

**INTERLOCAL COOPERATION CONTRACT  
BETWEEN  
UNIVERSITY OF TEXAS AT AUSTIN  
AND  
CITY OF AUSTIN**

This Interlocal Cooperation Contract (“Contract”) is entered into by and between the University of Texas at Austin, an institution of higher education and agency of the State of Texas, acting by and through the Extended Education Ventures program (“UT-EEV”), and the City of Austin (“COA”), a Texas municipality, pursuant to the provisions of the Interlocal Cooperation Act, Texas Government Code, Chapter 791.

**SECTION I. SERVICES**

1.01. **SCOPE OF SERVICES.** UT-EEV and COA agree that the purpose of the Contract is to accomplish the following scope of work:

- UT-EEV grants COA a non-exclusive license to continue using eleven (11) on-demand, online small business classes created by UT-EEV under a previous agreement between UT-EEV and COA CN-44693. These classes will be available through the COA’s Small Business Program’s (“SBP”) website. The titles of the eleven (11) classes are:
  - How To Write A Business Plan
  - How To Get Investors
  - Marketing Essentials
  - Social Media Marketing Best Practices
  - Strategic Pricing
  - Small Business Accounting
  - Manage Your Cashflow
  - Human Resources Basics
  - Supervisory Excellence
  - Understanding Business Taxes
  - Small Business Recordkeeping
- COA shall pay UT-EEV a license fee of \$2,500.00 per class every twelve (12) months, for a total payment of \$7,500.00 per class over the Contract term.
- The annual license fee includes:
  - One (1) time addition by UT-EEV staff of an evaluation slide to each online class. COA staff will prepare and provide the evaluation slide.
  - UT-EEV staff will provide annual updates to the Human Resources Basics and Understanding Business Taxes classes to keep them current with changes to

employment and tax laws and regulations. These updates are due by January 31, 2023, 2024, and 2025.

- UT-EEV retains ownership of all eleven (11) online classes and their curriculum; COA agrees not to use the online classes or curriculum unless an agreement is in place.

**Intellectual Property:** UT-EEV retains all rights, title and interest in and to all UT-EEV licenses, know-how, methodologies, processes, technologies or other Intellectual Property Rights (as defined below) contained in the licenses and otherwise used in connection with the UT-EEV licenses including any and all additions, improvements, supplements, enhancements or developments thereto. “Intellectual Property Rights” means all patents and industrial property rights, patent applications and registrations, trademarks, trademark applications and registrations, copyrights and moral rights, copyright applications and registrations, renewals, extensions, continuations, divisions, and reissues of, and applications for any of the rights referred to herein, Trade Secrets, trade names and industrial designs, domestic or foreign, whether arising by statute or common law. “Trade Secrets” means information that is used or may be used in business or for any commercial advantage, derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use, is the subject of reasonable efforts to prevent it from becoming generally known, and the disclosure of which would result in harm or improper benefit.

**License:** Subject to the terms and conditions of this Contract, UT-EEV grants the COA limited, non-exclusive, non-sublicensable and non-transferable license to utilize, display, and deliver UT-EEV’s license for the purpose of training, educating, and supporting COA’s SBP. All licenses granted to COA under this Contract will be effective during the Contract term and will terminate at the conclusion of the Contract term. UT-EEV retains the right to develop similar online courses for provision of the training that does not directly compete with the COA’s SBP.

- UT-EEV is not obligated to provide technical or logistical support for COA’s use of the online classes.
- Upon termination of this Contract, COA will discontinue use of the licensed material in its entirety, within thirty (30) days of written notice.

## **SECTION II. CONSIDERATION AND RECONCILIATION**

2.01. **CONTRACT AMOUNT.** For consideration for the services described above, COA will remit to UT-EEV \$82,500.00 for UT-EEV’s services over the thirty-six (36) month Contract term, for a total contract amount not to exceed \$82,500.00.

2.02. **PAYMENT SCHEDULE.** COA will pay UT-EEV in installments as follows:

1<sup>st</sup> Installment – \$13,750.00 on execution by both parties of this agreement.

2<sup>nd</sup> Installment – \$13,750.00 on delivery of the eleven (11) online classes with evaluation slides added.

3<sup>rd</sup> Installment – \$27,500.00 payable twelve (12) months after execution of this agreement.

4<sup>th</sup> Installment – \$27,500.00 payable twenty-four (24) months after execution of this agreement.

### SECTION III. CONTRACT TERM

3.01. **TERM.** The term of this Contract shall commence as of the date executed by the last party and shall terminate thirty-six (36) months from execution.

3.02. **DISPUTE RESOLUTION.** The parties agree to use good-faith efforts to decide all questions or disputes of any nature that may arise under or by this Contract; however, nothing in this paragraph shall preclude either party from pursuing any remedies as may be available under Texas law.

3.03. **DEFAULT.** A party to this Contract shall be in default under this Contract if the party fails to fully, timely, and faithfully perform any of its material obligations under the Contract, and following notice of default as provided in Section 3.04, fails to timely cure the alleged default as provided in such section.

3.04. **TERMINATION.** In the event of default by a party, the other party shall have the right to terminate the Contract upon thirty (30) days' advanced written notice of termination setting forth the nature of the material failure; provided that, the material failure is through no fault of the terminating party. The termination will not be effective if the material failure is fully cured prior to the end of the thirty (30) day period. The party alleged to be in default may cure the event of default or provide evidence sufficient to prove to the other party's reasonable satisfaction that such default does not exist or will be cured in a time satisfactory to the party alleging the default. Each party's rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

3.04.01 UT-EEV may terminate this Contract, without cause, upon sixty (60) days' advance written notice of termination to COA.

3.04.02 In the event of termination of this Agreement, both parties shall work together to ensure that students already enrolled in the program(s) prior to the date of termination are permitted to complete their course(s).

### SECTION IV. FUNDING

4.01. **NO DEBT.** UT-EEV acknowledges that COA has provided notice that COA's payment obligations are payable only from funds appropriated or available for the purpose of this Contract. If COA does not appropriate funds for this Contract, or if there are no other lawfully available funds for this Contract, the Contract is void. COA shall provide UT-EEV notice of the failure to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract or the reduction

of any appropriation to an amount insufficient to permit COA to pay its obligations under the Contract.

4.02. **PAYMENT.** Invoices for services rendered will be prepared by UT-EEV for submission to COA. COA shall make payment to UT-EEV within thirty (30) calendar days from receipt of the invoice in accordance with [Chapter 2251, Government Code](#) (Texas Prompt Payment Act).

[Section 51.012, Education Code](#), authorizes COA to make payments through electronic funds transfer methods. UT-EEV agrees to accept payments from COA through those methods, including the automated clearing house system (“ACH”). UT-EEV agrees to provide its banking information to COA in writing on UT-EEV letterhead signed by an authorized representative of UT-EEV. Prior to the first payment, COA will confirm UT-EEV’s banking information. Changes to UT-EEV’s bank information must be communicated to COA in writing at least thirty (30) days before the effective date of the change and must include an IRS Form W-9 signed by an authorized representative of UT-EEV.

## SECTION V. FORCE MAJEURE

5.01. **FORCE MAJEURE.** Neither UT-EEV nor the COA is liable to the other for any delay in, or failure of performance, of a requirement contained in this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise or due foresight, such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome force majeure. Each party must inform the other in writing with proof of receipt within five (5) business days of the existence of force majeure.

## SECTION VI. MISCELLANEOUS PROVISIONS

6.01. **ASSIGNMENT.** Neither party shall assign or transfer its rights under this Contract.

6.02. **INCORPORATION BY REFERENCE.** Incorporated by reference the same as if specifically written herein are the rules, regulations, and all other requirements imposed by law, including but not limited to compliance with those applicable rules and regulations of the State of Texas and the federal government, all of which shall apply to the performance of the services under this Contract.

6.03. **GOVERNING LAW AND VENUE.** This Contract shall be governed and construed in accordance with the laws of the State of Texas. **VENUE OF ANY SUIT BROUGHT FOR**

**BREACH OF THIS CONTRACT SHALL BE IN ANY COURT OF COMPETENT JURISDICTION IN TRAVIS COUNTY, TEXAS;** provided, however, the foregoing shall not be construed as a waiver of sovereign immunity by either party.

6.04. **SEVERANCE.** Should any one or more provisions of this Contract be held to be void, voidable, or unenforceable by a court of competent jurisdiction, such provision(s) shall be construed as severable from the remainder of this Contract and shall not affect the validity of all other provisions of this Contract, which shall remain of full force and effect.

6.05. **HEADINGS.** The headings contained in this Contract are for reference purposes only and shall not in any way affect the meaning or interpretation of this Contract.

6.06. **NOTICES.** Any notice, request, or other communication required or appropriate to be given under this Contract shall be in writing and shall be considered delivered seven (7) business days after postmarked if sent by U.S. Postal Service Certified Mail, Return Receipt Requested, addressed to the party designated for receipt, and postage prepaid. Hand-delivered notices are considered delivered upon receipt by the addressee, which may be noted in a courier confirmation report. The Parties may make routine communications by first class mail, email, fax, or other commercially accepted means. Notices and routine communications to the COA and UT-EEV shall be addressed as follows:

UT-EEV:                      University of Texas at Austin  
   Extended Education Ventures  
   1616 Guadalupe Street  
   UTA Building, Suite 2.408  
   Austin, TX 78701  
   Attention: Toi Davis  
   Phone: (512) 475-6050  
   Email: [toi.davis@austin.utexas.edu](mailto:toi.davis@austin.utexas.edu)

COA:                              City of Austin  
   Economic Development Department  
   PO Box 1088  
   Austin, TX 78767  
   Attention: Blake Smith  
   Phone: (512) 974-7618  
   Email: [blake.smith@austintexas.gov](mailto:blake.smith@austintexas.gov)

Either party may change its address for notice by written notice to the other party.

6.07. **GOVERNMENTAL IMMUNITY.** Nothing in this Contract shall be deemed to waive, modify, or amend any legal defense available at law or equity to either of the parties, nor to create

any legal rights or claims on behalf of any third party. Neither the COA nor UT-EEV waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental (sovereign) immunity under the laws of the State of Texas.

6.08. **RIGHT TO AUDIT.** UT-EEV and the COA agree that the representatives of UT-EEV and the COA, or other authorized representatives of UT-EEV and the COA, shall have access to, and the right to audit, examine, or reproduce, any and all records of UT-EEV and the COA related to the performance under this Contract. UT-EEV and the COA shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that UT-EEV and the COA has brought to the attention of UT-EEV and the COA, respectfully, are resolved, whichever is longer.

6.09. **SURVIVAL OF OBLIGATIONS.** All provisions of this Contract that impose continuing obligations on the parties, including but not limited to contract amount, reconciliation, right to audit, governmental immunity, disclaimer, limitation of liability, insurance, and theft or damage to forfeited property shall survive the expiration or termination of this Contract.

6.10. **ENTIRE CONTRACT.** This Contract constitutes the entire agreement of the parties. No other agreement, statement, or promise that is not contained in this Contract shall be binding except a subsequent written amendment to this Contract signed by both parties.

UT-EEV certifies that it has the authority to enter into this Contract by virtue of the authority granted in Chapter 791, Texas Government Code.

COA certifies that it has the authority to enter into this Contract by virtue of the authority granted in Tex. Gov. Code Ann., Chapter 791.

6.11. **OTHER TERMS.** The following terms and conditions are incorporated into and form a part of the agreement to which they are attached (Contract) for all purposes. Performing Party means The University of Texas at Austin. Receiving Party means City of Austin.

**Access by Individuals with Disabilities.** Performing Party represents and warrants (**EIR Accessibility Warranty**) the electronic and information resources and all associated information, documentation, and support Performing Party provides to Receiving Party under this Contract (**EIRs**) comply with applicable requirements set forth in [1 TAC Chapter 213](#) and [1 TAC Section 206.70](#) (ref. [Subchapter M, Chapter 2054, Texas Government Code](#)). To the extent Performing Party becomes aware the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Performing Party represents and warrants it will, at no cost to Receiving Party, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. If Performing Party is unable to do so, Receiving Party may terminate this Contract and, within thirty (30) days after termination, Performing Party will refund to Receiving Party all amounts Receiving Party paid under this Contract.

Performing Party will provide all assistance and cooperation necessary for the performance of accessibility testing conducted by Receiving Party or Receiving Party's third party testing resources as required by [1 TAC Section 213.38\(g\)](#).

**Payment of Debt or Delinquency to the State.** Pursuant to Sections [2107.008](#) and [2252.903](#), *Government Code*, any payments owing to Performing Party under this Contract may be applied directly toward any debt or delinquency Performing Party owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until paid in full.

**Entire Agreement; Modifications.** This Contract supersedes all prior agreements, written or oral, between Performing Party and Receiving Party and will constitute the entire agreement and understanding between the parties with respect to its subject matter. This Contract and each of its provisions will be binding on the parties, and may not be waived, modified, amended or altered, except by a writing signed by Receiving Party and Performing Party.

**Loss of Funding.** Performance by a Contracting Party of its duties and obligations under this Contract may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (**Legislature**) and/or allocation of funds by that Contracting Party's governing board. If Legislature fails to appropriate or allot necessary funds, or a Contracting Party's governing board fails to allocate necessary funds, then Contracting Party that loses funding may terminate this Contract without further duty or obligation. Contracting Parties agree acknowledge that appropriation, allotment, and allocation of funds are beyond the Contracting Parties' control.

**State Auditor's Office.** Contracting Parties understand acceptance of funds under this Contract constitutes acceptance of authority of the Texas State Auditor's Office or any successor agency (**Auditor**), to conduct an audit or investigation in connection with those funds (ref. [Sections 51.9335\(c\)](#), [73.115\(c\)](#) and [74.008\(c\)](#), *Education Code*). Contracting Parties agree to cooperate with Auditor in the conduct of the audit or investigation, including providing all records requested. Contracting Parties will include this provision in all contracts with permitted subcontractors.

**Public Records.** It will be the independent responsibility of Receiving Party and Performing Party to comply with [Chapter 552, Government Code \(Public Information Act\)](#), as it applies to the Contracting Parties' respective information. Receiving Party is not authorized to receive public information requests or take any action under the Public Information Act on behalf of Performing Party. Likewise, Performing Party is not authorized to receive public information requests or take any other action under the Public Information Act on behalf of Receiving Party.

**Use of University's Marks.** Receiving Party may not use the name, logos, and symbols of the University ("University Marks") without first obtaining written permission from the Office of Trademark Licensing, which shall not be unreasonably withheld. All Receiving Party's use of University Marks, including all advertising and promotional materials which contain the University Marks, must comply with the policies, Rules and Regulations of the Board of Regents of The University of Texas System, and The University of Texas at Austin. All such advertising and promotional materials must be submitted to the Office of Trademark Licensing for written approval prior to production, use or distribution.

**UNIVERSITY OF TEXAS AT AUSTIN**

**CITY OF AUSTIN**

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

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

Linda Shaunessy

Sylnovia Holt-Rabb

Business Contracts Administrator

Director  
Economic Development Department

Date of Execution: \_\_\_\_\_

Date of Execution: \_\_\_\_\_