

**AGREEMENT BETWEEN  
THE CITY OF SAN MARCOS AND  
COMMUNITY ACTION INC. OF CENTRAL TEXAS  
FOR THE PROVISION OF YOUTH SERVICES**

This Agreement is made as of February 18, 2020 (the “Effective Date”), by and between the City of San Marcos, Texas, a home rule municipal corporation (the “City”), and Community Action, Inc. of Central Texas, a Texas non-profit corporation (“CAI”).

In consideration of the mutual benefits to and obligations of the parties, the City and the CAI agree as follows:

**ARTICLE 1  
CAI’S SERVICES**

**1.1** CAI agrees to perform the services specifically described in Exhibit 1 and all other professional services reasonably inferable from Exhibit 1 and necessary for complete performance of CAI’s obligations under this Agreement (collectively, “CAI’s Services”). To the extent of any conflict between the terms in Exhibit 1 and this Agreement, the terms of this Agreement shall prevail.

**1.2** “Additional Services” are services provided by CAI under this Agreement not included in the CAI’s Services and not reasonably inferable from CAI’s Services. Additional Services shall be provided only if authorized or confirmed in writing by the City. Prior to commencing any Additional Service, CAI shall prepare for acceptance by the City an Additional Services proposal detailing the scope of the Additional Services and the proposed fee for those services. CAI shall proceed to perform Additional Services only after written acceptance of the Additional Services proposal by the City.

**1.3** Upon acceptance by the City, each Additional Services proposal and the services performed by CAI pursuant to such Additional Services proposal shall become part of this Agreement and shall be subject to all the terms and conditions of this Agreement, including terms and conditions applicable to CAI’s Services.

**1.4** If a party requires a change or amendment to this Agreement or its Exhibits, the Parties agree to use the Authorization of Change in Services Form in Exhibit 2 to do so. The Authorization of Change in Services Form must be agreed to and signed by both parties before any change to this Agreement is effective.

**ARTICLE 2  
CAI’S RESPONSIBILITIES**

**2.1** CAI agrees to use CAI’s best efforts, skill, judgment, and abilities so as to perform CAI’s Services in an expeditious and timely manner consistent with the highest and customary professional standards of care in the Central Texas region. CAI shall at all times provide sufficient personnel meeting the qualifications in Exhibit 1 to accomplish CAI’s Services in a timely manner. CAI shall manage its services, administer the delivery of CAI’s Services and coordinate other professional services as necessary for the complete performance of CAI’s obligations under this Agreement.

**2.2** CAI agrees to perform CAI's Services in compliance with all applicable national, federal, state, municipal, and State of Texas laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction over the activities related to CAI's Services.

**2.3** CAI's Services shall be reasonably accurate and free from material errors or omissions. CAI shall promptly correct any known or discovered error, omission, or other defect in the services provided by CAI without any additional cost or expense to City.

**2.4** CAI shall designate a representative primarily responsible for CAI's Services. The designated representative shall act on behalf of CAI with respect to all phases of CAI's Services and shall be available as required for the benefit of the City. The designated representative shall not be changed without prior approval of the City. The contact information, including mailing and email address, for CAI's representative(s) will be provided in writing to the City and may be amended by CAI from time to time.

**2.5** For all personnel performing services under this Agreement having direct personal interaction with minors or other constituents for whom CAI's Services are intended to benefit, the CAI shall conduct and provide to the City the results of a criminal background check conducted immediately before such personnel initially provide any services under this Agreement.

### **ARTICLE 3 CAI'S COMPENSATION**

The compensation for CAI's Services and CAI's reimbursable expenses, if any, shall be as shown in Exhibit 3. The compensation for any approved Additional Services shall be as described in the additional services proposal accepted by the City

### **ARTICLE 4 THE CITY'S RESPONSIBILITIES**

**4.1** The City shall furnish required information and render approvals and decisions as expeditiously as necessary for the orderly execution of CAI's Services.

**4.2** The City will designate one or more persons as its representative(s) authorized to act in the City's behalf with respect to the delivery of CAI's Services. The contact information, including mailing and email address, for the City's representative(s) will be provided in writing to CAI and may be amended by the City from time to time.

### **ARTICLE 5 PAYMENTS TO CAI**

**5.1** Once per each fiscal year during the term of this Agreement, the City will advance funding to CAI to fund the compensation for personnel as specified in Exhibit 3. Such funding will be provided by the City for the applicable fiscal year within 15 days after the City's receipt of a written request for funding from CAI. For all other expenses authorized under this Agreement, CAI shall present monthly applications for payment to the City detailing any approved Additional Services performed or approved by the City to be performed or any reimbursable expenses incurred or obligated by CAI in the previous month.

**5.2** The City shall promptly review any application for payment and notify CAI whether the Application is approved or disapproved, in whole or in part. City shall promptly pay CAI for all approved services and expenses. For purposes of Texas Government Code § 2251.021(a)(2), the date performance of services is completed is the date when the City's representative approves the Application for Payment.

**5.3** The City shall have the right to withhold from payments due CAI such sums as are necessary to protect City against any loss or damage which may result from negligence by CAI or failure of CAI to perform its obligations under this Agreement. CAI shall submit payroll information, receipts, invoices and any other evidence which City or its designated representatives shall deem necessary to support the amount requested.

**ARTICLE 6  
CAI'S RECORDS**

Records of CAI activities, costs and reimbursable expenses pertaining to CAI's Services shall be available to the City or its authorized representative during business hours and shall be retained for three years after final payment under this Agreement, unless the City otherwise instructs CAI in writing. CAI's records shall be kept on the basis of generally accepted accounting principles.

**ARTICLE 7  
INSURANCE**

**7.1** For provision of CAI's Services, CAI shall furnish to the City Certificates of Insurance as set forth below prior to the commencement of any work hereunder and shall maintain such coverage during the full term of this Agreement.

Worker's Compensation	Statutory Limits
Employer's Liability	\$1,000,000 each occurrence \$1,000,000 aggregate
Comprehensive General Liability	\$1,000,000 each occurrence \$1,000,000 aggregate
Comprehensive Auto Liability	\$1,000,000 each person
Bodily Injury	\$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence

**7.2** CAI shall include the City, Texas State University, Hays County and San Marcos Consolidated Independent School District as additional insureds on the General Liability policy, and the Worker's Compensation policy shall include a waiver of subrogation in favor of such entities.

**7.3** Required insurance shall not be cancelable without thirty (30) days' prior written notice to City.

**7.4** Upon request CAI shall furnish complete sets of its insurance policies to the City for review. If additional insurance or changes to this article are required, they shall be explicitly laid out in an Exhibit 4 and appended hereto.

**ARTICLE 8**  
**HOLD HARMLESS AND INDEMNITY**

*CAI shall hold the City, Texas State University, Hays County and San Marcos Consolidated Independent School District, and their respective, officers, agents and employees harmless and free from any loss, damage or expense arising out of any occurrence relating to this Agreement or its performance and shall indemnify the City, Texas State University, Hays County and San Marcos Consolidated Independent School District, and their respective officers, agents and employees, customers, agents, successors and assigns against any damage or claim of any type arising from the negligent or intentional acts or omission of CAI, its employees, agents and/or assigns.*

**ARTICLE 9**  
**DISPUTE RESOLUTION**

**9.1** If a dispute arises out of or relates to this Agreement or these Terms and Conditions, or a breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

**9.2** If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the CAI agree to act in good faith in the selection of the mediator and consider qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and CAI will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

**ARTICLE 10**  
**TERMINATION OR SUSPENSION**

**10.1** This Agreement may be terminated by either party upon seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the terminating party and such failure is not fully cured in the seven-day notice period. This Agreement may be terminated by the City for any reason upon 30 days' written notice of termination to CAI. Upon receipt of such notice, CAI shall, unless the notice directs otherwise, discontinue all services in connection with the performance of this Agreement.

**10.2** In the event of termination through no fault of the CAI, CAI shall be equitably compensated for all CAI Services performed and reimbursable expenses incurred prior to termination in accordance with this Agreement.

## **ARTICLE 11 TERM**

The term of this Agreement will commence on the Effective Date and will continue for two years unless sooner terminated in accordance with applicable provisions of this Agreement.

## **ARTICLE 12 MISCELLANEOUS PROVISIONS**

**12.1 Entire Agreement.** This Agreement supersedes all prior agreements, written or oral, between CAI and City and constitutes the entire and integrated Agreement and understanding between the parties with respect to the subject matter of the Agreement. This Agreement may only be amended by a written instrument signed by both parties.

**12.2 Assignment.** This Agreement is a personal service contract for the services of CAI, and CAI's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party.

**12.3 Applicable Law.** The Agreement will be governed by and construed under the laws of the State of Texas. Any controversy, claim or dispute arising out of or relating to this Agreement will be brought in a state court of competent jurisdiction in Hays County, Texas or, if in federal court, in the United States District Court for the Western District of Texas, Austin Division.

**12.4 Waiver.** A delay or omission by either party in exercising any right or power under the Agreement shall not be construed as a waiver of that right or power. A waiver by either party of any term or condition of the Agreement shall not be construed as a waiver of any subsequent breach of that term or condition or of any other term or condition of the Agreement.

**12.5 Severability.** If any provision of this Agreement is determined to be invalid or unenforceable in any respect, that determination shall not affect any other provision of this Agreement which shall be interpreted as if the invalid or unenforceable provision had not been included.

**12.6 Independent Contractor.** CAI recognizes that CAI is engaged as an independent contractor and acknowledges that City shall have no responsibility to provide CAI or its employees with any benefits normally associated with employee status. CAI will neither hold itself out as nor claim to be an officer, partner, employee or agent of City.

**12.7 Family Code Child Support Certification.** If State funds are being used in the procurement of the services described in Exhibit 1, pursuant to Section 231.006, Texas Family Code, CAI certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

**12.8 Prohibition on Contracts with Companies Boycotting Israel.** Pursuant to Chapter 2270 and 808, Texas Government Code, CAI certifies that it is not ineligible to receive the award of or payments

under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate. Failure to meet or maintain the requirements under this provision will be considered a material breach.

**12.9 Section 2252 Compliance.** Section 2252 of the Texas Government Code restricts the City from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. CAI hereby certifies that is not ineligible to receive the award of or payments under this Agreement. Failure to meet or maintain the requirements under this provision will be considered a material breach.

**12.10 Termination Due to Loss of Funding.** If City funds are utilized to fund any part of this Agreement, the CAI understands that those City funds for the payment for work performed by the CAI under this Agreement have been provided through the City 's budget approved by City Council for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. The City cannot guarantee the availability of funds, and enters into this Agreement only to the extent such funds are made available. The CAI acknowledges and agrees that it will have no recourse against the City for its failure to appropriate funds for the purposes of this Agreement in any fiscal year other than the year in which this Agreement was executed. The fiscal year for the City extends from October 1st of each calendar year to September 30th of the following calendar year.

**12.12 Ethics Matters; No Financial Interest.** CAI and its employees, agents, representatives, and subcontractors have read and understand City's Ethics Policy available at <http://www.sanmarcostx.gov/380/Ethics>, and applicable state ethics laws and rules. Neither CAI nor its employees, agents, representatives or subcontractors will assist or cause City employees to violate City's Conflicts of Interest Policy, provisions described by City's Standards of Conduct Guide, or applicable state ethics laws or rules. CAI represents and warrants that no member of the City Council of San Marcos has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

**12.13 Subcontracting.** The CAI will not subcontract any work under this Agreement without prior written approval from the City. In the event approval is given by the City, the CAI will specify any work or services, the appropriate insurance requirements and miscellaneous provisions by separate written agreement with the subcontractor.

**12.14 Notices.** All notices referenced in this Agreement shall be provided in writing to the representatives of the parties listed in paragraphs 2.4 and 4.2. Notices shall be deemed effective when delivered by hand delivery, the date received by email at the correct email address, or on the third business day after the notice is deposited in the U.S. Mail. The parties may designate alternative methods for delivery of notices by mutual agreement in writing.

**12.15 Public Information Act.** The City is governed by the Texas Public Information Act, Chapter 552 of the Texas Government Code. This Agreement and all written information, including books and records of CAI related to the expenditure of the City's funds hereunder may be subject to release under this Act, and CAI agrees to cooperate in good faith with the City in providing such information to the City if responsive to a request for information under said Act.

**12.16 Non-Discrimination.** CAI assures that no person shall be excluded from, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part under this Agreement on the basis of race, color, religion, sex, national origin, age, disability, or other classification subject to protection under applicable laws and ordinances. CAI will not discriminate

against any employee or applicant on the basis of race, color, religion, sex, national origin, age, disability, or other classification subject to protection under applicable laws and ordinances. CAI will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, age, disability or other classification subject to protection under applicable laws and ordinances.

EXECUTED To be effective as of the Effective Date first stated above.

**CITY:**

**CAI:**

**THE CITY OF SAN MARCOS**

**COMMUNITY ACTION, INC. OF CENTRAL TEXAS**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

## **EXHIBIT 1**

### **SCOPE OF SERVICES AND DELIVERABLES**

CAI will provide personnel to act as a Youth Services Director. The Youth Services Director will work with the City of San Marcos, Texas State University, San Marcos CISD, and Hays County (“Core 4”) to implement the recommendations and goals set forth by these entities, the San Marcos Commission on Children and Youth and the Youth Master Plan. The Youth Services Director will consult with youth and organizations that represent youth to determine their needs and endeavor to develop programs in response to those needs. The Youth Master Plan focuses on the development of children, youth, and young adults from birth through age 24. The plan establishes that as a community, we will strive to ensure that all of our young people are:

**Academically successful and workforce ready. They will:**

- Enter school ready to learn.
- Be academically productive and motivated.
- Be prepared for college and career.
- Have a healthy work ethic and skills needed by employers.

**Healthy, active, and safe (physically and mentally). They will:**

- Be hopeful and engaged with a sense of well-being.
- Make healthy choices.
- Have positive social and life skills.

**Productive and contributing members of the community. They will:**

- Have established integrity, character, and values.
- Be good stewards of resources.
- Be globally and culturally aware.
- Be socially and civically knowledgeable and connected.

This is a senior-level, two-year position with the possibility for extension. Criteria for evaluation will include the character of the relationships developed with the various public and private agencies active in programs for and with youth, and the degree to which deliverables are achieved.

### **Qualifications**

#### **Required**

- Bachelor's degree in education, mental health, social work, or youth-related field from an accredited college or university.
- 5 years managerial experience, including managing a board of directors, staffing, contract oversight, budgeting, project management, and operations, in connection with youth programming
- Demonstrated track record in successful grant application and administration
- Demonstrated respect for diverse individuals and organizations
- Knowledge of the social factors which contribute to the development of juvenile delinquency and youth crime, as well as crisis intervention, mental health, and counseling



- Extensive knowledge of existing community organizations with particular emphasis on the public and private agencies serving children and youth
- Excellent interpersonal skills, ability to speak and write effectively, attention to detail and deadlines
- Ability to coach youth leaders by demonstrating and modeling tact, initiative, resourcefulness, and emotional maturity

### **Preferred**

- Master's degree in education, mental health, social work or youth-related field from an accredited college or university

### **Job Duties and Responsibilities**

- Provide support to the Commission on Children and Youth in assessing available resources and service gaps, program conception, and directing program implementation activities
- Work with the Commission on Children and Youth in making policy recommendations to officials at the City of San Marcos and Hays County concerning the social behavior, health, and wellbeing of the community's children and youth
- Oversee and provide infrastructure and ongoing support for COSM Youth Commission, including recruiting and advising membership and assisting youth in civic engagement activities
- Establish meaningful working relationships with City of San Marcos, Texas State University, Hays County, San Marcos CISD, external agencies, community-based organizations, and other stakeholders in the local youth services landscape in order to foster cultural, educational, and economic development
- Spearhead the SMTX Mental Health Coalition, including members of the staff and faculty at COSM, Hays County, SMCISD, Texas State University, Hill County MHDD, local healthcare providers, first responders, private schools, faith-based organizations, and non-profit and business communities, in implementing research-driven, mental health initiatives for youth across Hays County
- Oversee mentoring programs at San Marcos CISD
- All other duties as assigned

### **Deliverables**

- Partner with Texas State University, San Marcos CISD, and community-based organizations to develop out-of-school time programming focused on building a college-going and career-ready culture and increasing levels of post-secondary educational attainment among teenagers throughout Hays County
- Work in tandem with the Core 4 and members of the community at large, to develop and implement a sustainable, community-wide mentoring program for teens focused on goal-setting and educational achievement grounded in research and best-practices
- Provide quarterly progress reports on deliverables, budget, research metrics, and program implementation to members of the Core 4 entities
- Work with Texas State University faculty in conducting research on programs that produce positive mental health outcomes in young people, collect relevant social statistics, and develop indicative longitudinal metrics to gauge efficacy of programming
- Work with Core Four partners to establish best practices for working with youth around the intersection of mental health and school safety

- Work with Hays County to pilot a juvenile diversion program that incorporates preventative mental health programming and creates pathways for post-secondary success
- Provide opportunities for Texas State University faculty to conduct local research on issues pertaining to mentoring, poverty, family, at-risk youth, and children
- Work with the Early Childhood Coalition of Hays County to promote kindergarten readiness

**EXHIBIT 2**

**AUTHORIZATION OF CHANGE IN SERVICES  
CITY OF SAN MARCOS, TEXAS**

**AGREEMENT/ SERVICES:  
CITY REPRESENTATIVE:  
CONTRACTOR:  
AUTHORIZATION NO.:  
CONTRACT EFFECTIVE DATE:  
THIS AUTHORIZATION DATE:**

**WORK TO BE ADDED TO OR DELETED FROM SCOPE OF SERVICES**

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Previous contract amount: \$ \_\_\_\_\_ (NTE annual fee)  
Net increase/decrease in contract amount: \$ -0-  
Revised annual Agreement amount: \$ \_\_\_\_\_ (NTE annual fee)

Contractor Name

By: \_\_\_\_\_

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

\_\_\_\_\_  
Printed Name, Title

Approved by:

City of San Marcos:

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

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name, Title

***City Department (PM, etc.) only below this line.***

Account Number(s): \_\_\_\_\_, \_\_\_\_\_

Previous Changes in Service:

# \_\_\_\_\_; date; amount

# \_\_\_\_\_; date; amount

# \_\_\_\_\_; date; amount

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**EXHIBIT 3**  
**DETAILED FEE SCHEDULE**