

STATE OF TEXAS §

COUNTY OF ECTOR §

**CITY OF ODESSA AND ECISD
SCHOOL ATTENDANCE COURT
INTERLOCAL AGREEMENT**

This Agreement is made and entered into by and between Ector Independent School District, hereinafter referred to as "ECISD", and the City of Odessa, a home rule municipal corporation, organized and existing under the laws of the State of Texas, hereinafter referred to as "City".

RECITALS

WHEREAS, Chapter 791 of the Government Code of the State of Texas, authorizes interlocal contracts between two governmental entities; and

WHEREAS, the parties to the interlocal agreement are independently authorized to perform the functions or services contemplated by the agreement; and

WHEREAS, the agreement is to be approved by the governing bodies of each participating entity; and

WHEREAS, the agreement states the purpose, terms, rights, and duties of the contracting parties; and

WHEREAS, the consideration is an amount that fairly compensates the performing party for the services performed;

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual premises, covenants, obligations and benefits in this Agreement, including the above recitals, ECISD and City agree as follows:

**I.
SPECIAL PROVISIONS**

1.1 School Attendance Court Program: City to process Failure to Attend School and Parents Contributing to Nonattendance Cases through the Odessa Municipal Court using existing personnel and sessions dedicated to these two types of cases generated by ECISD. City shall obtain and allocate necessary personnel, as it deems appropriate. All such personnel shall be supervised exclusively by the City and shall be paid a salary and expense that is comparable for like City employees. City employees will meet with ECISD employees periodically to review the procedures and processes of the School Attendance Court Program and facilitate communication and workflow. At its discretion, ECISD will provide information and recommendations on students charged with "Failure to Attend School" to City prosecutors or juvenile case managers. At mutually agreed upon times, City employees shall confer with ECISD employees in regard to affected students as needed to ensure appropriate prosecution and punishment. ECISD shall provide to the City and all necessary information regarding affected students in order for the Court, prosecutors and clerks to ascertain whether students have complied with court orders. The City shall also provide a courtroom in which to conduct the school attendance court proceedings and provide the facility and clerks necessary to process the fines that are levied under this program. The Municipal Court adjudicating the School Attendance Court Program cases will operate during the times necessary to handle these cases. This agreement contemplates approximately 3500 cases filed each year.

The schedule for such School Attendance Court shall consist of summoning, arraigning, and if necessary conducting trials and show cause hearings for both students and parents deemed in violation of the state school attendance laws. Although the City shall at all times retain the final authority in the structure and operation of the School Attendance Court Program, both parties agree that, to the extent practical, it shall be modeled and staffed as reflected on Exhibit "A" attached hereto.

- 1.2 **Billing:** ECISD shall pay the City \$5,500 each month for operating the School Attendance Court Program. Such amount shall be paid on or before the fifteenth (15th) day of the month. All money shall be sent to P. O. Box 4398, Odessa, TX 79760, Attn: Director of Finance.
- 1.3 **Term and Termination:** The initial term of this Agreement shall be from August 1, 2011 until September 30, 2012, after which it may be terminated by either party by providing sixty (60) days written notice to the other party. This Agreement shall continue on a month-by-month basis after the initial term until terminated as provided herein. However, either party may terminate the contract upon 30 days written notice for non-performance.
- 1.4 **Reporting:** City shall provide a report detailing the activities of the School Attendance Court Program in a manner mutually agreeable to both parties.

II. GENERAL PROVISIONS

- 2.1 **Venue:** The obligations of the parties to this Agreement are performable in Ector County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Ector County, Texas.
- 2.2 **Legal Construction:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.
- 2.3 **Assignment:** This Agreement cannot be assigned without the prior written consent of the other party.
- 2.4 **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- 2.5 **Captions:** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
- 2.6 **Non-Discriminatory Policy:** Parties agree that as to all of the programs and activities arising out of this Agreement, they shall comply fully with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, sex or by reason of being disabled.

- 2.7 **Entire Agreement:** This Agreement embodies the complete Agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties.
- 2.8 **Force Majeure:** Neither of the parties 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, civil riots, floods and any other cause not reasonably within the control of such party except as herein provided and which by the exercise of due diligence such party is unable, wholly or in part, to prevent or overcome.
- 2.9 **Independent Contractor:** In performing services under this Agreement, the relationship between the parties is that of an independent contractor, and the parties by the execution of this Agreement do not change that independent status. No term or provision of this Agreement or act of a party in the performance of this Agreement shall be construed as making that party or its employees the agents, servants, or employees of the other party or make the project a joint-enterprise.
- 2.10 **Liability:** The liability of the parties, if any, shall be assumed by each party in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the parties under Texas law, or without waiving any defenses of the parties under Texas law.
- 2.11 **Interlocal Agreement:** This Agreement shall satisfy any requirements for an Interlocal Agreement and shall rescind and supersede any prior agreements of the parties that are in conflict. Both parties find that the services provided by each party are of equal value and the providing of such services constitutes a fair exchange of consideration.

EXECUTED this the _____ day of _____, 2011.

"ECISD"
ECTOR COUNTY INDEPENDENT
SCHOOL DISTRICT

By: _____

ATTEST:

"CITY"
CITY OF ODESSA

By: _____

Richard Morton, City Manager

ATTEST:

Norma Aguilar-Grimaldo, City Secretary

APPROVED AS TO FORM:

Larry Long, City Attorney

(ECISD)

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BEFORE ME, the undersigned authority, on this day personally appeared _____ (person's name), known to me (or proved to me on the oath of _____ or through _____ [description of identity card or other document]) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that ____ executed the same in the capacity stated, as the act of the said Ector County Independent School District for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL of office this ____ day of _____, A.D., 2011.

Notary Public in and for the State of Texas

(CITY)

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BEFORE ME, the undersigned authority, on this day personally appeared **Richard Morton**, City Manager of the City of Odessa, Texas, a municipal corporation of Ector County, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, an acknowledged to me that the same was the act of the said City of Odessa, a municipal corporation, and that he executed the same as the act of said City of Odessa for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL of office this the ____ day of _____, A.D., 2011.

Notary Public in and for the State of Texas

EXHIBIT "A"

Model Case Timeline

1. SAS brings case to clerks' office
2. Case is entered into JEMS and docketed
3. Summons is signed by prosecutor and judge, and available for pickup by SAS
4. District Police will either serve or return the summons

These timelines are subject to adjustment and will fluctuate at different times of year depending on the volume of cases filed and the rate of service of the summons.

Scheduling

Recognizing that it will not be possible in all cases, to the extent practicable, court sessions (not trials) will be scheduled outside of normal school hours to avoid removing students from class any more than necessary.