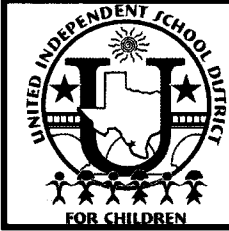


No. _____



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC Approval of Interlocal Government Agreement between United Independent School District
and Webb County Head Start Department

SUBMITTED BY: Juan Cruz **OF:** School Attorney

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: July 23, 2008

RECOMMENDATION:

It is recommended that the UISD Board of Trustees approve the Approve the Interlocal Government Agreement between United Independent School District and Webb County Head Start Department.

RATIONALE:

BUDGETARY INFORMATION

BOARD POLICY REFERENCE AND COMPLIANCE

**INTERLOCAL GOVERNMENT AGREEMENT
BETWEEN
UNITED INDEPENDENT SCHOOL DISTRICT
AND
WEBB COUNTY**

This Interlocal government agreement (the "Agreement or Lease") is made and entered into pursuant to Chapter 791, Texas Government Code, Interlocal Cooperation Act by and between WEBB COUNTY, a political subdivision of the State of Texas, acting herein by Honorable Danny Valdez, Webb County Judge, as authorized by its Commissioners Court, for the Webb County Head Start Department (hereinafter referred to as "LESSEE"), and the UNITED INDEPENDENT SCHOOL DISTRICT (hereinafter referred to as "LESSOR"), a political subdivision of the State of Texas, acting herein by Roberto J. Santos, Superintendent, as authorized by its Board of Trustees.

WHEREAS, United Independent School District ("LESSOR") is the owner of certain real property located in Laredo, Webb County, Texas; and

WHEREAS, Webb County, a political subdivision of the State of Texas ("LESSEE") desires to lease a particular parcel of that real property for the purpose of furthering the Lessee's interests; and

WHEREAS, United Independent School District is willing to lease the Parcel desired to the LESSEE, and the parties desire to execute a written lease containing the terms and conditions of their Lease.

Land Lease

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, including improvements to be constructed on the premises, the following is agreed:

1. **The Leased Area Described.** United Independent School District hereby leases to the Lessee, that certain parcel of real property (approximately 33,264 square feet) located in the UISD Lowry Farm Subdivision, Lot 2, Block 3, 9.52 Acre Tract- River Oaks TO the SOUTH Bristol Road, TO the WEST Atlanta Drive, TO the EAST Albany Drive, and TO the NORTH Lowry Drive, Laredo, Webb County, Texas (Attachment "A") together with all rights, privileges, easements, and appurtenances belonging to or in any way pertaining to the premises (hereinafter "Parcel").
2. **Lease Term.** The term of this Lease shall be Five (5) year (hereinafter "Lease Term") commencing on the "Commencement Date," as hereinafter defined, and terminating on the Fifth (5th) anniversary of the Commencement Date. The Commencement Date shall be the 1st day of August, 2008, and the fifth anniversary date shall be the 31st day of July, 2013. Possession of the Parcel by the lessee shall begin on the Commencement Date.
3. **Option to Extend Term.** Lessee may extend the Lease Term for five (5) years until the 31st day of July, 2018 with the option to be exercised by letter in writing to and received by Lessor at least sixty (60) days before the end of the previous term. Extension will be upon the terms and conditions of this agreement.

4. **Fees and Charges.** Lessee shall pay the following fees and charges: Lessee herein agrees to pay to Lessor as rent for each year, the sum of ONE AND NO/100 DOLLARS (\$1.00) which is to be paid in advance of each year during the term of this Agreement.
5. **Payments Due.**
 - a. **Due In Advance.** All rent payments shall be due and payable in advance, beginning on the Commencement Date and continuing regularly and annually without notice from Lessor thereafter during the Lease Term. However, Lessor may elect to send invoices as payment notices.
 - b. **Due Annually.** The first annual payment shall be due and payable on the Commencement Date. All subsequent payments shall be due on the anniversary of the Commencement Date each year thereafter.
 - c. **Late Fee Due.** On any annual rental payment made more than 10 days after the payment due date, Lessee shall in addition pay a late charge of ten percent (10%) of the annual rent for each month or part thereof that the payment is late.
6. **No Refunds.** Lessee may relinquish this Lease to Lessor, however the Lessee shall not be entitled to a refund of any fees of any kind paid.
7. **Insurance Requirements.**
 - a. **Public Liability.** Lessee shall, at all times during the term of this Agreement, maintain general public liability insurance insuring against such claims. Such insurance shall name Lessor as an additional insured. This insurance shall have an aggregate limit in the minimum amount of \$1,000,000.00.
 - b. **Fire and Casualty.** Lessee shall maintain property and casualty insurance covering the improvements to the Parcel, and the contents thereof. Such insurance shall be a fire insurance policy with extended coverage endorsement, including vandalism, and malicious mischief. The insurance shall be on a replacement cost basis and shall name Lessor as an additional insured, as its interests may appear.
 - c. **Proof of Insurance Required.** Such insurance shall be with a company licensed and authorized to do business in the State of Texas. The Lessee shall furnish annually to Lessor on the rent payment due date of this Lease, a certificate or other evidence and proof of maintenance of the above required insurances. Lessee shall provide Lessor with notice of any change thereof, and furnish to Lessor evidence of acquirement of a substitute therefor, and payment of the premium thereof. If the Lessee shall fail to maintain such insurance coverage, then Lessor may obtain same and add the cost of such insurance to the next due Lease payment. If Lessor does so, it may charge interest thereon at the rate of 10% per annum from the time of payment, which shall be added to the rental becoming due, and shall be collected as an additional charge.
 - d. **Self-Insurance.** Lessee may self-insure by filing with Lessor a letter of credit in the amounts listed above, or other promissory or escrowed monetary instrument.

- e. The Webb County Head Start Program, its employees, agents, and representatives, are not in any manner employed by or under the direction of United Independent School District. Additionally, it is agreed upon that United Independent School District, its employees, agents, representatives, are not employees of or agents of the Webb County Head Start Program. Each party to this lease is responsible for the acts or omissions of its own employees, agents, or representatives.
8. **Quiet Enjoyment.** The Lessee, upon payment of the required fees and rents, and the faithful performance of such covenants, agreements and conditions required by law, or this Agreement, shall and may, peaceably and quietly have and enjoy the leased premises. Such use shall be free from molestation, eviction or disturbance by Lessor or any person claiming by, through, or under it, subject to the terms and conditions of the law or agreement entered into. Such quiet enjoyment is conditional upon Lessee adhering to the following conditions:
- a. **Permitted Uses.** Lessee shall have use of the Parcel for the construction and maintenance of a Head Start Program Center, for area residents, of which Lessee will build, at its sole cost and expense. The Head Start Program shall provide various activities associated with the program including but not limited to educational services to pre-school children. It is agreed by the parties hereto that in no event shall the premises be used for the sale, consumption, distribution or storage of alcoholic beverages. When requested by Lessor, Lessee shall advise Lessor of the scope of activities and events occurring on the lease premises. *Lessee will have access to leased premises during Lessor's designated school holidays.*
- b. **Additional Uses Require Permission.** The Lessee shall not use or permit the use of the Parcel, or improvements thereto, for any purpose or use other than those expressly and specifically authorized by this Lease. Additional uses may be hereafter authorized in writing by Lessor, but only upon such terms and conditions as may be set out in such authorization.
- c. **Construction and Ownership of Improvements.**
- (1) **Title to Improvements.** During the Lease Term, title to all improvements ~~existing or~~ constructed upon the Parcel by Lessee are and shall be vested in Lessee.
- (2) **Proposed Improvements.** The Lessee is required to construct improvements on the Parcel, which includes the placement of a temporary portable modular building unit and a children's playground. Lessee shall begin such process not later than six (6) months following the Commencement Date of this Lease.
- (3) **Codes to Apply.** Lessee must meet standards as specified in the Standard Building Code (by Southern Building Code Congress International) for all design, planning, and construction activities, including development or extension of infrastructure. In addition, Lessee shall pave all access from the Parcel, or improvements thereto, to any roadways, and such construction shall match the existing grade.
- (4) **Time Restrictions.** All building construction must be completed on or before the second anniversary date of the Commencement Date of the Lease.
- (5) **Additional Improvements Constructed During the Initial Lease Term or Extended Term.** Lessee may construct additional improvements or modifications at a later date with the prior

written approval of Lessor. However, in all cases, construction must be completed within eighteen (18) months of approval by Lessor.

d. Condition, Maintenance and Repairs of Leasehold and Improvements Thereto.

- (1) Lessee Accepts Parcel "As-Is." Lessee acknowledges that it has fully inspected the Parcel and hereby accepts the Parcel and any buildings, improvements and appurtenances thereto as is, in their present state and condition, as suitable for the purpose for which the same are leased. Lessee agrees to allow for changes in such condition, occurring by reasonable deterioration between the Commencement Date and the date such changes shall occur.
- (2) Lessee Shall Maintain. Lessee shall maintain, at its own expense, the Parcel and any improvements, fixtures or equipment on the Parcel in a safe, sanitary, orderly, and sightly manner, in accordance with all applicable codes and regulations. Lessee shall also maintain the cleanliness of all paved area on the Parcel, and shall be responsible for mowing all grass, watering lawns, controlling weeds, and maintaining shrubs and trees on the Parcel.
- (3) Lessee shall, at its sole cost and expense, pay for all utility services, ~~excluding~~ sewerage charges (~~which is addressed in Section e. 3. above~~), for water, gas, electricity, telephone service and any other utilities used on the premises throughout the term of this Agreement including connection fees.
- (4) Lessee shall allow Lessor to enter the premises at any reasonable time to inspect and examine the premises without prior notice to Lessee.
- (5) Lessor's Right to Correct Deficiencies. Lessor has the right to require reasonable maintenance and repairs to the Parcel or the improvements thereon by Lessee as required by this Lease. Should the Lessee fail to make the required corrections, Lessor shall have the right to enter the Parcel, or improvements thereto, correct the deficiency, and recover the cost of activities from Lessee as rent due on the next rent payment date.
- (6) Repair of Damage. If the Parcel, or improvements thereto is partially destroyed or damaged by fire or other casualty, then Lessee shall repair and restore the Parcel, or improvements thereto as soon as it is reasonable practicable. Such repair or restoration shall commence not later than six (6) months after such damage, and be completed within six (6) months thereafter. Such restoration shall be to substantially the same condition in which the Parcel or improvements thereto was before such damage. In the event that Lessee has not commenced repairs within six (6) months from the date of said damage and thereafter completed such repairs within six (6) months, this Lease may be immediately terminated by Lessor. Such termination shall be made effective by serving notice upon the Lessee, and effective on the date of receipt of such notice by the Lessee.
- (7) Destruction of the Parcel or Improvements Thereto. In the event the Parcel, or improvements thereto is completely destroyed or so badly damaged that repairs cannot be commenced within six (6) months and completed within six (6) months thereafter, then this Lease may be terminated. Such termination shall be effective as of the date of the occurrence of the damage or destruction, and made effective by either party hereto by serving written notice upon the other.

- (8) Erosion Control. Where the slope, terrain, or soil disturbance is such that active soil or wind erosion may be present, Lessee must carry out erosion control practices to mitigate the erosion. These practices include, but are not limited to drainage facilities constructed and maintained by Lessee, landscaping, and/or seeding and maintaining of vegetation.
- e. Removal of Improvements.
- (1) When Requested by Lessee. If at any time during the Lease Term, when all Rent then due and owing has been fully paid and Lessee is not in default under this Lease, Lessee may request to remove any or all improvements. Lessee shall give forty-five (45) days advance written notice of its intent to remove the improvements to Lessor, which shall not unreasonably withhold consent. When removing improvements, the Lessee shall restore the Parcel to its previously existing condition, including filling excavations, returning the surface to grade, and leaving the Parcel safe and free from all debris and hazards.
- (2) At Expiration or Termination of Lease. At the expiration or termination of this Lease, any or all permanent buildings (excluding portable modular building units) and other permanent improvements to the Parcel will, at the direction and sole discretion of Lessor, either remain intact on the Parcel and become the property of Lessor, or be removed by Lessee. Should Lessor elect for the Lessee to remove any or all improvements, the Lessee shall do so within forty-five (45) days. When removing improvements, the Lessee shall restore the Parcel to its previously existing condition, including filling excavations, returning the surface to grade, and leaving the Parcel safe and free from all debris and hazards. All improvements not removed as aforesaid shall, without compensation to or by Lessor, become Lessor's property free and clear of all liability and expenses. Lessee shall thereafter be released from any and all liability, cost or expense associated with the Parcel, including the improvements thereon, or associated with termination of this Lease. However, if Lessee fails to promptly remove said improvements if and as required by Lessor, Lessor may assess and bill Lessee based on receipt of an itemized statement of costs of removal and restoration of the Parcel.
- f. Installation of Utilities. Lessee shall obtain and install ~~underground~~ at its own expense any necessary electrical, gas, water, and any other utility service necessary to carry out its activities.
- g. Hazardous Waste. No toxic materials or hazardous waste subject to regulation by the Environmental Protection Agency or the Texas Natural Resource Conservation Commission shall be stored or disposed of on the premises without the written permission of Lessor.
- h. Environmental Assessment and Remediation. At the expiration or termination of this Lease, Lessor may require that Lessee furnish to Lessor an Environmental Assessment Report on the place of business, conducted in accordance with the laws, codes and regulations in effect at that time. The costs of remediation, if any should be required by law, shall be the responsibility of the Lessee.
- i. Signs. Lessee may erect and maintain signage. The Lessee shall be responsible for all cost and expense of maintaining its signs as permitted hereby.
9. **Termination.** Either party may terminate this Agreement by notice of such effect to the other party if the other party commits a breach of any term or condition contained in this lease and fails to remedy the same within sixty (60) days after written notice from the other party setting out the nature of such

breach and demanding that the same be remedied. In addition, Lessor may terminate this lease, without cause, by notice to Lessee. Lessor must give Lessee sixty (60) days notice prior to the termination of this lease.

10. **Notices.** Whenever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered whether actually received or not, when deposited in the United States mail, as Certified Mail, postage prepaid, return receipt requested, and addressed to the parties at their respective addresses, as set forth below:

Lessor's Address

United Independent School District
C/O Superintendent
201 Lindenwood Drive
Laredo, Texas 78041

Lessee's Address

Webb County
C/O Webb County Judge
1000 Houston
Laredo, Texas 78040

11. **Inconsistencies.** Where there exists any inconsistency between this Agreement and other provisions of collateral contractual agreements that are made a part hereof by reference or otherwise, the provisions of this Agreement shall control.
12. **Severability.** Each paragraph and provision hereof is severable from the entire Agreement and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.
13. **Prohibition against Assignment.** There shall be no assignment or transfer of this Agreement without the prior written consent of both parties hereto.
14. **Law of Texas.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be enforced in the Webb County, Texas.
15. **Prohibition against Discrimination.** Any discrimination by UISD or Webb County or their agents or employees on account of race, color, sex, age, religion, handicap, or national origin, in employment practices or in the use of or admission to the purpose of this agreement is prohibited.
15. **Entire Agreement.** This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No other prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless signed by both parties and attached hereto and/or embodied herein.
16. **Amendment.** No changes to this Agreement shall be made except upon written agreement of both parties.
17. **Headings.** The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.
18. **Waiver.** The failure on the part of any party to exercise or to delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or

partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law or in equity, except as expressly set forth herein.

19. **Counterparts.** This Agreement may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same document.
20. **Terminology and Definitions.** All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.
21. **Rule of Construction.** The parties hereto acknowledge that each party and its legal counsel have reviewed and revised this Agreement, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

IN WITNESS WHEREOF, LESSOR and LESSEE have executed the Lease to be in effect as of the date first written above.

WEBB COUNTY

UNITED INDEPENDENT SCHOOL DISTRICT

HON. DANNY VALDEZ
WEBB COUNTY JUDGE

ROBERT J. SANTOS
SUPERINTENDENT

ATTEST:

MARGIE RAMIREZ IBARRA
WEBB COUNTY CLERK

APPROVED AS TO FORM:

HOMERO RAMIREZ
WEBB COUNTY ATTORNEY

JUAN J. CRUZ
UISD ATTORNEY

*By law, the County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).