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AGREEMENT

THIS AGREEMENT is made between THE CITY OF SAN DIEGO, a municipal corporation, herein referred to as "City", and KNOWLEDGE BEGINNINGS, herein referred to as "KB".

RECITALS

WHEREAS, City has recognized the need for high quality, affordable child care for City employees' children, and

WHEREAS, City desires to engage KB in rendering certain of its services in connection therewith, and, more particularly, to operate the existing City Employees' Child Care facility located at 9192 Topaz Way, San Diego, California, herein called the "Operations Center", and a new City Employees' Child Care facility located at 600 B Street, San Diego, California, to be known as "Kiddie Hall".

NOW THEREFORE, in consideration of the recitals and the mutual obligations of the parties as herein expressed, City and KB agree as follows:

Section I. GENERAL PURPOSE:

- A. City and KB agree to work together to provide high quality, affordable child care for City employees, in accordance with the attached scope of services.

Section II. DEFINITIONS:

As used in the Agreement:

- A. "KB" means KNOWLEDGE BEGINNINGS
- B. "City" means the Council of the City of San Diego, acting through its chief administrative officer, the City Manager.
- C. "Site" means the City Employees' Child Care facility located at 9192 Topaz Way in the Metropolitan Operations Center facility and Kiddie Hall Child Care Center located at 600 B Street, Suite 300.
- D. "Contractor" means any entity, other than KB (except as noted in the Labor Standards Provision) that furnished to City or to KB, services or supplies (other than standard commercial supplies and materials).
- E. "NAEYC" means the National Association for the Education of Young Children, responsible agency for accreditation of high quality programs.
- F. "Center(s)" means the Child Care Center services and daily operation of the City Employees' Child Care Center and Kiddie Hall Child Care.
- G. "PAC" means the Child Care Parents Advisory Committee(s).

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Section III. CONTRACTOR RESPONSIBILITIES:

KB shall:

- A. Establish and maintain a high quality child care program consistent with the City's desired program, meeting or surpassing all State of California requirements, and directed toward attaining and maintaining accreditation by the National Association for the Education of Young Children (NAEYC). KB will be responsible for funding, equipping, furnishing, supplying and administering the Center(s).

KB will be expected to develop and maintain a child care program of which the City can be proud. The Center(s) are expected to reflect consideration of, and sensitivity to the cultural, racial, and ethnic diversity of the City workforce.

- B. Establish and maintain a child care program with effective procedures to ensure the health, safety, and security for all persons while they are involved in the Center(s) program.
- C. Establish and maintain such a program funded from (1) KB's own resources; (2) the rent-free facility provided by the City; (3) the City provided services and utilities; and (4) fees from the user-parents of the program.
- D. Meet at least 3 times per year with the PAC created for each center.
- E. Establish and maintain policies and procedures that will:
- (1) Establish and maintain a system of quality control.
  - (2) Foster and attain a close-knit and effective working relationship between the Center(s) staff and the user-parent.
  - (3) Ensure: (a) the selection of qualified staff to meet the requirements of the contract and all licensure and permit requirements and (b) the training of staff, including aides, through on-going, in-service training techniques to attain a maximum of professionalism in the delivery of child care services.
  - (4) Ensure compliance with all nondiscrimination laws and regulations applying to the services and employment.
  - (5) Ensure protection of the personal rights of the children served, with special attention to such rights as set forth in Title 22, CCR, Section 101223, titled: "Personal Rights".
  - (6) Ensure that maintenance and repair of equipment used by the Center(s) is performed by either KB or the City, as agreed upon.
  - (7) Be applicable in an emergency and during other disruptive occurrences. These policies and procedures shall supplement the

"Disaster and Mass Casualty Plan" required by Title 22, CCR, Section 1011774.

- (8) Provide a system for receiving and releasing the children which guarantees their safety and security; including the "express drop-off" procedures at Kiddie Hall.
- (9) Provide a parent/emergency contact list of names and telephone numbers for each child, including multiple contacts with the extended family and all available medical/emergency contact information.

F. Actively seek new and innovative ways to improve the programs at both centers in terms of:

- (1) The quality and the variety of services provided.
- (2) The health, safety and security of the children involved in the program.
- (3) The general public's and user-parents' perception and image of the program.
- (4) The cost of the program to the user-parents.

G. Report program activities on a monthly basis to the City's designated administrative liaison and to each Center's PAC.

H. Administration

- (1) Report to the designated administrative liaison, providing a monthly enrollment report, including staffing, enrollment levels and operating activities.
- (2) Access and collect fees from the user-parents.
- (3) Actively recruit new enrollees, as needed, in accordance with the guidelines established by the City.
- (4) Keep financial records and report quarterly to the City's administrative liaison on the finances.
- (5) Immediately provide City's designated administrative liaison with a copy of any reports KB submits to the California State Department of Social Services or the licensing agency pursuant to Title 22, CCR section 101213, titled, "Finances".
- (6) Meet 3 times annually with each Center's PAC.
- (7) Obtain all required licenses and permits, which City has not agreed in writing to provide. When applicable, all licenses and permits will permit services to non-ambulatory children.
- (8) Obtain all insurance and bonds required by the contract with the City, and any requirements of law or regulations.
- (9) Maintain a policy and procedure manual. The manual is to be updated as necessary and reviewed annually by the designated administrative liaison and each Center's PAC.

I. Delivery of Service

- (1) Operate the Center(s) during the agreed upon hours and days of program operation.
- (2) Kiddie Hall will provide day care services from 6:30 a.m. to 6:00 p.m., Monday through Friday.
- (3) The Operations Center will provide day care services from 6:30 a.m. to 6:00 p.m., Monday through Friday.
- (4) KB may elect to close the Center(s) on New Year's Day, Martin Luther King Day, Presidents Day, Cesar Chavez Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Veterans Day, Thanksgiving Day and Christmas. Any change in this schedule for the Center(s) operating hours must be mutually agreed upon by KB and the City administrative liaison.
- (5) Develop, implement, and maintain admission procedures in compliance with Title 22, CCR, including but not limited to: obtaining signatures of the parent(s) / guardian(s) acknowledging receipt of a child abuse prevention pamphlet furnished by the State.
- (6) Develop and maintain a developmentally appropriate program curriculum, in consultation with each Center's PAC and the designated City administrative liaison.
- (7) Provide nutritional snacks in the morning and afternoon plus a hot lunch at mid-day. Appropriate consideration should be given for ethnic and cultural preferences, and for special diets.
- (8) Administer prescription and non-prescription medication to children with appropriately signed parental authorization and in accordance with Title 22, CCR, Section 101326, titled "Health Related Services".
- (9) Provide no water activities, which fall within the restrictions of Title 22, CCR, Section 101316.8, titled "Staffing for Water Activities".
- (10) Not be responsible for transportation arrangements for the children to or from the Center(s), except for scheduled field trips.

J. Staffing and Staff Training

- (1) Assure that when the Director of the Center(s) are temporarily away from the center, arrangements are made for a fully qualified teacher to act as a substitute. If the absence is for more than 30 consecutive calendar days, the substitute Director shall meet the qualifications of a Director.
- (2) Maintain, as a minimum, the staffing ratios required by law and this contract with the City.
- (3) Assure that the staff assignments reflected in the work schedule meet or surpass the minimum staffing ratios, as identified above, at

all times. There shall be provision for an overlap of staff for different shifts so that continuity of care is assured.

- (4) Establish and maintain in-house training of staff, including aides.
- (5) Require all teaching staff and director to become certified in CPR and first aid and to continually renew such certification, as required to remain certified.

K. Quality Control

- (1) Maintain a system to assure continuation of all required licenses and permits. When an "evaluator" provides a notice of deficiency to the licensee, as provided for in Title 22, CCR, Section 101203, titled "Deficiencies in Compliance", KB must immediately notify City's administrative liaison and provide him/her any follow-up reports as may be requested.
- (2) For Kiddie Hall, actively work to achieve accreditation by the National Association for the education of Young Children (NAEYC) within three years of operation. The first step in this process, the program self study, shall be conducted during or before the second year of operation. Once accreditation is achieved at Kiddie Hall, assure retention of accreditation status.
- (3) Assure retention of current NAEYC accreditation status at the Operations Center.
- (4) Establish and maintain a system of quality control. The contractor must, on a scheduled basis, review and reanalyze the Center(s) activities, particularly the program curriculum, to assure that optimum use is made of the KB's resources to accomplish the Center(s) child development goals.

L. Fees, Tuition, Enrollment

- (1) City employees will be given first priority in enrollment at both Centers. At Kiddie Hall, second priority is for children of employee's of tenants of the Comerica Building at 600 B Street in San Diego. If there are any open spaces not desired by City employees or employees of such tenants, KB may market to surrounding companies.
- (2) As the Center enrollment increases at either Center, a waiting list will be maintained. At each Center, priority for the next available opening shall be given to (1) a sibling of a child already enrolled at the Center(s), (2) City employees' children, (3) at Kiddie Hall, children of tenants at the Comerica Building and (4) at both Centers, children of non-employees.
- (4) During Kiddie Hall's first operational year, KB will charge \$ 166.00 per week for infants; \$ 162.00 per week for toddlers; \$ 138.00 per week for two-year olds; \$116.00 per week for

preschoolers; \$ 116.00 per week for pre-kindergarten; and \$90.00 per week (\$20 per day) for school-age drop-in care during summer and school breaks at Kiddie Hall.

- (5) During the period of September 2002 through September 2003, at the Operations Center, KB will charge \$ 130.00 per week for toddlers and \$ 110.00 per week for preschool, subject to change.
- (6) Thereafter, KB will, at each Center, maintain affordable rates for City employees that are at least 10% below market rate. Fees for non-employees may be higher than market rate.
- (4) The tuition rates for children will be reviewed annually by each Center's PAC. Any increase should not exceed 5% annually for City employees, except as mutually agreed to by the City and KB.

M. Physical Plant, Equipment and Supplies

- (1) Establish and operate child care facilities which are clean, safe, secure, and comfortable, in addition to being a pleasant and creative environment for children.
- (2) Establish and maintain a system to assure maintenance and repair of equipment and an adequate inventory of supplies.
- (3) Provide diapers as needed when the parent(s) fail to provide an adequate supply. This does not preclude an arrangement for the parent(s) to replenish the supply or reimburse KB.
- (4) Obtain and maintain first aid supplies which meet or surpass the requirements set out in Title 22, CCR, Section 101326, titled "Health Related Services".
- (5) Provide and maintain telephone installation and monthly fees at Center(s).
- (6) Other authorized designee when some City action is needed to attain City's compliance with a responsibility the City has agreed to assume regarding the facility, equipment, utility services, or other services identified in this agreement.
- (7) KB will perform, at its cost all necessary maintenance, including replacement, if necessary, every 2-5 years of Sof-Fall zone on Kiddie Hall playground.

SECTION IV. CITY'S RESPONSIBILITIES

City shall:

- A. Make available each Center site at no cost to KB for the term of this agreement.
- B. Provide all utilities, heating, electrical and water at no cost to KB.

- C. Provide landscaping services, weekly sweeping of playgrounds, and maintenance of parking area.
- D. Provide janitorial services See Exhibit A
- E. Provide fire extinguishers and annual maintenance.
- F. Provide 24-hour security patrol and response.
- G. Be responsible for the cost of all maintenance, repair and upkeep of the Facility to include painting, carpeting and appliances.
- H. Provide trash collections and disposal.

Specifically at Kiddie Hall:

- I. Design and build out Kiddie Hall with all interior tenant improvements and permanent fixtures to meet licensing requirements and State Fire Marshall regulation.
- J. Design and complete equipping and construction of three playgrounds (infants, toddlers, and preschoolers).
- K. Within 30 days following the commencement of operation, at Kiddie Hall, pay KB a subsidy of \$20,000. It is the City's intention to provide this Kiddie Hall related subsidy to KB on an annual basis, pending annual approval of this expenditure by the City.

#### SECTION V. TIME OF PERFORMANCE

Performance of services as described in this Agreement shall commence the date Kiddie Hall is licensed and terminate on that date ten years later. The contract shall automatically be renewed for terms of three years unless written notice of intent not to renew is given by either party to the other 60 days prior to termination date.

#### SECTION VI. INDEPENDENT AGENCY:

KB is and shall be an independent contractor and not an agent of the City herein under.

#### SECTION VII. RIGHTS OF ENTRY:

KB shall allow City to enter the Center(s) area at any time during the course of this agreement.

#### SECTION VIII. RIGHTS OF INSPECTION:

KB agrees to permit City to inspect all books, records and site activities, and to perform or require site audits which the City may reasonable desire.

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#### SECTION IX. ASSIGNABILITY

Neither party may assign its interest in this Agreement to another entity without the other party's prior written approval, which approval shall not be unreasonably withheld and shall be provided in writing within 30 days of other party's request. No assignment shall relieve or release either party from any obligation or liability under this agreement.

#### SECTION X. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:

KB agrees to defend, indemnify, protect and hold City and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to City's employees, agents or officers, which arise from or are connected with or are caused or claimed to be caused by the acts or omissions of KB, and its agents, officers or employees, in performing the work or services herein, and all expenses of investigating and defending against same; provided, however, that KB's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its agents, officers or employees.

#### SECTION XI. INSURANCE:

KB shall indemnify and hold City harmless from all claims and demands of any description arising out of performance of this Agreement, including reasonable attorneys' fees and court costs in the defense of any action, to the extent that such claims or demands are the result of an error, omission or negligent act of KB or any person employed by KB. KB shall obtain and maintain, in full force throughout the term of this Agreement, professional liability insurance policy, in the sum of not less than Five MILLION DOLLARS (\$ 5,000,000.00) in a combination of single or multiple policies, a certificate of which shall be furnished to City prior to the commencement of the Agreement. The certificate shall provide that the insurance company shall not terminate, cancel, or limit said policy in any manner without at least fifteen (15) days prior written notice thereof to the City.

#### SECTION XII. SUB-CONTRACTS:

No portion of the scope of services may be subcontracted without the express written consent of the City.

### SECTION XIII. COMPLIANCE WITH APPLICABLE LAWS:

KB agrees to comply fully with all applicable Federal, State, and local laws, ordinances, regulations and permits, including, but not limited to, Title XXII, Child Care Licensing.

### SECTION XIV. EQUAL OPPORTUNITY PROGRAM REQUIREMENTS:

KB hereby agrees to comply with Title VII of the Civil Rights Acts of 1964, as any other applicable federal and state laws and regulations hereinafter enacted. KB will not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, sexual orientation, disability, medical condition or place of birth.

Upon request by the City of San Diego, KB will submit a current Work Force Report and, if required, an Equal Employment Opportunity (EEO) Plan which sets forth the actions that the consultant will take to achieve the City's goals for the employment of African Americans, American Indians, Asians, Filipinos, Latinos, women and people with disabilities.

KB acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms on all City contracts. KB will, to the extent legally possible, solicit applications for employment for work associated with this Agreement from local residents as opportunities occur.

KB understands that failure to comply with the above requirements, and/or submitting false information in response to these requirements, may result in termination of this Agreement, and/or suspension from participating in future City contracts for a period of not less than One (1) year.

### SECTION XV. POLITICAL AFFAIRS OR ACTIVITIES:

KB Shall not use project funds, personnel, or materials to advocate or support any particular position on any matter that is being proposed by a vote of the people, or is being considered for enactment by any legislative body of the City of County of San Diego, State of California, or the Federal Government. Neither will KB use project funds, personnel, or materials to influence an officer or employee of any Legislative body or an elected official or an employee of any governmental agency in the awarding of any contract, loan, cooperative agreement, or the extension, continuation, renewal, amendment or modification of any contract, grant, loan, or cooperative agreement. KB will disclose any funding from other sources that has been paid or will be paid to any person for influencing or attempting to influence an elected official or a public agency, complete, sign and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions. KB will also require this certification language be included in the award documents for all sub-awards, including sub-contracts, sub-grants, loans, and cooperative agreements, and that sub-recipients shall

certify and disclosed accordingly.

**SECTION XVI. DRUG-FREE WORKPLACE/CITY AGENCY:**

Substance abuse is a major concern in our community. In order to address these concerns, KB shall provide substance abuse education and/or referral for staff and clients as necessary. KB is also encouraged to support the omnibus drug legislation passed by Congress on November 18, 1988 by adopting and enforcing a policy to maintain a drug-free work place.

- a. The issue of substance abuse, the misuse of both legal and illegal drugs, has been identified as a major problem. It is well documented that substance abuse in the workplace can negatively impact employee performance, worker safety and the safety of the general public.
- b. "Drug-free workplace" means a site for the performance of work done in connection with a contract let by City of San Diego, at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance.
- c. "Employee" means the employee of an agency directly engaged in the performance of work pursuant to a contract.

**SECTION XVII. TERMINATION:**

The City shall evaluate the program at least annually. The evaluations will include a program operations and budget review, as well as a tuition rate review of each Center. Whenever deficiencies are found, the contractor will be given an opportunity to correct them. Thereafter, if the deficiencies are not corrected, a recommendation will be made to the City Council to terminate this Agreement.

City reserves the right to terminate this Agreement for any reason upon sixty (60) days' notice to KB. KB has the right to terminate this agreement for any reason with a ninety (90) days' notice to the City.

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting  
by and through its City Manager, pursuant to Resolution No. 0-18902 dated  
Dec 5, 2000, authorizing such execution, and by Contractor.

Dated this 2nd day of December

THE CITY OF SAN DIEGO.

By Bruce C. [Signature]  
Deputy City Manager

KNOWLEDGE BEGINNINGS

By Elanna S. Yalow [Signature]  
Elanna S. Yalow  
President and Chief Operating Officer

I HEREBY APPROVE the form and legality of the foregoing Agreement this 18th day  
of DEC., 2002.

CASEY GWINN, City Attorney

By Lisa A. Foster [Signature]  
Lisa A. Foster  
Deputy City Attorney