

A RESOLUTION **2013-01-31-0002R**

APPROVING THE BYLAWS FOR THE SAN ANTONIO EARLY CHILDHOOD EDUCATION MUNICIPAL DEVELOPMENT CORPORATION.

* * * * *

WHEREAS, Chapter 379A, Texas Local Government Code (the "Act") authorizes a municipality to create a municipal development corporation to develop and implement programs for early childhood development that prepare each child to enter school and make each child ready to learn after completing the program, that provide educational services to promote literacy, and that establish math, reading, and lifelong learning skills; and

WHEREAS, the City Council (the "City Council") of the City of San Antonio, Texas (the "City") authorized the creation of the San Antonio Early Childhood Education Municipal Development Corporation (the "Corporation") for the purposes of developing early childhood literacy and educational programs in accordance with the Act; and

WHEREAS, the voters approved the imposition of a 1/8 cent sales tax on November 6, 2012, and City Council passed an ordinance adopting and imposing such tax on December 13, 2012; and

WHEREAS, the City Council appointed the Board of Directors for the Corporation (Board) from each city council district that elects a member to the City Council, plus the Mayor on December 13, 2012; and

WHEREAS, the Act requires that the Board adopt Bylaws for the Corporation and that said Bylaws must then be approved by the governing body of the municipality that created the Corporation; **NOW THEREFORE:**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council for the City of San Antonio hereby approves the Bylaws for the San Antonio Early Childhood Education Municipal Development Corporation. A copy of the Bylaws is attached hereto and incorporated herein for all purposes as **Attachment I**.

SECTION 2. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 31st day of January, 2013.


M A Y O R
Julián Castro

ATTEST:

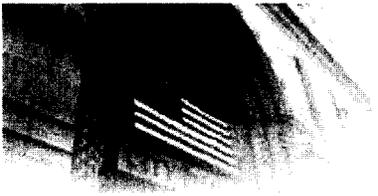


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

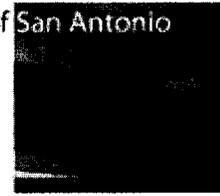


for Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 20

Name:	20						
Date:	01/31/2013						
Time:	11:01:11 AM						
Vote Type:	Motion to Approve						
Description:	A Resolution approving the Bylaws of the Early Childhood Education Municipal Development Corporation that has been established by the City Council to govern the Pre-K 4 SA initiative. [Peter Zanoni, Deputy City Manager; Michael Bernard, City Attorney]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				x
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

**BYLAWS OF
THE SAN ANTONIO EARLY CHILDHOOD EDUCATION
MUNICIPAL DEVELOPMENT CORPORATION**

**ARTICLE I
PURPOSE AND POWERS**

Section 1. Purpose. The San Antonio Early Childhood Municipal Development Corporation (the "Corporation") is incorporated for the purposes set forth in Article Four of its Certificate of Formation/Articles of Incorporation, the same to be accomplished on behalf of the City of San Antonio, Texas (the "City") as its duly constituted authority and instrumentality in accordance with Chapter 379A of the Texas Local Government Code (the "Better Jobs Act" or the "Act"), and other applicable laws.

Section 2. Governmental Unit. The Corporation is created as a municipal development corporation pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (2), Section 101.001 Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 *et seq.*, Texas Civil Practice and Remedies Code.

Section 3. Powers. In the fulfillment of its corporate purposes, the Corporation shall be governed by the Act, and shall have all of the powers set forth and conferred in its Articles of Incorporation, in the Act, and in other applicable law, subject to the limitations prescribed therein and herein and to the provisions thereof and hereof.

**ARTICLE II
MEMBERS**

The Corporation shall have no members or stockholders.

**ARTICLE III
BOARD OF DIRECTORS**

Section 1. Powers, Number, Term of Office and Qualifications.

- (a) The property and affairs of the Corporation shall be managed and controlled by a Board of Directors (the "Board") and, subject to the restrictions imposed by law, by the Articles of Incorporation, and by these Bylaws, the Board shall exercise all of the powers of the Corporation.
- (b) The Board shall consist of eleven (11) directors ("Directors"), each of whom shall be appointed by the City Council for the City of San Antonio (the "Council"). All Directors of the Board must meet the qualifications set out in the Act. Each Council district and the Mayor shall appoint one Director to the Board. The Mayor's

appointee shall serve as the Chairperson and Presiding Officer for the Board, upon the approval and appointment by the Board.

- (c) Directors are appointed to serve two (2) year staggered terms or until their successors are appointed by the Council. The Directors shall be appointed in accordance with the schedule below and the Corporation shall take no action until such time as a majority of the eleven (11) initial Directors have been appointed.

District	Appointee	Initial Term in Years	Expiration Date of Initial Term
1	Richard Middleton	2	May 31, 2015
2	Pamela E. Ray	1	May 31, 2014
3	Josue "Joe" Robles, Jr.	2	May 31, 2015
4	Richard Perez	1	May 31, 2014
5	Gloria A. Ramirez	2	May 31, 2015
6	David L. Force	1	May 31, 2014
7	John M. Folks	2	May 31, 2015
8	Bob Bevard	1	May 31, 2014
9	Comelia A. Black	2	May 31, 2015
10	Linda G. Foster	1	May 31, 2014
Mayor	Elaine Mendoza	2	May 31, 2015

- (e) Successor Directors are appointed in the same manner as the original appointees. Each successor Director shall serve a two (2) year term beginning on June 1st and ending on May 31st two years later.
- (f) Any Director may be removed from office by the Council at will.
- (g) Each Director must be a resident of the City. A person is disqualified from serving as a Director if the person is an employee of the City or a member, an employee, or officer of the Council. A Director may not have a personal interest in a contract executed by the Corporation. In accordance with the City's Code of Ethics, a Director shall have a personal interest in a contract executed by the Corporation if any of the following individuals or entities is a party to such contract: 1) the Director; 2) his or her parent, child or spouse; 3) a business

entity in which the Director or his or her parent, child or spouse, directly or indirectly owns: ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; or 4) a business entity of which any individual or entity listed in subsection 1, 2 or 3 is a subcontractor of a contract with the Corporation, a partner or a parent or subsidiary business entity.

- (h) Any vacancy occurring on the Board (by reason of death, resignation or otherwise) shall be filled by appointment of the Council, consistent with these bylaws, with a person who meets the qualifications of the Act, and shall hold office until the expiration of the term for which he is appointed.

Section 2. Meetings of Directors. The directors shall conduct their meetings at such place or places in the City as the Board may from time to time determine.

Section 3. Open Meetings Act and Open Records Act. All meetings and deliberations of the Board shall be called, convened, held, and conducted, and notice shall be given to the public, in accordance with the Texas Open Meetings Act, as amended, Chapter 551, Texas Government Code. The Corporation shall also be subject to the Texas Open Records Act, Chapter 552, Texas Government Code.

Section 4. Notice of Meetings.

- (a) Regular meetings of the Board shall be held at such times and places as shall be designated from time to time by the Board. Special Meetings of the Board shall be held whenever called by the presiding officer, by a majority of the directors, by the Mayor of the City, or by a majority of the Council.
- (b) The Secretary shall give notice, or cause notice to be sent, to each Director of each Regular or Special Meeting in person, by telephone, electronic transmission (e.g. facsimile transmission or electronic mail), or by mail at least two (2) hours before the meeting; or at least 72 hours before the meeting if notice of the meeting is given by mail only. Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a Special Meeting. At any meeting at which every director shall be present any matter pertaining to the purpose of the Corporation may be considered and acted upon consistent with applicable law.
- (c) Whenever any notice is required to be given to the Board and notice is given by mail only, said notice shall be deemed to be sufficient if given by depositing the same in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at his or her post office address as it appears on the books of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. Neither the business to be transacted at nor the

purpose of any Regular or Special Meeting of the Board need be specified in the notice to Directors or waiver of notice of such meeting, unless required by the Board. A waiver of notice in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

- (d) If a Director's attendance at regularly scheduled meetings falls below 50% on an annual basis from the appointment date or if a director misses three (3) regularly scheduled consecutive meetings, the Board is authorized to ask the Director to resign from the Board, or to seek Council action to remove the Director. With good cause, the Board may formally excuse absences by a Director.

Section 5. Quorum. A majority of the Board shall constitute a quorum for the consideration of matters pertaining to the purpose of the Corporation. If at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. The act of the majority of the Directors present and voting at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law, by the Articles of Incorporation, or by these Bylaws.

Section 6. Conduct of Business.

- (a) At the meetings of the Board, matters pertaining to the business of the Corporation shall be considered in accordance with rules of procedure as prescribed by the Board.
- (b) The Presiding Officer shall preside at all meetings of the Board. In the absence of the Presiding Officer, the Secretary shall preside.
- (c) The Secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the Presiding Officer may appoint any person to act as secretary of the meeting.
- (d) In the absence of the Presiding Officer and Secretary, an acting presiding officer and/or secretary shall be chosen by the Board from among the Directors present.
- (e) A Director may not vote or participate in a meeting by proxy.
- (f) The Board may hold meetings by means of remote electronic communications systems, including videoconferencing or the Internet, consistent with Section 22.02 of the Business Organizations Code (Nonprofit Corporations Act).

Section 7. Committees of the Board. The Chair may designate two or more Directors to constitute an official committee of the Board to make recommendations to the Board related to the purposes of the Committee. It is provided, however, that all final, official actions of the Corporation may be exercised only by the Board. Each committee so designated shall keep regular minutes of the transactions of its meetings

and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation, and any such meetings must be conducted in accordance with the provisions of the Texas Open Meetings Act, as amended, Chapter 551, Texas Government Code, if applicable.

Section 8. Compensation of Directors. Directors shall not receive any salary or compensation for their services as directors. However, they shall be reimbursed for their actual, reasonable and necessary expenses incurred in the performance of their official duties.

ARTICLE IV OFFICERS

Section 1. Titles and Term of Office.

- (a) The officers of the Corporation shall be the Chairperson of the Board (who shall serve as the Presiding Officer) and a Secretary, and such other officers as the Council considers necessary and that the Board may from time to time appoint. One person may hold more than one office, except that the Chairperson/Presiding officer shall not hold the office of Secretary. Terms of office shall be for the duration of their appointed term as a Director or until their successor is elected by the Board. Upon the expiration of a term, each officer shall have the right to be reelected.
- (b) All officers shall be subject to removal from office at any time by a vote of a majority of the Council.
- (c) A vacancy in the office of any officer shall be filled by a vote of a majority of the Directors.
- (d) Officers of the Corporation as specifically listed in Article IV, Section 1 (a), shall not receive any salary or compensation for their services, except that they shall be reimbursed for their actual, reasonable and necessary expenses incurred in the performance of their official duties as officers.

Section 2. Powers and Duties of the Chairperson/Presiding Officer. The chairperson/presiding officer shall be a member of the Board and will have the following duties and authority:

- (a) Presiding at all meetings of the Board.
- (b) The right to vote on all matters coming before the Board.
- (c) The authority, upon notice to the members of the Board, to call a special meeting of the Board.
- (d) The authority to appoint committees to aid and assist the Board in its business

undertakings or other matters incidental to the operation and functions of the Board, to include the authority to appoint a chairperson for each such committee.

Section 3. Secretary. The Secretary shall keep, or cause to be kept by the City Clerk for the City of San Antonio, the minutes of all meetings of the Board in books provided for that purpose, shall give and serve all notices, shall have charge of the corporate books, records, documents and instruments, except the books of account and financial records and securities, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to public inspection upon application at the office of the Corporation during business hours, and shall in general perform all duties incident to the office of secretary subject to the control of the Board.

Section 4. Chief Executive Officer/Executive Director.

- (a) The Corporation shall hire a Chief Executive Officer (“CEO”)/Executive Director to coordinate and manage the day-to-day operation and implementation of the program. Employment of the CEO will be subject to review, consultation and approval of the City Manager for the City of San Antonio (“City Manager”). The CEO shall be removable at the will and pleasure of the Board upon consultation with the City Manager. Termination of the CEO shall be effective upon action approved by a majority of the Board.
- (b) The CEO shall manage the assets and affairs of the Corporation. The CEO may sign and execute all contracts and other instruments in the name of the Corporation with a value less than \$50,000.00 and shall perform all duties incident to the office, and such other duties as shall be prescribed from time to time by the Board. Any contract or document with a value above \$50,000.00 shall require the approval of the Board.
- (c) The CEO shall not be a member of the Board.

ARTICLE V
FUNCTIONAL CORPORATE DUTIES AND REQUIREMENTS

Section 1. Corporate Duties.

- (a) It shall be the duty and obligation of the Board to:
 - 1) Develop and implement a program for early childhood development and education that prepares a child to succeed in kindergarten and beyond.
 - 2) Develop and adopt benchmarks and success measures that are consistent with the Pre-K 4 SA goals developed by the City Manager’s Office and adopted by Council.
 - 3) Ensure a credible accountability system regarding the expenditure and effectiveness of funds managed by the Corporation.

- 4) Prepare documentation, reports and information necessary for a performance review and assessment by Council every five (5) years, as required by Chapter 379A of the Texas Local Government Code.
- (b) In carrying out its obligations under subsection (a) of this Section, the Corporation shall be authorized to exercise all rights and powers granted under the Act. Such powers shall include, but not be limited to, the following powers:
- 1) Hiring a CEO to coordinate and manage the day-to-day operation and implementation of the program.
 - 2) The Corporation may contract with any qualified and appropriate person, association, corporation or political subdivision, municipal corporation, governmental body, or other entity to perform and discharge designated tasks which will aid or assist the Board in the performance of its duties.
 - 3) The Corporation may employ any necessary personnel. Such personnel shall be considered employees of the City, consistent with provisions of the Act.

Section 2. Annual Corporate Budget.

- (a) The fiscal year for the Corporation shall begin on July 1 and end on June 30.
- (b) Prior to May 1st of each year, the Board shall adopt and submit to Council:
 - 1) an annual performance review and evaluation, including, audited financial statements from the preceding fiscal year;
 - 2) a projection of goals and programs for the next fiscal year; and
 - 3) an annual budget of expected revenues and proposed expenses consistent with the following:
 - A. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the City Manager and shall be developed concurrent with the City's budgeting process;
 - B. The budget shall not be effective until the same has been approved by the Board and presented to and approved by the Council;
 - C. The Corporation may not make any expenditure until the budget has been approved as provided herein;
- (c) An amendment of the budget must be approved in the same manner as the budget.
- (d) The Council may amend the Corporation's budget with the approval of at least two-

thirds of the members of the Council.

- (e) The budget presented to the Council must provide a detailed description of the proposed expenditures for early childhood development programs, or other programs authorized by the Act, during the Corporation's fiscal year.
- (f) In addition to the annual evaluation and budget, the Corporation shall submit written reports of activities and financial matters to the Council and the City Manager quarterly, and in no event less than required by the Act.

Section 3. Books, Records, Audits. The Corporation shall keep and properly maintain, in accordance with generally accepted accounting principles, complete books, records, accounts, and financial statements pertaining to its corporate funds, activities, and affairs. The Council is entitled, at all times, to access the books and records of the Corporation.

Section 4. Deposit and Investment of Corporate Funds. The Corporation shall comply with all relevant laws relating to the deposit and investment of public funds.

Section 5. Expenditures of Corporate Money. The monies of the Corporation shall be expended by the Corporation only for the purposes authorized by the Act.

Section 6. Gifts and Contributions. The Board may accept on behalf of the Corporation any contribution, gift, grant, bequest or devise, for the general purposes, or for any special purpose, of the Corporation to be distributed or utilized consistent with the Act, the referendum approving the sales and use tax, the Articles of Incorporation and these Bylaws.

Section 7. Code of Ethics. The Directors of the Board shall be subject to the City's Code of Ethics.

ARTICLE VI **MISCELLANEOUS PROVISIONS**

Section 1. Principal Office.

- (a) The principal office of the Corporation shall at all times be located within the City of San Antonio.
- (b) The Corporation shall have and shall continually designate a registered agent at its registered office, as required by the Texas Non-Profit Corporation Act.

Section 2. Fiscal Year. The fiscal year of the Corporation shall begin on July 1 and end on June 30.

Section 3. Seal. The Board may provide for a seal.

Section 4. Resignations. Any Director or Officer may resign at any time. Such resignation shall be made in writing and shall take effect upon the appointment of a replacement Director by the current representative for that same City Council district, or the Mayor. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5. Approval or Advice and Consent of the Council. To the extent that these bylaws refer to any approval by the City or refer to advice and consent by the Council, such advice and consent shall be evidenced by an ordinance or resolution approved by the Council.

Section 6. Services of City Staff and Officers.

(a) Subject to the authority and approval of the City Manager, the Corporation may utilize the services of City personnel, provided that:

- 1) the Corporation shall pay reasonable compensation to the City for such services; and
- 2) the performance of such services does not materially interfere with the other duties of such personnel of the City.

(b) Subject to the authority of the City Manager, the Corporation may employ any necessary personnel, who shall be employees of the City.

Section 7. General Powers of Corporation.

(a) The Corporation may accept donated property, may use land, buildings, equipment, facilities, and other improvements in connection with the Corporation's early childhood development and education programs, or may dispose of property or an interest in property under terms described by the Corporation.

(b) The Corporation may:

- 1) own or operate a program authorized by the Act;
- 2) perform any act necessary to the full exercise of the Corporation's powers;
- 3) accept a grant or loan from a department or agency of the United States, department, agency or political subdivision of this State or any public or private person;
- 4) adopt rules to govern the operation of the Corporation and its employees and property;
- 5) contract or enter into a memorandum of understanding or similar agreement with a public or private person, any political subdivision, in connection with a program authorized by the Act; and
- 6) provide grants of sales tax proceeds to publicly funded education institutions,

non-profit organizations or private education organizations or institutions, consistent with the parameters set forth in requests for proposals or qualifications as issued by the Corporation or City.

Section 8. Participating District Advisory Committee.

- (a) The Corporation shall have a Participating District Advisory Committee with membership as set out within this section.
- (b) Each independent school district, or school system, participating in the Corporation's early childhood development and education programs may select a representative to the Participating District Advisory Committee (PDAC). The PDAC shall serve as an advisory committee to the Board and may from time to time provide recommendations regarding the corporation's programs from the districts' perspectives. The Board will give due consideration to any recommendations submitted by the PDAC.
- (c) Quorum, attendance and meeting requirements as set out within these bylaws shall apply to the PDAC unless otherwise noted.
- (d) The members of the PDAC shall select a chairperson and a secretary for the PDAC from among its members. The chairperson and secretary shall each serve in their capacity for one year from the date of selection, with a maximum of two terms.
- (e) The chairperson of the PDAC shall be a liaison to the Board.
- (e) The PDAC shall meet at least twice a year, but may choose to meet more frequently.
- (f) The PDAC may submit written recommendations regarding the Corporation's programs to the Board for its review.

Section 9. Indemnification of Directors, Officers and Employees.

- (a) As provided in the Act, the Corporation is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practice and Remedies Code, as amended), a governmental unit and its actions are governmental functions.
- (b) The Corporation shall indemnify a person who has been named as a defendant or respondent in a proceeding because the person is, or was, a Board member, Officer, or agent of the Corporation, but only if the determination to indemnify is made in accordance with the provisions of the Texas Tort Claims Act.
- (c) The City's Risk Manager, with advice from the City Attorney, has sole authority to review a request for indemnification and to determine if said request should be granted.

(d) The Corporation shall purchase and maintain insurance on behalf of any Board member, officer, employee or agent of the Corporation, or on behalf of any person serving at the request of the Corporation as a Board member, officer, employee, or agent of another corporation, partnership, trust or other enterprise, against any liability asserted against that person and incurred by that person in any such capacity or arising out of any such status with regard to the Corporation, whether or not the Corporation has the power to indemnify that person against liability for any of those acts.

ARTICLE VII
EFFECTIVE DATE, AMENDMENTS

Section 1. Effective Date. These Bylaws shall become effective upon the occurrence of the following events:

- (1) The adoption of these Bylaws by the Board; and
- (2) The approval of these Bylaws by the Council.

Section 2. Amendments to Articles of Incorporation and Bylaws. These bylaws may be amended or repealed and new bylaws may be adopted by a majority of the Board members present at any regular meeting or at any special meeting. Any amendment or repeal of these bylaws will be effective upon the approval by the Council. The Articles of Incorporation may be amended only in the manner provided in the Articles of Incorporation and will be effective upon the approval by the Council.

Section 3. Interpretation of Bylaws. These bylaws and all terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section, or other part of these bylaws, or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these bylaws to any other person or circumstance shall not be affected thereby.

Adopted this 11 day of Jan, 2013.

By: Elaine Mendoza
Chair and Presiding Officer of the Board

Attest:
By: John M. Folks
Board Secretary