



# UNITED INDEPENDENT SCHOOL DISTRICT ACTION ITEM

**TOPIC** Approval of Memorandum of Understanding between UISD and Boys

and Girls Club of Laredo

**SUBMITTED BY:** Eduardo Zuniga, CPA **OF:** Asst. Supt. for Student Support Services

**APPROVED FOR TRANSMITTAL TO SCHOOL BOARD:** \_\_\_\_\_

**DATE ASSIGNED FOR BOARD CONSIDERATION:** December 15, 2010

**RECOMMENDATION:**

It is recommended that the United ISD Board of Trustees approve the Memorandum of Understanding between United ISD and Boys and Girls Club of Laredo.

**RATIONALE:**

**BUDGETARY INFORMATION:**

**BOARD POLICY REFERENCE AND COMPLIANCE:**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
UNITED INDEPENDENT SCHOOL DISTRICT  
AND  
BOYS AND GIRLS CLUB OF LAREDO**

This Memorandum of Understanding ("MOU") is hereby entered into on this the \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the UNITED INDEPENDENT SCHOOL DISTRICT (hereinafter "District"), a Texas political subdivision acting by and through its Board of Trustees and Superintendent of Schools pursuant to its action of Board Meeting held on \_\_\_\_\_, 2010 and the BOYS AND GIRLS CLUBS OF LAREDO, a non-profit organization (hereinafter called "BGC") acting by and through its Board of Directors and Executive Director pursuant to its actions of Board Meeting held on \_\_\_\_\_, 2010.

**I. PREAMBLE**

**WHEREAS**, the BGC and District have joined together to pursue an initiative to maximize the impact of existing local resources; and

**WHEREAS**, the BGC and District Agree that joint utilization of the District and BGC facilities would enhance the educational and recreational assets of both the BGC and the District, will offer more programs to area residents, and present a unique opportunity and an efficient partnership approach to addressing community education and recreation needs and the mutual benefits derived by the BGC and the District in the joint use of said facilities would benefit the taxpayers and the mission of both entities; and

**WHEREAS**, joint-use of the BGC and District facilities is a cost-effective method for the parties hereto to best serve the needs of their respective constituencies; and

**NOW THEREFORE**, in consideration of the covenants, and conditions and provisions set forth herein, the parties hereto agree as follows:

**II. DEFINITIONS**

2.1 When used in this Agreement, the following terms shall mean:

- (a) BGC: the Boys and Girls Clubs of Laredo, a non-profit organization, acting by and through its Executive Director as authorized by its By-Laws and the Board of Directors of the Boys and Girls Club of Laredo.
- (b) BGC Funds: those funds designated and authorized by the Boys and Girls Club of Laredo for purposes of assisting with the programs coordinated by the BGC.
- (c) BGC Use: Use of District schools designated for use by BGC.

- (d) District: United Independent School District governed by its Board of Trustees.
- (e) BGC Fiscal Year: October 1<sup>st</sup> through September 30<sup>th</sup>.
- (f) District School Year: as determined by the School District.
- (g) District Use: Use of the District School designated for use by District.
- (h) Operations and Maintenance: the operation and maintenance of the District schools to include, personnel, security, utilities and other operational costs as may be required for the daily operations of designated use of the District school facilities.
- (i) Operation and Maintenance Expenses: those expenses attributable to the operation and maintenance of the District school expenses under this agreement.

### **III. STATEMENT OF GENERAL PURPOSE AND INTENT**

- 3.1 The purpose and intent of this Agreement is to provide for the coordination of BGC programs and use of school facilities by the BGC and joint-use of the District school facilities by District's students, faculty and staff, by the BGC's staff and the general public and other invitees through the BGC's Programs, as described herein below.
- 3.2 Pertinent areas of the District school facilities consist of, in part, the Student Activity Center track and field, District gymnasiums, District cafeteria, classrooms, multi-purpose rooms, restrooms, playground spaces and parking lots.
- 3.3. The use of alcoholic beverages, tobacco, illegal drugs and the possession of firearms are prohibited within the confines of the District schools.

### **IV. TERM OF AGREEMENT**

- 4.1 The term of this Agreement shall be for a period of five (5) years commencing the date of execution, subject to Section 9.1 of this Agreement.

### **V. ESTABLISHMENT OF A JOINT-USE COMMITTEE**

- 5.1 A Joint-Use Committee consisting of the BGC's Executive Director, BGC Staff Member and two (2) BGC's Board of Directors, the Associate Superintendent for Student Support Services, or a designated representatives, Director of Fine Arts or designee, Director of Athletics or designee, and one (1) Area Director shall be established to schedule, review and coordinate use, operational policies, and maintenance issues of the facilities.
- 5.2 The Joint-Use Committee shall establish and review maintenance standards for the facilities. The Joint-Use Committee shall also establish a plan that will address issues in relation to the use of District gymnasiums and other facilities by the BGC programs.

- 5.3 Any other issues the District or BGC wish to discuss related to the joint-use of the facilities shall be addressed to the Joint-Use Committee. The Joint-Use Committee shall review the "Release" to be used by the BGC programs, which shall specifically release the District from liability should an accident or injury occur during the course and scope of the BGC programs.
- 5.4. The Joint-Use Committee shall meet in August, January, and May of each school year to draft a schedule for the use of District facilities by BGC and to coordinate the BGC programs that involve UISD students, as listed below.

#### **VI. BGC'S AND DISTRICT'S SHARE OF MAINTENANCE AND OPERATING COSTS**

- 6.1 In accordance with the District's authorization and support of the BGC's recreational endeavors, the BGC, by accepting this responsibility, has been permitted by the District, the use of the District's school facilities to be designated upon availability.
- 6.2. During the hours that the BGC utilizes District school facility, the BGC will provide the following services:
  - (a) repairs to building damages, which occur as a result of BGC Use.
- 6.3 The District shall be responsible for all repairs and maintenance of the District Schools other than those repairs identified in paragraph 6.2 of this Agreement, and shall bear all costs related to said repairs and maintenance.
- 6.4 The District shall be responsible for the cost of all utilities incurred during their use and operation of the District schools. However, pursuant to GKD (Local) Board Policy, the BGC shall be responsible for overtime auxiliary personnel costs and sound/light technician costs. Any unusual and/or unforeseen costs shall be the responsibility of the BGC.
- 6.5 The Joint-Use Committee will review any vandalism and damage issues pertaining to the District schools and may make a recommendation to the respective parties of this agreement.
- 6.6 The BGC shall not be charged the usual and customary fees stated in Board Policy GKD (Local) as long as the BGC's use of school facilities is determined by the Joint-Use Committee to be for the benefit of UISD students. However, "other costs" as stated in GKD (Local) shall be borne by the BGC.

#### **VII. JOINT USE OF SPECIFIC AREAS OF DISTRICT SCHOOLS BY THE BGC AND DISTRICT**

- 7.1 Joint Use of the designated District school facilities.

The District shall have first right of selection for the use of the District Schools during the school year and summer school. The District Schools shall be reserved for use by the BGC during any period which the District is not utilizing them.

7.2 Joint Use of all other areas of the District schools.

Track and Field (ages 7-11)-BGC shall be allowed, at no cost, to use the District Student Activity Center Track and Field twice a year. Other District track and field surfaces shall be made available to the BGC, at no cost.

Basketball (ages 5—11); Kinder through 6<sup>th</sup> grade)-BGC shall be allowed, at no cost, to use the District's gymnasiums.

Flag Football (6<sup>th</sup> grade and under)-BGC shall be allowed, at no cost, to use the District's fields, except that the Student Activity Center track and field shall only be available twice a year, as indicated above.

Volleyball (4<sup>th</sup> through 6<sup>th</sup> grade)-BGC shall be allowed, at no cost, to use the District's gymnasiums to run these programs.

The BGC may request access to common areas other than the District facilities listed above submitting a written request to the Associate Superintendent of Student Support Services at least seven (7) school/work days prior to the proposed used date.

- 7.3 BGC agrees to coordinate the above-mentioned programs with District. All sponsors of the BGC programs shall report directly and be under the control and supervision of the BGC. At no time will sponsors be deemed employees or agents of the District. The BGC program sponsor shall keep the campus Administration informed regarding the BGC programs and activities on a continuing basis. Any complaints, suggestions, or concerns regarding the BGC programs will be referred to the BGC Executive Director for appropriate resolution. The BGC Executive Director will maintain communication with the appropriate District Supervisor regarding the resolution of such complaint/suggestion.

### **VIII. OPTION TO TERMINATE**

- 8.1 As of the date of this Agreement, either party shall have the option to terminate this Agreement by submitting written notice to either party at least sixty (60) days prior to such a date. In the event of the early termination of this Agreement, the BGC scheduled events shall be allowed to take place at the District facilities, provided that such scheduled events have been confirmed, in writing, prior to the date of notice of termination.

### **IX. SAFETY**

- 9.1 District and BGC hereby agree and pledge that each shall fully comply with all established safety standards applicable to operation and use of the District schools. The

District shall post such information signs as deemed by the District necessary to inform users of rules, regulations, governmental codes, and ordinances. During their respective use and joint-use periods, BGC and District agree to enforce such rules and regulations. It is understood and agreed that the parties employ both UISD and commissioned peace officers and District security personnel sufficient for the security needs of the facility during special events. District and BGC agree that any District security and/or District commissioned peace officers costs for BGC specified events shall the cost of the BGC.

#### **X. INSURANCE AND LIABILITY**

- 10.1 BGC, at its own expense shall provide and maintain, during the term of this Agreement, either insurance, with or without retention, or a self-insurance program, allowed and provided by law, which shall cover liability for property damage and personal injury pursuant to BGC use of the District facilities.
- 10.2 BGC and District shall each be liable for their own acts of negligence, to the extent provided by law.

#### **XI. INDEMNIFICATION**

- 11.1. BGC shall indemnify and hold District harmless from any and all claims arising out of the performance of its duties and obligations under this Agreement.

#### **XII. INDEPENDENT CONTRACTOR**

- 12.1 BGC is associated with District only for the purposes and to the extent set forth in this Agreement. With respect to its duties and obligations under this Agreement, BGC is and shall be an independent contractor and nothing contained in the Agreement shall be deemed or be construed to create a partnership or joint venture, to create the relationship of employer-employee or principal-agent, with District or to otherwise create any liability for the District whatsoever with respect to the liabilities and obligations of BGC or any other party under this Agreement.

#### **XIII. ASSIGNMENT**

- 13.1 This agreement shall not be assigned by either party unless written authorization is first obtained from the other party.

#### **XIV. SEVERABILITY**

- 14.1 If any clause or provision of this Agreement is illegal, invalid, unenforceable under present or future laws effective during the term of this Agreement, including any renewals, then and in that event, it is the intent of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intent of the parties to this

Agreement, that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as part of this agreement a clause or provision as similar terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

#### **XV. ENTIRE AGREEMENT**

- 15.1 This Agreement contains the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon to date, and no other agreements of prior date, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind the parties hereto. It is the intent of the parties that neither party shall be bound by any term, condition or representation not herein written.

#### **XVI. AMENDMENT**

- 16.1 No amendment, modification or alternation of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto and approved by the governing parties.

#### **XVII. NON-DISCRIMINATION**

- 17.1 Any discrimination by District or BGC or their agents or employees on account of race, color, sex, age, religion, disability, or national origin in employment practices or in the use of admission to the District Schools is strictly prohibited.

#### **XVIII. NOTICES**

- 18.1 Notices to the parties hereto required or appropriate under this Agreement shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, addressed to:

To the District:

Ms. Roberto J. Santos  
Superintendent of Schools  
United Independent School District  
201 Lindenwood Drive  
Laredo, Texas 78045

To the BGC:

Mr. Hector Noyola  
Executive Director  
Boys and Girls Clubs of Laredo  
500 Montezuma  
Laredo, Texas 78040

**XIX. TEXAS LAW TO APPLY**

19.1 This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Webb County, Texas.

**XX. FORCE MAJEURE**

20.1 Neither party to this Agreement shall be required to perform any term, condition, or covenant in this Agreement so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by a governmental authority, civil riots, floods, and any other cause not reasonably within the control of either party to this Agreement and which by the exercise of due diligence such party is unable, wholly or in part, to prevent or overcome. If by reason or force majeure, either party is prevented from full performance of its obligations under this Agreement, written notice shall be provided to the other party with three days.

**XXI. GENDER**

21.1 Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

**XXII. CAPTIONS**

22.1. The captions contained in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.


**XXIII. AUTHORITY**

23.1 The signers of this Agreement hereby represent and warrant that they have authority to execute this Agreement on behalf of each of their governing bodies.

**WITNESS** the signatures of the parties hereto in duplicate originals on this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**United Independent School District**

**Boys and Girls Clubs of Laredo**

  
\_\_\_\_\_  
Mr. Roberto J. Santos  
Superintendent of Schools

\_\_\_\_\_  
Hector Noyola  
Executive Director



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Ms. Pat Campos  
President, Board of Trustees

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Mr. Anthony Treviño, Jr.  
President, Board of Directors

**APPROVED AS TO FORM:**

ESCAMILLA, PONECK & CRUZ, LLP  
Juan J. Cruz  
Attorney at Law

Boys and Girls Clubs of Laredo Attorney

By: \_\_\_\_\_  
Juan J. Cruz  
U.I.S.D. Attorney

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