



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

Topic: Approval of Sale of Surplus and Obsolete Items to Our Lady of Guadalupe School

Submitted by: Mike Garza **of:** Assistant Superintendent of Support Services

Approved for transmittal to school board: September 21, 2016

Recommendations:

Recommend Board Approval based on the terms provided in the attached

Rationale:

As per the Agreement, to assist in the promotion of Education in our Community. All items have been deemed obsolete and no longer meet the standards at UISD. These items listed would have been sold at a future auction.

Budgetary Information:

N/A

Board Policy Reference and Compliance

N/A



Our Lady of Guadalupe School

400 Callaghan St.

Laredo, TX. 78040

Phone: 956.722.3915 Fax: 956.727.2840

www.ourladyofguadalupeschool.net

Roberto Santos,
Superintendent
United Independent School District
210 Lindenwood Dr. 78045
Laredo, Texas 78045

August 31, 2016

Dear Mr. Santos,

On behalf of Our Lady of Guadalupe School, I humbly thank you for being instrumental in securing student desks for the school. Our Lady of Guadalupe School is tuition-driven, and this year the economy did affect the enrollment. The monies that had been set aside for school furniture had to be assigned to another line item. I cannot express my gratitude enough for your attention to this matter. Thank you for taking part in keeping a Laredo tradition moving towards another one hundred-years of service to Los Dos Laredos.

Herlinda Martinez,
Principal

3.1 UISD and OUR LADY OF GUADALUPE both agree that the school furniture outlined under Section One above is considered surplus property by UISD and have no monetary or intrinsic value whatsoever; however, OUR LADY OF GUADALUPE agrees to accept the school furniture desks by compensating UISD in the monetary amount of ONE DOLLAR (\$1.00) in order to address any issues that may arise concerning the unconstitutional gift of public property by UISD to a parochial school.

SECTION IV RISK ALLOCATION – LIMITATION OF LIABILITY

4.1 Liability.

This Agreement is not intended to alter or reallocate any defense or immunity authorized or available to either party by law.

4.2 Exclusion of Incidental and Consequential Damages.

Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, neither party shall be liable to the other party (nor to any person claiming rights derived from such party's rights) for incidental, consequential, special, punitive, or exemplary damages of any kind as a result of breach of any term of this Agreement, regardless of whether the party was advised, had other reason to know, or in fact knew of the possibility thereof, except as expressly provided herein.

4.3 Intentional Risk Allocation.

UISD and OUR LADY OF GUADALUPE each acknowledge that the provisions of this Agreement were negotiated to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transaction associated with this Agreement. The disclaimers and limitations in this Agreement are intended to limit the circumstances of liability. The remedy limitations, and the limitations of liability, are separately intended to limit the forms of relief available to the parties.

4.4 No Indemnification.

The parties to this Agreement expressly agree that, except as provided herein, neither party shall have the right to seek indemnification or contribution from the other party for any losses, costs, expenses, or damages directly or indirectly arising, in whole or part, from this Agreement.

4.5 Fines and Penalties.

Each party shall be solely responsible for fiscal penalties, fines or any other sanctions occasioned as a result of a finding that violations of any applicable local, state or federal regulations, codes or laws occurred as a result of that parties actions, except as may be specifically provided by law.

SECTION V SOVEREIGN IMMUNITY

5.1 Sovereign Immunity.

UISD does not waive its respective right of sovereign immunity and similar rights and does not

waive its rights under the Texas Tort Claims Act. The parties expressly agree that neither party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers or functions or pursuant to the Texas Tort Claims Act or other applicable statutes, laws, rules, or regulations.

SECTION VI GENERAL PROVISIONS

6.1 Compliance with Laws.

UISD and OUR LADY OF GUADALUPE shall comply with all applicable local, state, and federal laws in performance of their obligations under this Agreement.

6.2 Complete Agreement.

This Agreement constitutes the entire agreement between the parties relating to the terms and conditions of the Agreement. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this Agreement confers no rights on any person(s) or business entity(s) that is not a party hereto.

6.3 Amendment/Assignment.

This Agreement and the obligations hereunder shall not be amended, assigned, transferred or encumbered, in any manner, unless done so in writing and signed by the authorized representatives of the parties.

6.4 Governing Law.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Texas, along with any applicable provisions of the federal law.

6.5 Venue.

The Parties hereto agree that this Agreement shall be enforceable in Laredo, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Webb County, Texas. Should the need for dispute resolution arise, venue is in Webb County, Texas.

6.6 Severability.

All agreements and covenants contained in this Agreement are severable. Should any term or provision of this Agreement be declared invalid by a court of competent jurisdiction, the parties intend that all other terms and provisions of this Agreement should be valid and binding and have full force and effect as if the invalid portion had not been included.

6.7 Section Headings.

The section headings contained in this Agreement are for reference purposes only and shall not in any way control the meaning or interpretation of this Agreement.

6.8 Notices.

All notices provided under this Agreement shall be given by certified or registered mail, return

receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

UISD: Mr. Robert J. Santos
Superintendent of Schools
United Independent School District
201 Lindenwood Drive
Laredo, Texas 78045

OUR LADY OF GUADALUPE: Herlinda Martinez, Principal
Our Lady of Guadalupe School
400 Callaghan Street
Laredo, Texas 78040

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Either party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to the other party in the manner set forth herein.

6.9 Representation of Counsel; Mutual Negotiation.

Each party has had the opportunity to be represented by joint counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arms' length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.

6.10 Execution and Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Agreement, and no party shall be required to produce an original or all of such counterparts when making such proof.

6.11 Warranty of Capacity to Execute Contract.

The person signing this Agreement on behalf of the County warrants that he/she has the authority to do so and to bind the County to this Agreement and all the terms and conditions contained herein.

(Signatures begin on the following page)

EXECUTED this _____ day of _____, 2013

OUR LADY OF GUADALUPE SCHOOL

Herlinda Martinez
Principal