

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
TEMPE UNION HIGH SCHOOL DISTRICT NO. 213
AND
THE CITY OF TEMPE
FOR SCHOOL BASED PREVENTION PROGRAMMING**

This Intergovernmental Agreement ("Agreement") is entered into between the Tempe Union High School District No. 213 of Maricopa County ("District") and the City of Tempe, an Arizona municipal corporation of the State of Arizona through its Social Services Division ("the City"), as a joint exercise of their respective powers.

- A. WHEREAS, the City provides a program for school-based prevention of substance abuse and has previously conducted such programs at District facilities;
- B. WHEREAS, the District receives funding for substance abuse programs and the District wishes to continue to obtain school-based prevention programming available from the City; and
- C. WHEREAS, the City is authorized by A.R.S. § 11-951, *et seq.*, and City of Tempe Charter § 1.03 to enter into this Agreement, and the City Council has authorized the Mayor to sign this Agreement on behalf of the City.

NOW THEREFORE, the District and the City, in consideration of the mutual covenants and representations contained herein, and for other good and valuable consideration, hereby agree as follows:

TERMS AND CONDITIONS

- 1. Purpose: The purpose of this Agreement is to provide for a school-based prevention program with a focus on substance abuse prevention at facilities designated by the District during the school year of 2016-2017.
- 2. Joint Exercise of Powers. This Agreement is entered into between the parties pursuant to A.R.S. § 11-952. The City is further authorized to enter into this Agreement pursuant to Tempe City Charter, Section 1.03. Tempe Union High School District No. 213 (District) is further authorized to enter into this Agreement pursuant to A.R.S. § 15-342(13). By their signatures below, the attorneys for Tempe and for the District have determined that the Agreement is in proper form and is within the powers and authorities granted under the laws of the State of Arizona to its respective public agencies.
- 3. City to Provide Substance Abuse Program Services at District Facilities. City will be responsible for providing the following substance abuse program services through City employees as requested by the District:
 - a. Provide consultation with District schools regarding school-based

prevention programming, coordination planning, and organization, as requested.

- b. Provide "in-service training" to District teachers and administrators regarding substance abuse and prevention issues within the school environment as determined by District requirements, as reasonably requested.
- c. Provide "Support Groups" for identified "at-risk" students at participating District high schools, as requested.
- d. Provide Master's degree level assessment, referral resources, and counseling for identified "at-risk" high school students and their families.
- e. Provide critical incident support, referral and follow-up to District teachers, administrators, and students.
- f. Implement social support and life skills training in personal growth curriculum using appropriate resources.
- g. City's obligations for services as described herein are contingent upon receipt of funding by District, as set forth in Section 4. If for any reason District does not appropriate sufficient monies and/or if the District does not receive the funding from Tempe Community Council described in 4.a for the purpose of maintaining this Agreement, this Agreement shall be deemed to terminated by operation of law on the date of expiration of funding, with no penalty whatsoever to City.

4. District Payments.

- a. In consideration for the City providing the services set forth in paragraph 3 above to the District, the District agrees to pay the City for services rendered an amount not to exceed Thirty-Nine Thousand Nine Hundred Six and 26/100 (\$39,906.26) from the Tempe Community Council's Commitment to Schools grant during the 2016-17 school year as outlined below:

C2S grant funding per 2016-17 MOU (to be distributed to all 7 district high schools, as appropriate)	\$34,149.00
Carry-over grant funding available to Compadre Academy	\$ 5,757.26

- i. In addition to the above stated amount to be paid from the Tempe Community Council's Commitment to Schools grant, the District will allocate an additional amount not to exceed Thirty-five Thousand and 00/100 (\$35,000.00) in funding from Maintenance & Operations funds to provide for an additional day of service each week at each of the District's schools.
- b. Payment for services of \$69,149.00 shall be payable in two equal installments. The first payment is due on January 1, 2017. The final payment is due and payable on or before June 30, 2017. Payment for services at Compadre High School, for any additional hours funded from the carryover, will be billed under separate cover.

- c. The terms of this Agreement are contingent upon the District's receipt of Tempe Community Council's Commitment to Schools funding. Should the District not receive such identified funds, payments to the City will not exceed the amount of such funds received by the District.
- 5. Termination. This Agreement may be terminated during the 2016-17 school year, upon thirty (30) days prior written notice. In addition, this Agreement is subject to cancellation by either party pursuant to A.R.S. § 38-511.
- 6. Indemnification.
 - a. To the extent permitted by law, the City shall defend, indemnify and hold harmless the District, its officers and employees, from all suits, actions, or claims of any character brought because of any injury or damage received or sustained by any person, persons or property, resulting from negligence, fault or willful misconduct of the City or its employees, officers or agents in provision of the services described in this Agreement. The City's primary liability coverage is through its self-insured Risk Retention Trust Fund. The City as a self-insured entity for purposes of liability will provide the District with certificates of self-insurance providing the District with coverage under the City's self-insurance naming the District as additionally insured and designating said self-insurance coverage as primary coverage in an amount of \$1 million per occurrence as it relates to such professional liability.
 - b. To the extent permitted by law, the District shall defend, indemnify and hold harmless the City, its officers and employees, from all suits, actions, or claims of any character brought because of any injury or damage received or sustained by any person, persons or property, arising out of the alleged negligence, fault or willful misconduct of the District or its employees, officers or agents in the performance of its obligations pursuant to this Agreement. The District will provide the City with Verification of Coverage through the Arizona School Risk Retention Trust naming the City as additionally insured and designating said self-insurance as primary coverage in an amount of \$1 million per occurrence as it relates to such premises liability.
 - c. The District shall solely be responsible for ensuring that the space used at District facilities for this program is inspected for health and safety hazards prior to its use.
- 7. Miscellaneous.
 - a. The parties shall not unlawfully discriminate, either in the provision of services or employment, against any person on the basis of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability or United States military veteran status.

- b. This Agreement shall be deemed effective after its approval by the Governing Board for Tempe Union High School District No. 213 and by the City Council of the City of Tempe.
- c. This Agreement constitutes the entire agreement between the parties concerning the matters contained herein and supersedes all other agreements between the parties concerning such matters. No provision of this Agreement may be waived or modified except by a written instrument signed by both parties.
- d. The Mayor and City Council of Tempe hereby authorize Tempe's Human Services Director to execute an Addendum on behalf of Tempe should such an Addendum be required to be executed by the parties during the term of this Agreement for the acceptance by Tempe of additional programming funds in payment for additional services provided by Tempe.
- e. The Governing Board of the District hereby authorizes the Superintendent to execute an Addendum on behalf of the District should such an Addendum be required to be executed by the parties during the term of this Agreement for the provision by the District of additional programming funds in payment for additional services provided by Tempe if such funds may be expended by the District for the purposes of this Agreement. In the event that additional programming is funded through an Addendum, it shall specify the allocation of funds among the District's schools for services to be rendered by Tempe consistent with the remaining terms of this Agreement.
- f. Severability. This Agreement shall remain in full force and effect even if one or more of its terms or provisions have been held to be invalid or unenforceable. The term found invalid will be ineffective without invalidating the remaining terms and provisions of this Agreement.
- g. Notices. Any notice required under this Agreement shall be delivered or sent via Certified Mail, Return Receipt Requested to the following persons and shall be effective upon delivery. The designated representatives for notice purposes may be changed by written notice to the other Party.

For the District: Superintendent
 Tempe Union High School District No. 213
 500 West Guadalupe Road
 Tempe, AZ 85283

For the City: Human Services Director
3500 South Rural Road
Tempe, AZ 85282

- h. Dispute Resolution. In the event of a dispute between the parties to this Agreement regarding a provision of this Agreement, a party's performance of its obligations as stated in this Agreement or any other matter governed by the terms of this Agreement, the parties will meet in good faith to attempt to resolve the dispute. If the dispute is not resolved within a reasonable time, the parties shall be free to use other remedies available to them to resolve the dispute. In the event of any litigation or arbitration arising out of this Agreement, the substantially prevailing party in such litigation or arbitration shall be entitled to recover its attorney's fees, expert witness fees and other taxable costs of litigation.
- i. Books and Records. All books, accounts, reports, files, and other records relating to this Agreement shall be subject at all reasonable times to inspection by either Party during the time this Agreement is in effect and for five (5) years after termination of this Agreement.
- j. No Partnership, Employer or Joint Venture Relationship. In forming this Agreement, the Parties are exercising their respective separate powers as authorized under A.R.S. § 11-952. It is hereby expressly understood and agreed that this Agreement does not in any way or for any purpose create or intend to create the relationship of agent, servant, employee, partnership, joint venture or association as between the Parties at any time during the term of this Agreement or any renewal thereof.
- k. No Inconsistent Grants or Agreements. Neither the District nor the City shall grant to any other person or entity any rights that are inconsistent with, contrary to or infringe upon any right of the other under this Agreement.
- l. Legal Compliance. The parties agree and covenant that they will each comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Agreement and all applicable laws, rules and regulations, including but not limited to, the Arizona Legal Workers Act, and all related provisions. The parties hereby agree to indemnify, defend and hold the other harmless for, from and against all losses and liabilities arising from any and all violations thereof.
- m. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with the laws of the State of Arizona as in effect from time to time, without giving effect to conflicts of law principles. Any litigation related to this Agreement shall be commenced in the courts of Maricopa County, Arizona.

- n. Binding Agreement; No Assignment. This Agreement shall be binding upon the successors and assigns of the Parties. The Parties may not assign this Agreement or any of its rights, or delegate any performance under this Agreement without the prior written consent of the other Party.

DATED this _____ day of _____, _____.

TEMPE UNION HIGH SCHOOL
DISTRICT NO. 213

By: Sandy Lowe
Sandy Lowe, Governing Board President

DATED: September 7, 2016

Approved as to form and within the
lawful authority of Tempe Union High School
District No. 213

By: [Signature]
Jessica Sanchez, Attorney

CITY OF TEMPE

By: _____
Mark W. Mitchell, Mayor

DATED: _____

ATTEST:

Brigitta M. Kuiper, City Clerk

Approved as to form and within
the lawful authority of the City of Tempe

By: _____
Judith R. Baumann, City Attorney