Leased Premises.”

**ARTICLE 1. TERMS AND RENT**

1.01 The Leased Premises shall be used for the purpose of HEAD START KITCHEN 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 100% percent of such building in which the Leased Premises are located.

1.02 Except as otherwise provided herein, the initial term of this Agreement shall be for two years (2) year commencing on **January 01, 2017** (“commencement date”) and ending on **December 31, 2018** (“termination date”) unless sooner terminated as provided in this Agreement, 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 to extend the term of the Agreement hereof, commencing on the first day of **January 2019**, for a term or other terms as may be subsequently agreed to upon by both parties.

Either LESSEE or LESSOR shall have the right to terminate this Agreement with or without cause with sixty (60) days written notice to the other.

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 Five Hundred and no/100ths Dollars (\$500.00) per month payable on the first day of each calendar month during the term. Payment shall be mailed to the Edcouch-Elsa Independent School District, P.O. Box 127, Edcouch, Texas 78538.

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 Agreement 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 Agreement 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**

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Attn: Dr. Richard Rivera, Superintendent  
P.O. Box 127  
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**LESSEE:**

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

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**Amendment**

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### **Rights and Remedies Cumulative**

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**Estoppel Information**

LESSEE shall, at the request of LESSOR, provide any and all information with respect to this Agreement to any person designated by LESSOR.

**Time of Essence**

Time is of the essence of this Agreement.

THE UNDERSIGNED LESSOR and LESSEE execute this Agreement on the day \_\_\_\_\_ of \_\_\_\_\_, 2016.

**LESSEE:**

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

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

**LESSOR:**

BY: \_\_\_\_\_  
Dr. Richard Rivera, Superintendent  
Edcouch-Elsa I.S.D.

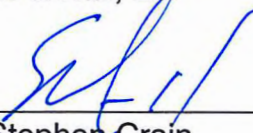
**ATTEST:**

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

**APPROVED AS TO FORM:**  
Oxford & Gonzalez

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

**APPROVED AS TO FORM:**  
Atlas & Hall, LLP

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

Date Approved by Policy Council:  
Date Approved by County Commissioners:

## EXHIBIT "A"

Physical Address: Head Start Central Kitchen

The Edcouch-Elsa I.S.D. building located at 831 E. Edinburg Hwy 107, Elsa, Texas and designated as Head Start Central Kitchen and Administrative office space.

Legal Description Being:

A portion out of a 40.0 acre tract out of West Tract Subdivision, Farm Tract 548, an addition to the City of Edcouch, Hidalgo County, Texas, as per map or plat of said subdivision and addition recorded in the office of the County Clerk of Hidalgo County, Texas, to which map or plat reference is here made for more particularity of description.