

## MEMORANDUM OF UNDERSTANDING

Between Boerne Education Foundation and Boerne Independent School District

This Memorandum of Understanding is entered into by and between the Boerne Independent School District ("District") and the Boerne Education Foundation (the "Foundation"), desiring to memorialize the nature of their relationship, ratify and approve past activities and mutually acknowledge, for the future, the respective obligations and rights of the parties.

Whereas, the District is a political subdivision of the State of Texas; and

Whereas, the Foundation was organized and incorporated in the State of Texas as a 501 (c) (3) nonprofit organization in 1997 for charitable and educational purposes with an intent to see, cultivate and obtain gifts, grants and revenues to be used for developing and expanding educational opportunities for the District; and

Whereas, the District has the authority to enter into contracts as are necessary for the efficient management of the District, and

Whereas, the Parties desire to formalize their relationship to achieve an efficient coordination between them to advance the District's public purposes and to foster the educational and cultural programs and services of the District;

Now therefore, in consideration of the mutual covenants, promises and conditions herein contained, the District and the Foundation agree as follows:

- A. **Public Purpose:** The District has identified the following educational public purposes for district's support of the Foundation:
1. Because of the uncertainty and restrictions inherent to the public school finance system, the District must seek alternative sources of revenue in order to continue and/or enhance its quality education programs.
  2. Strong community support to assist the District in maximizing alternative revenue sources requires reciprocal commitment and support from the District.
  3. Continuation of the momentum achieved in maximizing alternative revenue sources through the Foundation requires a continual commitment from the District.
  4. Community involvement in raising money for educational programs achieves a concurrent psychological and philosophical investment in the District.
  5. The Foundation is a nonprofit education corporation organized in Kendall County for educational and charitable purposes. The Foundation invests time and resources to generate and improve community support for creating alternative revenue sources that benefit the District and its students.
  6. Solicitations of additional revenue by Foundation directors and personnel relieves the fund-raising burden of the Superintendent, administrators, teachers and staff, leaving them free to focus on the District's educational mission.

7. Revenues obtained by the Foundation will be provided for the betterment of the District's educational programs.
8. The District has realized gains from its assistance to the Foundation.

**B. Responsibilities of the District:** The District agrees to provide the following to the Foundation, provided that the public purposes continue to be met and the controls continue to be implemented, and subject to the District's continuing right to refuse to appropriate the necessary funds in any budget year. All contribution amounts shall be within the sole discretion of the District, which contribution shall be monitored by the District and recorded in the District's accounting records as donations to the Foundation.

1. The District shall share annually with the Foundation its strategic plan, institutional priorities and projects, and resource requirements, so that the Foundation may represent the direction and needs of the District to donor prospects and align its programs and campaigns consistent with the strategic objectives of the District.
2. The District shall promptly alert the Foundation to prospective gifts, so that each opportunity for enhancing gift or grant potential and donor relations is fully utilized.
3. The District shall employ an Executive Director for the Boerne Education Foundation to be shared jointly. The District will be responsible for 60% of the Executive Director's salary and 100% of the benefits associated with that salary. The Foundation will be responsible for the remaining 40% of the Executive Director's salary. At the discretion of the Superintendent, this position shall serve on the District Superintendent's Cabinet and shall be expected to work with other District employees. The District shall provide appropriate workspace for the Executive Director to conduct the business of the District and the Foundation. The District shall retain supervision and control of any employee for which the District provides greater than fifty percent (50%) of the employee's total compensation.
4. The District agrees to display the Foundation's logo along with appropriate District related advertisements or sponsored events. A webpage on the District website will be dedicated to the Foundation.

**C. Responsibilities of Foundation:**

1. The Foundation agrees that, during the term of this Memorandum of Understanding, the Foundation will use its best efforts to solicit, collect, invest and administer funds for the Foundation, which shall be used to enrich the educational environment of the District.
2. The Foundation agrees that, in each of the Foundation's fiscal years, the Foundation shall contribute more to the District than the value of the District's contribution to the Foundation or funding may, in the School Board's discretion, either cease or be decreased for the coming fiscal year. For purposes of this Agreement, amounts contributed to the District in any fiscal year shall include all grants to teachers, educational programs, and all payments to an endowment fund made in that fiscal year, but shall not include monies deposited into retained earnings until those retained earnings are spent for the benefit of the District through a teacher grant, educational program or endowment payment.
3. The Foundation agrees that it will require the District personnel providing services to the Foundation to follow all policies and procedures of the District when representing the

District or the Foundation in any capacity.

4. The Foundation agrees that it will continue to recognize the District as the sole beneficiary of its solicitation program.
5. The Foundation has fiduciary responsibility for the operation of the Foundation and the authorization of the expenditures of funds.
6. The Foundation shall collect and authorize such funds to be used for educational projects in alignment with the District's strategic plan and institutional priorities.
7. The Foundation shall conduct its activities in such a manner to maintain its status as a tax exempt, charitable organization under state and federal laws.
8. The Foundation shall consult with the District before accepting any gift for the benefit of the District that contains restrictive terms or conditions.
9. If the District determines that the Foundation should be discretely included within the District's annual financial report, then the Foundation, at the District's expense, will allow access to all information necessary for the District's audit and presentation of the Foundation's information in the District's annual financial report. The Foundation's Executive Director will serve as the liaison to the District's auditors and will be the contact person for the financials submitted.

D. **Controls:** The District and the Foundation agree on the following controls, to ensure that a proper public educational purpose is served by this arrangement:

1. The Foundation shall provide the District with an annual report, which shall be presented to the School Board at a public School Board meeting. The Foundation shall provide a cost-benefit evaluation to the District regarding the District's investment in the Foundation and the Foundation's use of this investment for educational or public purposes.
2. The Foundation shall provide an IRS Form 990 annually to the District, which shall reflect the District's contributions to the Foundation and which shall be reviewed against the District's accounting records to ensure accuracy.
3. The Foundation shall abide by all applicable policies and procedures of the District related to facility and equipment use, personnel, public information, and all other applicable policies.
4. The Foundation understands that, as a result of the District's investment in the Foundation, the documents of the Foundation are possibly subject to the Public Information Act, if applicable, absent any specific exemption.

E. **Term and Termination:**

1. This Memorandum of Understanding shall have a term of three (3) years beginning on the effective date and may be renewed upon approval of the District for additional terms, each of the three-year duration, by written agreement signed by each party.

- 2. This Memorandum of Understanding is a commitment of the District's current commitment only. The District retains the continuing right to terminate this Agreement at the expiration of each budget period during the term of this agreement.
- 3. This Agreement may be terminated by either party by giving sixty (60) days written notice to the other party.
- 4. The Parties shall review the terms of this Agreement on an annual basis.

**F. General Provisions:**

- 1. The relationship of District and the Foundation is limited to that which is set forth herein. No action(s) or undertaking(s) of either party will be construed to create or suggest a partnership, expressed or implied.
- 2. As separately incorporated organizations, neither District nor Foundation intends nor will either District or Foundation profess a right to obligate or bind the other party; any suggestion of such, orally or in writing, will be considered void and of no further legal effect.
- 3. If any provision of Agreement is held to be in violation of the Constitution of the State of Texas or any laws of the State of Texas, such provision shall be fully severable and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance.

Agreed to this 13 day of May, 2024.

**BOERNE ISD SCHOOL BOARD**

  
 \_\_\_\_\_  
 President

ATTEST:

  
 \_\_\_\_\_  
 Secretary

**FOUNDATION**

*Neole Saleh Gallegos*

\_\_\_\_\_  
 President 6/6/2024

ATTEST:

  
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 Secretary 6/6/2024