

## AGREEMENT

This agreement ("Agreement") is effective July 1, 2020 between Portable Practical Education Preparation, Inc. ("PPEP"), a domestic non-profit corporation organized under the laws of Arizona, 802 East 46<sup>th</sup> Street, Tucson, Arizona 85713 and the City of San Luis, a municipal corporation organized under the laws of Arizona, having its administrative offices at 1090 East Union Street, San Luis, Arizona 85336 and its U.S. Postal Service for mail delivery address at P.O. Box 1170, San Luis, Arizona 85349 ("City"). PPEP and the City may be referred to singularly as the "Party" and collectively as the "Parties."

WHEREAS, City has allocated certain funds for a YouthBuild Program for young adults In the City of San Luis, Arizona; and

WHEREAS, the City wishes to engage PPEP to utilize such funds in PPEP's existing YouthBuild Program; and

WHEREAS, the City wishes the YouthBuild Program to serve and graduate students who are residents of San Luis by June 30, 2021.

NOW, THEREFORE, In consideration of the matters described above, and of the mutual benefits and obligations in this Agreement, the Parties agree as follows.

### A. STATEMENT OF WORK

1. Name of Activity: YouthBuild Program

2. Description: (see ATTACHMENT). The YouthBuild program provides 10 months of construction training for career pathway development, a national credential certification with the National Center for Construction Education & Research (NCCER), First Aid certification, ten (10) Occupational Safety and Health Administration (OSHA) certifications, a \$1,568.00 AmeriCorps Scholarship to college good for 7 years, job placement, and extensive case management and support services. In addition, each PPEP student receives a \$600.00 per month stipend while in the program to help pay for other needs and to sustain their families.

3. Funding Agreement Total: \$30,000

4. Term: July 1, 2020, to June 30, 2021

5. Number served: 20 YouthBuild enrollees are residents of San Luis, and another 20 students will begin the 10-month program in February of 2021. For staffing salaries for teachers, construction trainers, supervisors, case managers, and credential and

leadership staff alone it costs \$14,315 per student to educate and train in the YouthBuild program. Per-student expense costs close to \$17,000 per student if supplies, uniforms, tools, book, internet, etc. were considered. This is a bargain as the Department of Labor allows up to \$18,000 per student due to the program intensity and to achieve the stated program goals. The contribution of the City will help defray the cost of educating the 20 students expected to graduate this fiscal year ending June 30, 2021 and the 20 who will start but not finish until the next fiscal year in November of 2021.

## B. PERFORMANCE MONITORING

The City will monitor the performance of PPEP against goals and performance standards under this Agreement. Substandard performance, as determined by the City, will constitute noncompliance with the Agreement. If PPEP does not correct such substandard performance within a reasonable period of time after being notified by the City, the City will initiate contract suspension or termination procedures.

## C. NOTICES

Communication and details about this contract shall be directed to these contract representatives:

For the City

City Manager  
1090 East Union Street  
San Luis, Arizona 85336 (for physical address) and  
P.O. Box 1170  
San Luis, Arizona 85349 (U.S. Postal Service for mail delivery)

For PPEP  
Ms. Kari Hogan  
Chief Administrative Officer  
802 E. 46<sup>th</sup> Street  
Tucson, Arizona 85713  
520-770-2500

Any business communications regarding this Agreement may be provided by email.

All legal notices or demands related to this Agreement must be provided in writing and sent to the receiving Party at the address above. All notices to be given under this Agreement by either Party to the other shall be considered validly given and fully received when made in writing and delivered or refused delivery by major commercial delivery courier service or mailed, so it requires signature by the recipient or by process service. Either Party may from time to time designate in writing and deliver in a like manner a change of address. Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective.

#### D. SPECIAL CONDITIONS

None

#### E. PPEP RECOGNITION

The PPEP shall ensure recognition of the role of the City in providing services through this Contract. All activities, facilities and items utilized under this contract shall be prominently displayed in all publications made possible with funds provided under this contract.

#### F. INDEPENDENT CONTRACTOR

Nothing in this Agreement is intended to or shall be construed as creating or establishing the relationship of employer/employee between the Parties. PPEP shall at all times remain an independent contractor regarding the services to be performed under this Agreement. PPEP shall be responsible for all employer responsibilities, including but not limited to the payment of Unemployment Compensation, FICA, and Workers' Compensation Insurance.

Rights of PPEP as independent contractor include but are not limited to control of the work, manner and methods of the work, and the right to contract with other employers.

Rights of the City include but are not limited to inspection and approval of the work and the right to contract with others to perform the work.

#### G. GENERAL CONDITIONS

1. Payment: It is expressly agreed and understood by the City that the total amount to be paid to the PPEP under this contract by the City shall not exceed \$30,000.

2. Time of Performance: **This Agreement shall take effect on the 1<sup>st</sup> day of July 2020 through and including the 30<sup>th</sup> day of June 2021.**

3. Insurance and Bonding: PPEP shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond cover all employees' in an amount equal to cash advances from the City.

4. Subcontracting: None of the services covered by this Agreement shall be subcontracted or assigned without prior written approval by the City.

5. Maintenance and Availability of Records:

a. Regarding this Agreement, PPEP shall maintain all accounting, client records, papers maps, photographs, other documentary materials, and any

evidence pertaining to costs incurred.

b. Such records shall be furnished and available for inspection by the City.

c. Such records shall be available at PPEP's offices at all reasonable times during the Agreement period. If it is a claim, investigation, or litigation pending after what is assumed to be the final payment that in effect, cancels the final payment date. The retention period will not begin until the final settlement of the claim, investigation, or litigation.

6. Financial Review. If the City desires a financial audit by a certified public accountant of the PPEP's financial records to verify the use of City funds according to the terms and audit. PPEP will not be responsible for the cost of such an audit if requested by the City and are entitled to a copy of any resulting reports received by the City.

7. Agreement Amendments/Revisions: Any changes to the Scope of Work or dollar amount of this Agreement require prior written approval from the City.

8. Suspension and Termination: With notification to PPEP, City may terminate this Agreement and such additional supplemental agreements hereafter executed, in whole or in part, and may recover any funds at its discretion if the PPEP:

a. Violates any provision of this Agreement; or

b. Fails to complete performance in a timely manner

The City may also terminate this Agreement and such additional supplemental agreements hereafter executed, in whole or in part, by giving PPEP 30 days' written notice.

9. Audits: PPEP shall comply with the audit requirements in the Office of Management and Budget (OMB) Circular A-133.

10. No Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement. No waiver and no modification shall be effective unless it is in writing signed by the Parties, and then only to the extent expressly set forth in such writing.

11. Severability. If any provision of the Agreement is declared void or unenforceable by a Court of Competent Jurisdiction or by operation of legislation, such provision shall be severed from this Agreement. The remainder of this Agreement will not be affected by that invalidity or unenforceability, and each provision of this Agreement will be valid and will be enforced to the extent permitted by the law.

12. Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement.

13. Venue. The Parties agree that venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction in the State of Arizona. In such legal action, the Parties waive any right to object to such venue. Nothing in this paragraph will be deemed to have authorized the bringing of any legal action in a court which does not otherwise have jurisdiction to adjudicate the legal action.

14. Attorneys' Fees and Costs. If any Party finds it necessary to bring any action at law or other proceeding, including but not limited to arbitration, against the other Party to enforce any of the terms, covenants or conditions in this Agreement, or for any breach or default under this Agreement, the Party prevailing in any such action or other proceedings shall be paid all reasonable costs, reasonable financial services fees and reasonable attorney's fees by the other Party. In the event any judgment is secured by said prevailing Party, all such costs and attorney's fees shall be included in the judgment, such fees to be set by the court and not by jury.

15. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, and no person or entity not a Party shall have any right or cause of action under this Agreement.

16. No Agency Created. It is not intended by this Agreement to, and nothing in this Agreement shall create any agency, partnership, joint venture or other similar arrangement between the Parties.

17. No Personal Liability. No member, official or employee of the City shall be personally liable to PPEP, or any successor or assignee, (a) if any default occurs or breach by the City, (b) for any amount which may become due to PPEP or its successor or assign, or (c) under any obligation of the City under this Agreement.

18. Time is of the essence. Time is of the essence in this Agreement.

19. Force Majeure. If PPEP or City are prevented or materially restricted from performing any of their obligations under this Agreement by an event of force majeure, then the obligations of each Party shall be suspended or reduced to the extent made necessary by the event. As used in this section, "force majeure" means any act or cause not reasonably within the control of the Party whose ability to perform is impaired and which that Party could not have prevented by exercising reasonable diligence. This includes, but is not limited to, acts of God, fire, flood, explosions, strikes or labor disputes over which the affected Party has no control, sabotage, riots, civil commotion, acts of civil or military authority, wars or material changes in applicable business laws or regulations.

20. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of the provisions of this Agreement.

21. Compliance with the Law. PPEP shall comply with all laws. Including but not limited to:

a. PPEP shall maintain a City of San Luis, Arizona business license. The Business License Application is available online at <https://www.sanluisaz.gov/137/Business-License-Division>, and the telephone number is (928) 314-9119.

b. PPEP expressly agrees that it shall be solely responsible for supervising its employees; that it shall comply with all rules, regulations, orders, standards, and interpretations promulgated under the Occupational Safety and Health Act of 1970 and any occupational safety and health act of Arizona; includes but not limited to training, provision of personal protective equipment; adherence to all appropriate lockout tagout procedures and providing all notices, safety data sheets, etc., as required by the right-to-know standard.

c. e-verify. Under A.R.S. § 41-4401:

- i. PPEP warrants its compliance with all federal immigration laws and regulations that relate to its employees and its compliance with A.R.S. § 23-214, subsection A;
- ii. that a breach of a warranty under paragraph 1 shall be deemed a material breach of the Agreement that is subject to penalties up to and including termination of the contract; and
- iii. that the City retains the legal right to inspect the papers of any contractor or subcontractor employee who works on the Agreement to ensure that the contractor or subcontractor is complying with the warranty under paragraph i.

22. Conflict. The Agreement is subject to the cancelation for conflict provisions of A.R.S. § 38-511(A)

21. Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement and that all necessary actions have been taken to give full force and effect to this Agreement.

22. Entire Agreement. This Agreement, including its attachment, which is incorporated

herein by this reference, constitutes the entire Agreement between the Parties.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all Parties may be physically attached to a single document.

24. Ratification. Acts, taken under this contract, but prior to its execution are hereby ratified and confirmed.

[Intentionally left blank, signature page follows]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement in Yuma County, Arizona the date the last Party signed this Agreement.

**City of San Luis, Arizona**

\_\_\_\_\_  
**Gerardo Sanchez, Mayor**

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Sonia Cornelio, City Clerk

\_\_\_\_\_  
Kay Marion Macuil, City Attorney

**Portable Practical Education  
Preparation, Inc.**

\_\_\_\_\_  
John David Arnold, Ph.D., CEO

Date: \_\_\_\_\_