



Brownsville Independent School District

Agenda Category: General Function
Contracts/MOU Board of Education Meeting: 4/09/24

Item Title: Facility Use License Agreement X Action
between NINOS Information
Head Start and Brownsville I.S.D. Discussion

BACKGROUND:

The Brownsville Independent School District recognizes its responsibility to integrate a school readiness plan in conjunction with local entities providing Head Start services for infants and toddlers. This Memorandum of Understanding (MOU) sets forth License Agreement procedures agreed upon by NINOS Head Start and Brownsville ISD. The terms and conditions set forth in the following document shall constitute the entire agreement between the NINOS Head Start and Brownsville ISD and either party may cancel the lease by giving sixty (60) days prior written notice.

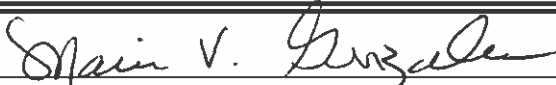
BISD agrees to enter into a revocable facility use license for the 2024-2025 academic school year for the use of Facility Space for Licensee's Head Start/Early Head Start Program to service infants and toddlers at Lincoln Park School (7 Orange Street, Brownsville, Texas).

FISCAL IMPLICATIONS:

No Fiscal Implications

RECOMMENDATION:


Recommend approval of Memorandum of Understanding (MOU) with NINOS Head Start to enter into a revocable facility use license agreement for the use of Facility Space to service infants and toddlers at Lincoln Park School for the 2024-2025 academic school year.


Submitted by: **Maria V. Gonzales**
Early Childhood Specialist

Approved for Submission to Board of Education:


Recommended by: **Dolores Cisneros-Emerson**
Executive Director Elementary Education


Dr. Jesús H. Chávez, Superintendent


Reviewed by: **Miguel Salinas**, *Staff Attorney*


Approved by: **Beatriz Hernandez**
Chief Academic Officer

Roxanne Eckstein

From: Priscilla Lozano <plozano@808West.com>
Sent: Tuesday, March 19, 2024 12:03 PM
To: Roxanne Eckstein; Kevin O'Hanlon; Lea Ohrstrom
Cc: Miguel Salinas; Minerva Almanza
Subject: Re: NINOS Lease of Lincoln Park ECE Facility and NINOS MOU

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Hello Ms. Eckstein,

These are approved as to form.

Sincerely,

Priscilla

From: Roxanne Eckstein <reckstein@bisd.us>
Sent: Monday, March 18, 2024 12:58 PM
To: Kevin O'Hanlon <kohanlon@808West.com>; Lea Ohrstrom <lohrstrom@808West.com>; Priscilla Lozano <plozano@808West.com>
Cc: Miguel Salinas <miguelsalinas@bisd.us>; Minerva Almanza <malmanza1@bisd.us>
Subject: NINOS Lease of Lincoln Park ECE Facility and NINOS MOU

Ms. Lozano,

Please see the two attached agreements for your review and approval for the April 9th board meeting.

Thank you! Should you have any questions or comments, please contact me at (956) 698-6379.

Sincerely,

Roxy Eckstein

Roxanne Eckstein | Paralegal to Miguel Salinas | Staff Attorney | Phone: 956.698.6379 | Fax: 956.714.6400
Brownsville Independent School District | 1900 East Price Road, Suite 302 | Brownsville, TX 78521

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REVOCABLE FACILITY USE LICENSE

This Revocable Facility Use License (this "License") is entered into by and between Brownsville Independent School District, 1900 Price Road, Brownsville, Texas 78521, a Texas non-profit corporation exempt from Federal taxation under Internal Revenue Code Section 501(c)(3) and an open-enrollment charter holder operating an open-enrollment charter school organized and existing under the laws of the State of Texas ("BISD"), "Licensor") and Neighbors In Need of Services, Inc., (NINOS, Inc.), a Texas non-profit corporation ("Licensee") on April 1, 2024 (the "Effective Date"). In consideration for the mutual promises contained herein, the parties hereby agree as follows:

1. Permitted Uses

BISD owns that certain real property, and the improvements located thereon, at Lincoln Park School, 7 Orange St, Brownsville, TX 78521 (the "Facility"). BISD will permit Licensee to use only those certain designated portions of the Facility more particularly described in Section 3 below. The purpose of this License is to describe the terms, conditions and compensation to Licensor for Licensee's revocable, temporary use of portions of BISD's Facility. Licensee intends to use, and BISD permits the use of, the Facility Space (as defined below) only during periods of time when such use does not conflict with BISD's educational, programs, mission, policies or any other uses as determined by BISD in its sole and absolute discretion. Facility Space use by Licensee shall, at all times, comply with applicable law.

2. Description of Facilities and Intended Use

This License authorizes Licensee to use the spaces of the Facility described below (collectively "the Facility Space"):

Within the BISD campus located at Lincoln Park School:

- Three Early Head Start classrooms and playground space
- Office areas for administrative use, to be designated by BISD

This License authorizes the use of the Facility Space solely for Licensee's Head Start/Early Head Start Program. Licensee shall safeguard BISD's property and ensure that Licensee's agents, employees, volunteers, members, guests, or invitees do not gain improper access to or have unauthorized use of BISD's property. Any such improper access or unauthorized use shall immediately void the License at BISD's sole discretion.

Limitations on Use of Facility Space: Licensee shall have non-exclusive use of the above Facility Space. Licensee may use the Facility Space only on the following days of the week and hours: NINOS will be given access to the facilities during the normal school day operating hours of 7:15 a.m. to 6:00 p.m., Monday through Friday. Licensee's use of the above-described Facility Space is subject to the terms and conditions of any financing documents between BISD and its lender, if any, and, without limitation, any and all conditions, restrictions, easements, licenses, permits, reservations, covenants, encumbrances, rights-of-way or prescriptive rights affecting the Facility and the lands associated therewith, whether or not appearing in the applicable county records, which such other documents shall control to the extent of any conflict with this License, even to the extent if such conflict nullifies this License in its entirety.

3. Term of License

This License shall run from April 1, 2024, to June 30, 2024, and July 1, 2024 to June 30, 2025 and may be terminated by either party at any time, for any reason, with sixty (60) days written notice. Upon such

written notice, such termination shall be automatic and immediate without any further action by either party.

4. License Fee

The Licensee shall pay a monthly fee of \$400 (Four-Hundred Dollars). This amount includes utilities and maintenance overhead. Licensee shall pay, without demand, on the first day of each calendar month, beginning on April 1, 2024. Payment shall be made to BISD, 1900 Price Rd Brownsville, TX 78521.

5. Responsibility for Clean-Up

Licensee is responsible for cleaning the Facility Space used by Licensee after every use. Licensee agrees to keep the Facility Space neat and clean, and to place trash in appropriate receptacles prior to leaving the Facility Space at the end of each use. Licensee agrees to remove, clean, rearrange, and/or dismantle any items brought in, and leave the Facility Space in broom clean, good working order upon completion of any of Licensee's activities and upon termination of this License.

6. Responsibility for Damage to School Property

Licensee shall be responsible for the cost of repairing physical damage to the Facility Space, the Facility, or any other property of BISD's officers, employees, agents, contractors, students, or any other third party to whose property is lawfully on the Facility, arising from or attributable to Licensee's use of the Facility Space or damage arising from or attributable to Licensee's agents, employees, volunteers, contractors, members, clients, guests, invitees or licensees' use of the Facility Space. Licensee shall pay for all such costs within thirty (30) days from written demand for such costs, and failure to pay this fee within thirty (30) days of demand shall, at Licensor's election, cause an immediate and automatic revocation of this License without any further action by licensor.

7. Release of Liability

FACILITY USER HEREBY FULLY AND GENERALLY WAIVES, RELEASES, ACQUITS AND FOREVER DISCHARGES BISD AND, WITHOUT LIMITATION, ITS PAST, PRESENT, AND FUTURE OFFICERS, DIRECTORS, EMPLOYEES, ADMINISTRATORS, AGENTS, ATTORNEYS, AND VOLUNTEERS IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES (COLLECTIVELY "BISD PARTIES") FROM ANY AND ALL CLAIMS AND CAUSES OF ACTION, WHETHER KNOWN OR UNKNOWN, CONNECTED WITH OR ARISING OUT OF THE USE OF THE FACILITY. THIS RELEASE EXTENDS TO AND INCLUDES THE RELEASE OF BISD FROM LIABILITY FOR BISD'S OWN NEGLIGENCE.

FACILITY USER UNDERSTANDS THAT BY SIGNING THIS AGREEMENT, FACILITY USER WAIVES ANY RIGHT FACILITY USER MAY HAVE, INCLUDING, BUT NOT LIMITED TO, ITS OFFICERS, MEMBERS, DIRECTORS, EMPLOYEES, ADMINISTRATORS, AGENTS, ATTORNEYS, AND VOLUNTEERS TO SUE BISD IN CONNECTION WITH THE USE OF THE FACILITY ARISING FROM THIS AGREEMENT. ADDITIONALLY, FACILITY USER HEREBY AGREES, REPRESENTS AND WARRANTS THAT THE MATTERS RELEASED HEREIN ARE NOT LIMITED TO MATTERS WHICH ARE KNOWN, DISCLOSED, SUSPECTED OR FORESEEABLE, BUT RATHER THE FOREGOING FULL AND GENERAL RELEASE EXTENDS TO BOTH KNOWN AND UNKNOWN CLAIMS, AND THE MATTERS NOW UNKNOWN TO FACILITY USER THAT MAY HAVE GIVEN, OR WHICH MAY HEREINAFTER GIVE, RISE TO ACTIONS, LEGAL OR ADMINISTRATIVE PROCEEDINGS, CLAIMS, DEMANDS, DEBTS, CONTROVERSIES, DAMAGES, COSTS, LOSSES, LIABILITIES AND EXPENSES THAT ARE PRESENTLY

UNKNOWN, UNANTICIPATED AND UNSUSPECTED. THIS FULL AND GENERAL FINAL RELEASE SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

8. Indemnity and Hold Harmless Agreement

FACILITY USER HEREBY CONTRACTS AND AGREES TO EXONERATE, PROTECT, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE BISD PARTIES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY KIND BROUGHT OR MADE AGAINST THE BISD PARTIES, FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSON'S PROPERTY, ARISING FROM, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, (I) THE USE OF THE FACILITY IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR (II) THE BREACH OF FACILITY USER OF ANY OF ITS OBLIGATIONS, REQUIREMENTS OR LIABILITIES UNDER THIS AGREEMENT. THIS INDEMNIFICATION EXTENDS TO AND INCLUDES THE INDEMNIFICATION OF THE BISD PARTIES FROM LIABILITY FOR MATTERS WHETHER OR NOT ANY SUCH MATTERS ARISE FROM PRE-EXISTING CONDITIONS AND/OR ANY OF THE BISD PARTIES' (i) NEGLIGENCE (CONCURRENT OR SOLE, PASSIVE OR ACTIVE, OR GROSS NEGLIGENCE), (ii) STRICT LIABILITY, (iii) NEGLIGENCE PER SE OR (iv) ANY OTHER ACTS OR OMISSIONS. FACILITY USER ACKNOWLEDGES THAT ITS OBLIGATIONS TO EXONERATE, PROTECT, INDEMNIFY, RELEASE, DEFEND, PROTECT AND HOLD THE BISD PARTIES HARMLESS UNDER THIS AGREEMENT INCLUDE OBLIGATIONS TO PAY ATTORNEYS' FEES AND COURT AND OTHER COSTS, WITH ANY SUCH ATTORNEY REPRESENTING BISD (OR ANY INDEMNITEE) UNDER THIS SECTION 11 BEING CHOSEN BY BISD (OR SUCH INDEMNITEE). FACILITY USER AND BISD BOTH ACKNOWLEDGE AND STIPULATE THAT THE PROVISIONS IN THIS SECTION 11 COMPLY WITH THE EXPRESS NEGLIGENCE RULE AND ARE CONSPICUOUS. THIS INDEMNITY SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

9. Insurance

Upon the execution of this Agreement, Facility User shall submit to BISD a declarations page and copy of a policy of insurance showing proof of (i) a policy or policies of Workers' Compensation with statutory limits, with Employer's Liability, (ii) General Liability insurance (with contractual liability endorsement) insuring both BISD and Facility User against all claims, demands or actions arising out of or in connection with Facility User's use or occupancy of the Facility, or by the condition of the Facility in an amount not less than \$1,000,000 in coverage each occurrence, with a deductible not to exceed \$10,000, (iii) Special causes of loss or similar "all risk" form property insurance covering the replacement cost of (a) all alterations, partitions and improvements installed or placed on the Facility by Tenant, and (b) all of Facility User's personal property contained within the Facility, (iv) Umbrella or excess liability policy, and (v) Automobile Liability for hired vehicles. Said policies (other than Worker's Compensation) shall (a) name BISD as an additional insured, (b) be issued by an insurance company which is acceptable to BISD, in BISD's reasonable discretion, (c) provide that said insurance shall not be cancelled or non-renewed unless thirty (30) days prior written notice shall have been given to BISD, and (d) shall be delivered to BISD by Facility User upon commencement of the term of the Agreement and upon each renewal of said insurance. BISD may, without notice, cancel this Agreement in the event of Facility User's failure to timely submit the declarations page and copy of the insurance, as required by this paragraph, or if the insurance policy lapses, is cancelled, or is modified to no longer provide the coverage required herein. Facility User shall keep this insurance policy in effect for a period of two years after this Agreement ends.

The following information must be reflected on all Insurance policies submitted, as Certificate Holder, "Additional Insured" and Waiver of Subrogation exactly as shown here (not by campus):

**Brownsville Independent School District
1900 Price Road
Brownsville, TX 78521**

10. Miscellaneous Provisions

a. Assignment Prohibited

Facility User may not assign, transfer or convey its rights under this Agreement in any manner whatsoever. Any such assignment, transfer or conveyance shall be void and without effect. BISD shall be free to assign, transfer or convey its rights hereunder, and upon any such assignment, transfer or conveyance BISD shall be fully released and relieved of any obligations and liabilities hereunder, with Facility User hereby acknowledging, agreeing and stipulating to look solely toward the assignee as relates to this Agreement.

b. Texas Law to Apply

This Agreement shall be construed under and in accordance with the laws of the State of Texas, regardless of conflict of law principles.

c. Legal Construction

In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein. Furthermore, it is the intention of both parties that in lieu of each clause or provision that is illegal, invalid or unenforceable there shall be added as a part of this Agreement a clause or provision as similar in terms to the illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

d. Prior Agreements and Agreements Terminated

This Agreement constitutes the sole and only agreement of the parties, and BISD revokes and terminates any prior understandings, written or oral, between the parties respecting the within matter. Furthermore, the parties hereby agree and stipulate to TERMINATE for any and all purposes any prior understandings, written or oral, between the parties relating to the Facility and/or Facility User's use thereof that could conflict with the terms herein.

e. Force Majeure

BISD shall be excused from performing any of its obligations due under the terms of this Agreement when prevented by an act of God, by acts of war, riot, or civil commotion, by an act of the state, strikes, fire, flood, or by the occurrence of any other event beyond the control of BISD.

f. Amendment

This Agreement may be amended only in a writing executed by both parties.

g. Waiver of Consequential Damages and Limitation on Liability

By signing below, Facility User stipulates, acknowledges and agrees that it waives the right to recover speculative, consequential, punitive and/or indirect damages from BISD by reason of BISD's breach of the Agreement. Furthermore, the parties agree and stipulate BISD's liability for any breach of this Agreement shall never exceed and be so limited to \$500.00.

h. Governmental Immunity

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, FACILITY USER ACKNOWLEDGES, STIPULATES AND AGREES THAT NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS A WAIVER OF ANY STATUTORY OR GOVERNMENTAL IMMUNITY AVAILABLE TO BISD UNDER APPLICABLE LAW.

i. Limitations

FACILITY USER STIPULATES THAT IT IS AWARE AND UNDERSTANDS THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF BISD (A PUBLIC ENTITY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS OF AN AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THOSE TERMS AND CONDITIONS RELATING TO LIENS ON BISD'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES;

WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEY'S FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON BUYER EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

j. Headings; Construction

This Agreement shall be deemed drafted equally by both parties. Its language shall be construed as a whole and according to its fair meaning. The parties acknowledge that each party has taken the opportunity to review and revise this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any amendments or exhibits to this Agreement. The headings in this Agreement are only for convenience and are not intended to affect construction or interpretation.

IN WITNESS WHEREOF, the parties have executed this License as of the Effective Date.

LICENSEE:

Neighbors In Need of Services, Inc., (NINOS, Inc.)

By: _____

Name: _____

Title: _____

Date: _____

LICENSOR:

Brownsville Independent School District

By: _____

Name: _____

Title: _____

Date: _____



Brownsville Independent School District

Agenda Category: General Function
Contracts/MOU Board of Education Meeting: 06/13/23

Item Title: Lease Agreement between NINOS X Action
Head Start and Brownsville ISD Information
Discussion

BACKGROUND:

The Brownsville Independent School District recognizes its responsibility to integrate a school readiness plan in conjunction with local entities providing Head Start services for three and four year olds. This Memorandum of Understanding (MOU) sets forth lease procedures agreed upon by NINOS Head Start and Brownsville ISD. The terms and conditions set forth in the following document shall constitute the entire agreement between the NINOS Head Start and Brownsville ISD and either party may cancel the lease by giving sixty (60) days prior written notice.

BISD agrees to lease the real property located at Burns Elementary (1974 East Alton Gloor Road, Brownsville, TX). There shall be no cash consideration for the lease, but in consideration of furnishing of the property on which to locate such portables. Lessee agrees to provide Hear Start Services to BISD students. The term shall be for ten (10) years, beginning November 1, 2023 and ending on the last day of November 30, 2033.

FISCAL IMPLICATIONS:

No Fiscal Implications

RECOMMENDATION:

Recommend approval of Memorandum of Understanding (MOU) with NINOS Head Start to lease real property and place portable buildings on such property located at Burns Elementary (1974 Ease Alton Gloor Road, Brownsville, TX) from November 1, 2023 to November 30, 2033.

Approved for Submission to Board of Education:

Dolores Emerson 
Submitted by: Principal/Program Director

Recommended by: Asst. Supt./CFO

Miguel Salinas 
Reviewed by: Staff Attorney

Dr. Anysia Treviño 
Approved by: Deputy Superintendent


Dr. René Gutiérrez, Superintendent

Isela Vieyra

From: Priscilla Lozano <plozano@808West.com>
Sent: Monday, May 15, 2023 3:44 PM
To: Isela Vieyra
Cc: Miguel Salinas; Lea Ohrstrom; Minerva Almanza; Patricia Perez
Subject: Re: Memorandum of Understanding

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Good afternoon,

Approved as to form.

Sincerely,

Priscilla

From: Isela Vieyra <jivieyra@bisd.us>
Sent: Thursday, May 11, 2023 11:01 AM
To: Priscilla Lozano <plozano@808West.com>
Cc: Miguel Salinas <miguelsalinas@bisd.us>; Kevin O'Hanlon <kohanlon@808West.com>; Lea Ohrstrom <lohrstrom@808West.com>; Minerva Almanza <malmanza1@bisd.us>; Patricia Perez <pperez@bisd.us>
Subject: Memorandum of Understanding

Good morning Ms. Lozano,

I've attached the above-mentioned for your review and approve.

Thank you and have a beautiful day!

Isela Vieyra Rios | Legal Assistant to Miguel Salinas | Staff Attorney | Phone: 956.698.6379
Brownsville Independent School District | 1900 East Price Road | Brownsville, TX 78521

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Isela Vieyra

From: Isela Vieyra
Sent: Thursday, May 11, 2023 11:01 AM
To: Priscilla Lozano
Cc: Miguel Salinas; Kevin O'Hanlon; Lea Ohrstrom; Minerva Almanza; Patricia Perez
Subject: Memorandum of Understanding
Attachments: MOU. NIÑOS Head Start Lease Agreement with BISD pdf

Good morning Ms. Lozano,

I've attached the above-mentioned for your review and approve.

Thank you and have a beautiful day!

**Isela Vieyra Rios | Legal Assistant to Miguel Salinas | Staff Attorney | Phone: 956.698.6379
Brownsville Independent School District | 1900 East Price Road | Brownsville, TX 78521**

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Brownsville Independent School District

THE STATE OF TEXAS §

COUNTY OF CAMERON §

THIS LEASE AGREEMENT, entered into between Brownsville Independent School District (ISD), hereinafter referred to as "Lessor," acting by and through its Superintendent following authorization by the Board of Trustees, and being located in Brownsville, Texas, and whose address is 1900 Price Road, Brownsville, Texas 78521, in the City of Brownsville, County of Cameron, State of Texas; and Neighbors in Need of Services, Inc. (NINOS), hereinafter referred to as "Lessee," and having its principal office in San Benito, and whose address is, 22887 State Hwy 345, Rio Hondo, Texas 78583, in the City of San Benito, County of Cameron, State of Texas. Collectively, BISD and NINOS are sometimes referred to hereunder as "the parties".

WITNESSETH

I. DESCRIPTION OF PREMISES: Lessor agrees to lease to Lessee and Lessee agrees to lease from BISD:

1. Property at Burns Elementary (1974 Alton Gloor Road, Brownsville, TX) to place NINOS, Inc. portable building.

II. TERM OF LEASE: It is agreed by the parties that, unless sooner terminated, the term of this lease shall be for ten (10) years, beginning **November 1, 2023**, and ending on the last day of **November 30, 2033**. It is anticipated that at the end of the lease term, a new lease will be negotiated between the parties but, of course, this requirement is not binding.

III. RENTAL CONSIDERATION: There shall be no cash consideration for the lease, but in consideration of the furnishing of the real property on which to locate such classrooms hereinabove described, Lessee agrees to provide and administer the federal program commonly referred to as "Head Start", funded by the United States Government by and through its Department of Health and Human Services. Lessee agrees to comply with any and all federal regulations, rules and guidelines that are applicable to such Head Start program. The failure of Lessee to comply with such federal rules and regulations applicable to such Head Start program shall constitute a violation of the terms and conditions hereof and a breach of this lease.

IV. TERMINATION: Either party may cancel this lease by giving the other party to this lease written notice, sent certified mail, return receipt requested, to the address as set forth on this contract sixty (60) days prior to the termination of this lease. However, in the event Head Start funding is withdrawn, or the Lessee fails to qualify for such Head Start funding, or loses its certification or authorization to administer Head Start funds during the term of this lease, upon notice to Lessor by Lessee, and compliance with the provisions of Paragraph VIII hereof, providing for the removal of improvements, this contract shall terminate immediately and the improvements shall be removed by Lessee hereunder within a reasonable time (but in no event longer than 30 days), even if such period of time is less than 60 days.

V. USE OF PREMISES: It is hereby agreed that Lessee will use the premises primarily as a Child Development Center, to administer the Head Start program, as needed. Lessee shall have use of the premises for parent meetings and other parent involvement activities. Lessee agrees to coordinate its child development activities in administering the Head Start program with any similar programs maintained, operated and supervised by Lessor to reduce overlapping of services and to reduce, as much as possible, duplication of services.

VI. SECURITY: Lessee shall provide all security to reasonably protect all children and other persons attending the Head Start program, once such children or other persons are on the premises. Lessee shall be responsible for supervising persons picking up the children from the leased premises. Security for the leased premises shall not be the responsibility of the Lessor.

VII. CONSTRUCTION, REPAIR AND MAINTENANCE OF PREMISES: On such property may be located at Lessee's option a portable modular building. In moving onto the property or constructing improvements thereon, such building shall meet all building codes, zoning regulations and other provisions of the City Ordinances of the City of Brownsville, insofar as such regulations pertain to BISD buildings, and also any requirements for such buildings promulgated by the Brownsville Independent School District, or the Texas Education Agency. Also, Lessee shall connect to such building water and wastewater connections and any other utilities necessary or required to serve the property to enable the use of the property for the purposes contemplated by this contract. All expenses, including but not limited to connection fees, deposits, monthly billings and such similar charges and expenses, shall be the expense of the Lessee.

VIII. ALTERATION OF PREMISES: Upon obtaining prior approval from the Lessor, Lessee may make alterations, paint the interior of said classrooms and erect reasonable signs. Permission must be obtained from the Lessor prior to making any alterations, additions or improvements on the property, to ensure compatibility with the design, plans and goals of the Lessor for the surrounding property, and to ensure the continued health, safety and welfare of the children utilizing Lessee's services. Upon termination or expiration of the lease, Lessee agrees to remove any and all improvements whatsoever made to the premises and leave the property or premises in the same condition as it appeared at the time of the execution of this lease.

IX. PAYMENT OF UTILITIES: Lessee shall be responsible for all supplies to operate the Head Start Program Child Development Center and pay for all utilities and/or connections used therein, on or about the leased premises including but not limited to charges for electricity, gas, water, light, power, sewage, and telephone, and all such charges are to be paid before the same shall be delinquent. Additionally, as set forth in the preceding paragraph, Lessee shall pay and all maintenance of the leased premises.

X. INSURANCE: Lessee agrees to procure and maintain in force during the term of the lease, at its own expense, liability insurance in an amount at least as much as may be required by any Federal or state agency licensing the Lessee and Lessor, and adequate to protect itself and Lessor against liability and damage claims arising out of acts or omissions occurring in connection with Lessee's use or occupancy of the leased premises. Lessee shall furnish Lessor with

a copy of the said insurance. The amount of the policy shall be not less than \$1,000,000.00 per each occurrence for liability, and not be less than \$100,000.00 per each occurrence for property damage. Lessee shall maintain at its sole expense property and casualty insurance for the value of the building and its contents.

XI. SUPERVISIONS INDEMNIFICATION, AND PROTECTION OF PERSONS AND PROPERTY: Lessee agrees that it shall be responsible for supervising activities related to the programs it provides on the lease premises and that all such activities shall be supervised by qualified personnel. Lessee shall indemnify and hold harmless Lessor, its Board of Trustees, Officers, Agents, and Employees from and against all claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from the use or misuse of the leased premises. It is understood that such indemnification obligation provided herein shall not be limited in any way by any limitation on the amount or type of liability insurance required by this agreement. It is agreed that Lessee shall take all reasonable precautions for the safety of and shall provide reasonable protection to prevent damage, injury or loss to any children, personnel and other persons participating in the activities of Lessee and all property to the leased premises.

XII. TAXES: Lessee shall pay and fully discharge all real property taxes, if any, assessed against the above-described real property or the leasehold estate. Lessee shall pay all personal property taxes, if any, assessed against the personal property located upon the leased premises or any part thereof during the term of this lease or any extension of this lease, if such taxes are assessed by any appropriate taxing entity.

XIII. DAMAGE TO PROPERTY OF LESSEE: It is agreed and understood that all property of any kind that may be placed upon the leased premises during the term of this lease shall be the sole risk of the Lessee and that the Lessor shall not be liable to Lessee or any other person for any injury, loss or damage to such property or to any person on the premises.

XIV. OTHER PROVISIONS:

A. Lessee shall not have the right to assign this lease or sublet the premises.

B. Lessee, while providing services, will give preference to eligible children of low-income families meeting the Head Start Federal Income guidelines and eligibility criteria, all in accordance with the rules and regulations promulgated by the U. S. Department of Health and Human Services administering the Head Start Program.

C. Lessee will be responsible for complying with all applicable license requirements and for obtaining the necessary operating permits from the appropriate local, county, state, and federal agencies. Any failure to receive such required licenses or the withdrawal of any licenses or permits from any of the entities so issuing same shall be considered a breach of this lease.

D. Lessee will assure compliance with Americans with Disabilities Act requirements in the construction and operation of any of the improvements located upon the leased premises.

E. All notices to be given under this agreement shall be given by certified mail, return receipt requested to the opposite party at the following addresses:

LESSOR: Brownsville Independent School District
Attention: Superintendent of Schools
1900 Price Road
Brownsville, TX 78521

LESSEE: Neighbors in Need of Services, Inc.
22887 State Hwy 345
Rio Hondo, TX 78583

F. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successor and corporate successors.

G. 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 Cameron County, Texas.

H. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

I. This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this lease.

J. No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing, dated subsequent to the date hereof and duly executed by the parties.

K. No waiver by either of the parties hereof of any default or breach of any term, condition or covenant of this lease shall be deemed to be a waive of any other breach of the same or any other term, condition or covenant contained herein.

L. This lease shall not be recordable by the Lessee, and any attempt to do so shall act as a release and quitclaim of the leased premises by the Lessee to the Lessor.

M. Lessee shall permit Lessor and its agents and employees to enter into and upon the leased premises at all reasonable times for the purpose of inspecting same.

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

EXECUTED ON THIS 21st day of June, 2023AD.

LESSEE:
NEIGHBORS IN NEED OF SERVICES, INC. (NINOS)

BY: David Kowalski 6/21/23
David Kowalski, Executive Director

LESSOR:
BROWNSVILLE NDEPENDENT SCHOOL DISTRICT

BY: Rene Gutierrez 6/21/23
Dr. Rene Gutierrez, Superintendent of Schools

Isela Vieyra

From: Isela Vieyra
Sent: Thursday, May 11, 2023 11:01 AM
To: Priscilla Lozano
Cc: Miguel Salinas; Kevin O'Hanlon; Lea Ohrstrom; Minerva Almanza; Patricia Perez
Subject: Memorandum of Understanding
Attachments: MOU. NIÑOS Head Start Lease Agreement with BISD.pdf

Good morning Ms. Lozano,

I've attached the above-mentioned for your review and approve.

Thank you and have a beautiful day!

**Isela Vieyra Rios | Legal Assistant to Miguel Salinas | Staff Attorney | Phone: 956.698.6379
Brownsville Independent School District | 1900 East Price Road | Brownsville, TX 78521**

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Brownsville Independent School District

Agenda Category: General Function
Contracts/MOU/Lease Agreement Board of Education Meeting: 10/01/13

Item Title: Lease Agreement between NINOS X Action
Head Start and Brownsville ISD Information
Discussion

BACKGROUND:

The Brownsville Independent School District recognizes its responsibility to integrate a school readiness plan in conjunction with local entities providing Head Start services for three and four year olds. This Memorandum of Understanding (MOU) sets forth lease procedures agreed upon by NINOS Head Start and Brownsville ISD. The terms and conditions set forth in the following document shall constitute the entire agreement between the NINOS Head Start and Brownsville ISD and either party may cancel the lease by giving sixty (60) days prior written notice.

BISD agrees to lease the real property located at Burns Elementary (1974 East Alton Gloor Road, Brownsville, TX). There shall be no cash consideration for the lease, but in consideration of the furnishing of the property on which to locate such portables. Lessee agrees to provide Head Start Services to BISD students. The term shall be for ten (10) years, beginning October 2, 2013 and ending on the last day of October 31, 2023.

FISCAL IMPLICATIONS:

No Fiscal Implications

RECOMMENDATION:

Recommend approval of Memorandum of Understanding (MOU) with NINOS Head Start to lease real property and place portable buildings on such property located at Burns Elementary (1974 East Alton Gloor Road, Brownsville, TX) from October 2, 2013 to October 31, 2023.

Jimmy R. Haynes 9/25/13
 Submitted by: Principal/Program Adm.

Jimmy R. Haynes 9/25/13
 Recommended by: AA Supt/Asst Supt/CFO

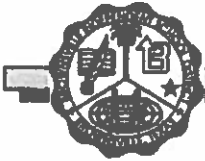
Leandra C. Ortiz
 Reviewed by: Staff Attorney

Lucio Mendoza
 Approved by: Chief Financial Officer

Approved for Submission to Board of Education:

Dr. Carl A. Montoya
 Dr. Carl A. Montoya, Superintendent of Schools

When Necessary, Additional Background May Follow This.



Brownsville Independent School District

1900 E. PRICE ROAD BROWNSVILLE, TEXAS 78521-2417 (956) 548-8000 FAX: (956) 548-8010 www.bisd.us

Dr. Carl A. Montoya
Superintendent of Schools

Leandra C. Ortiz
Staff Attorney

ATTORNEY-CLIENT COMMUNICATION

TO: Jimmy Haynes
Assistant Superintendent for Operations

FROM: Leandra C. Ortiz *LCO*
BISD Staff Attorney

DATE: September 25, 2013

RE: Lease Agreement – NINOS, Inc.

Mr. Haynes:

On September 17, 2013, you requested a review of the Lease Agreement with Neighbors in Need of Services, Inc. (NINOS) to agree to lease the property located at Burns Elementary, 1974 East Alton Gloor, Brownsville, Texas to place NINOS, Inc. portable building.

After review of the document, the Lease Agreement is approved as to legal form.

RECOMMENDATION:

Staff Attorney recommends that upon Board Approval and designation for Superintendent to execute the Lease Agreement, the Superintendent may sign the document.

Brownsville Independent School District

THE STATE OF TEXAS §

COUNTY OF CAMERON §

THIS LEASE AGREEMENT, entered into between Brownsville Independent School District (ISD), hereinafter referred to as "Lessor," acting by and through its Superintendent following authorization by the Board of Trustees, and being located in Brownsville, Texas, and whose address is 1900 Price Road, Brownsville, Texas 78521, in the City of Brownsville, County of Cameron, State of Texas; and Neighbors in Need of Services, Inc. (NINOS), hereinafter referred to as "Lessee," and having its principal office in San Benito, and whose address is, 402 West Robertson, San Benito, Texas 78586, in the City of San Benito, County of Cameron, State of Texas. Collectively, BISD and NINOS are sometimes referred to hereunder as "the parties".

WITNESSETH

I. DESCRIPTION OF PREMISES: Lessor agrees to lease to Lessee and Lessee agrees to lease from BISD:

1. Property at Burns Elementary (1974 East Alton Gloor Road, Brownsville, TX) to place NINOS, Inc. portable building.

II. TERM OF LEASE: It is agreed by the parties that, unless sooner terminated, the term of this lease shall be for ten (10) years, beginning October 2, 2013 and ending on the last day of October 31, 2023. It is anticipated that at the end of the lease term, a new lease will be negotiated between the parties but, of course, this requirement is not binding.

III. RENTAL CONSIDERATION: There shall be no cash consideration for the lease, but in consideration of the furnishing of the real property on which to locate such classrooms hereinabove described, Lessee agrees to provide and administer the federal program commonly referred to as "Head Start", funded by the United States Government by and through its Department of Health and Human Services. Lessee agrees to comply with any and all federal regulations, rules and guidelines that are applicable to such Head Start program. The failure of Lessee to comply with such federal rules and regulations applicable to such Head Start program shall constitute a violation of the terms and conditions hereof and a breach of this lease.

IV. TERMINATION: Either party may cancel this lease by giving the other party to this lease written notice, sent certified mail, return receipt requested, to the address as set forth on this contract sixty (60) days prior to the termination of this lease. However, in the event Head Start funding is withdrawn, or the Lessee fails to qualify for such Head Start funding, or loses its certification or authorization to administer Head Start funds during the term of this lease, upon notice to Lessor by Lessee, and compliance with the provisions of Paragraph VIII hereof, providing for the removal of improvements, this contract shall terminate immediately and the improvements shall be removed by Lessee hereunder within a reasonable time (but in no event longer than 30 days), even if such period of time is less than 60 days

BISD-Agenda

Duplicate Original

Date: 10-1-13

V. USE OF PREMISES: It is hereby agreed that Lessee will use the premises primarily as a Child Development Center, to administer the Head Start program, as needed. Lessee shall have use of the premises for parent meetings and other parent involvement activities. Lessee agrees to coordinate its child development activities in administering the Head Start program with any similar programs maintained, operated and supervised by Lessor to reduce overlapping of services and to reduce, as much as possible, duplication of services.

VI. SECURITY: Lessee shall provide all security to reasonably protect all children and other persons attending the Head Start program, once such children or other persons are on the premises. Lessee shall be responsible for supervising persons picking up the children from the leased premises. Security for the leased premises shall not be the responsibility of the Lessor.

VII. CONSTRUCTION, REPAIR AND MAINTENANCE OF PREMISES: On such property may be located at Lessee's option a portable modular building. In moving onto the property or constructing improvements thereon, such building shall meet all building codes, zoning regulations and other provisions of the City Ordinances of the City of Brownsville, insofar as such regulations pertain to BISD buildings, and also any requirements for such buildings promulgated by the Brownsville Independent School District, or the Texas Education Agency. Also Lessee shall connect to such building water and wastewater connections and any other utilities necessary or required to serve the property to enable the use of the property for the purposes contemplated by this contract. All expenses, including but not limited to connection fees, deposits, monthly billings and such similar charges and expenses, shall be the expense of the Lessee.

VIII. ALTERATION OF PREMISES: Upon obtaining prior approval from the Lessor, Lessee may make alterations, paint the interior of said classrooms and erect reasonable signs. Permission must be obtained from the Lessor prior to making any alterations, additions or improvements on the property, to ensure compatibility with the design, plans and goals of the Lessor for the surrounding property, and to ensure the continued health, safety and welfare of the children utilizing Lessee's services. Upon termination or expiration of the lease, Lessee agrees to remove any and all improvements whatsoever made on the premises and leave the property or premises in the same condition as it appeared at the time of the execution of this lease.

IX. PAYMENT OF UTILITIES: Lessee shall be responsible for all supplies to operate the Head Start Program Child Development Center and pay for all utilities and/or connections used therein, on or about the leased premises including but not limited to charges for electricity, gas, water, light, power, sewage and telephone, and all such charges are to be paid before the same shall be delinquent. Additionally, as set forth in the preceding paragraph, Lessee shall pay and all maintenance of the leased premises.

X. INSURANCE: Lessee agrees to procure and maintain in force during the term of the lease, at its own expense, liability insurance in an amount at least as much as may be required by any Federal or state agency licensing the Lessee and Lessor, and adequate to protect itself and Lessor against liability and damage claims arising out of acts or omissions occurring in connection with Lessee's use or occupancy of the leased premises. Lessee shall furnish Lessor with

BISD-Agenda

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Date: 10-1-13

a copy of the said insurance. The amount of the policy shall be not less than \$1,000,000.00 per each occurrence for liability, and not be less than \$100,000.00 per each occurrence for property damage. Lessee shall maintain at its sole expense, property and casualty insurance for the value of the building and its contents.

XI. SUPERVISIONS INDEMNIFICATION, AND PROTECTION OF PERSONS AND PROPERTY: Lessee agrees that it shall be responsible for supervising activities related to the programs it provides on the lease premises and that all such activities shall be supervised by qualified personnel. Lessee shall indemnify and hold harmless Lessor, its Board of Trustees, Officers, Agents, and Employees from and against all claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from the use or misuse of the leased premises. It is understood that such indemnification obligation provided herein shall not be limited in any way by any limitation on the amount or type of liability insurance required by this agreement. It is agreed that Lessee shall take all reasonable precautions for the safety of and shall provide reasonable protection to prevent damage, injury or loss to any children, personnel and other persons participating in the activities of Lessee and all property to the leased premises.

XII. TAXES: Lessee shall pay and fully discharge all real property taxes, if any, assessed against the above described real property or the leasehold estate. Lessee shall pay all personal property taxes, if any, assessed against the personal property located upon the leased premises or any part thereof during the term of this lease or any extension of this lease, if such taxes are assessed by any appropriate taxing entity.

XIII. DAMAGE TO PROPERTY OF LESSEE: It is agreed and understood that all property of any kind that may be placed upon the leased premises during the term of this lease shall be the sole risk of the Lessee and that the Lessor shall not be liable to Lessee or any other person for any injury, loss or damage to such property or to any person on the premises.

XIV. OTHER PROVISIONS:

A. Lessee shall not have the right to assign this lease or sublet the premises.

B. Lessee, while providing services, will give preference to eligible children of low income families meeting the Head Start Federal Income guidelines and eligibility criteria, all in accordance with the rules and regulations promulgated by the U. S. Department of Health and Human Services administering the Head Start Program.

C. Lessee will be responsible for complying with all applicable license requirements and for obtaining the necessary operating permits from the appropriate local, county, state, and federal agencies. Any failure to receive such required licenses or the withdrawal of any licenses or permits from any of the entities so issuing same shall be considered a breach of this lease.

D. Lessee will assure compliance with Americans with Disabilities Act requirements in the construction and operation of any of the improvements located upon the leased premises.

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Duplicate Original
Date: 10-1-13

E. All notices to be given under this agreement shall be given by certified mail, return receipt requested to the opposite party at the following addresses:

LESSOR: Brownsville Independent School District
Attention: Superintendent of Schools
1900 Price Road
Brownsville, TX 78521

LESSEE: Neighbors in Need of Services, Inc.
402 W. Robertson
San Benito, TX 78586

F. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successor and corporate successors.

G. 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 Cameron County, Texas.

H. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

I. This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this lease.

J. No amendment, modification or alteration of the terms hereof, shall be binding unless the same shall be in writing, dated subsequent to the date hereof and duly executed by the parties.

K. No waiver by either of the parties hereof of any default or breach of any term, condition or covenant of this lease shall be deemed to be a waive of any other breach of the same or any other term, condition or covenant contained herein.

L. This lease shall not be recordable by the Lessee, and any attempt to do so shall act as a release and quitclaim of the leased premises by the Lessee to the Lessor.

M. Lessee shall permit Lessor and its agents and employees to enter into and upon the leased premises at all reasonable times for the purpose of inspecting same.

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

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Duplicate Original
Date: 10-1-13

EXECUTED ON THIS 9th day of October, 2013AD.

LESSEE:
NEIGHBORS IN NEED OF SERVICES, INC. (NINOS)

BY: 
Manuela Rendon, Executive / Head Start Director

LESSOR:
BROWNSVILLE NDEPENDENT SCHOOL DISTRICT

BY: 
Dr. Carl A. Montoya, Superintendent of Schools

BISD-Agenda
Duplicate Original
Date: 10-1-13

Maria O. Mendez

From: Teresa Lamas
Sent: Tuesday, May 9, 2023 8:26 AM
To: Maria O. Mendez
Cc: Minerva Almanza; Patricia Perez
Subject: Lease Agreement
Attachments: Email (003).JPG

Importance: High

Good Morning Oralia:

The other day I copied you on the email below addressed to Mr. Herrera. In passing, we talked about it briefly, he is now following up. Will you please contact the other staff members under your division that were copied as well so that they may get in contact with Mr. Herrera and assist him with his inquiry. I know Ms. Erie Tejada was listed in the original distribution list (please see attachment) but I could not find her in our email contacts, so please include her in any messages that you may forward regarding this. I thank you in advance for your cooperation with this matter. With nothing further at this time, regards and have a wonderful day.

Yours in Service,

Terry Lamas

**Brownsville Independent School District
Superintendent's Office/Board Services Division**



TERESA S. LAMAS
Administrative Assistant

1900 Price Road, Suite 308
Brownsville, Texas 78521

(956) 698-0032
Fax (956) 982-0669
tlamas@bisd.us

From: Marco Herrera <Marco.Herrera@ninosinc.org>
Sent: Monday, May 8, 2023 3:48 PM
To: Teresa Lamas <tlamas@bisd.us>
Cc: Patricia Perez <pperez@bisd.us>; Minerva Almanza <malmanza1@bisd.us>
Subject: RE: Lease Agreement

CAUTION: This email originated from outside of Brownsville ISD. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon Ms. Lamas,

I'm sure you are very busy, but have you had any luck identifying the person who is working on the lease agreement for the Head Start building that is located at Marilyn Burns Elementary.

From: Teresa Lamas <tlamas@bisd.us>
Sent: Friday, May 5, 2023 10:26 AM
To: Marco Herrera <Marco.Herrera@ninosinc.org>
Cc: Patricia Perez <pperez@bisd.us>; Minerva Almanza <malmanza1@bisd.us>
Subject: RE: Lease Agreement
Importance: High

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good Morning Mr. Herrera:

I am in receipt of your correspondence and I am so glad that you shared this, it will definitely help me to contact the listed parties on the email and get someone from there to look into this as soon as possible, I am copying them on this correspondence so that they are aware and have your contact information. That way they can reach out and start looking into this matter. With nothing further at this time, regards and have a great day.

Yours in Service,

Terry Lamas

Brownsville Independent School District
Superintendent's Office/Board Services Division



TERESA S. LAMAS
Administrative Assistant

1900 Price Road, Suite 308
Brownsville, Texas 78521

(956) 698-0032
Fax (956) 982-0669
tlamas@bisd.us

From: Marco Herrera <Marco.Herrera@ninosinc.org>
Sent: Friday, May 5, 2023 10:15 AM
To: Teresa Lamas <tlamas@bisd.us>
Subject: Lease Agreement

CAUTION: This email originated from outside of Brownsville ISD. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Ms. Lamas,

This is my email and contact information in case you find something in reference to the Lease Agreement for the Head Start Portable building at Marylin Burns Elementary. For reference purposes, I attached a snip of the email that my CEO had sent out (not sure if his email was sent to the wrong person). In advance, please know that I really appreciate your assistance in this matter.

Marco A. Herrera
Director for Children's Health & Safety

Neighbors In Need of Services, Inc
22887 State Highway 345
Rio Hondo, TX 78583
Phone: (956)399-9944
Fax: (956)399-9966
Email: marco.herrera@ninosinc.org

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BISD no discrimina a base de raza, color, origen nacional, género, religión, edad, discapacidad o información genética en el empleo o en la provisión de servicios, programas o actividades.

