

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into on August __, 2020 , by and between the City of South Bend, Indiana, inclusive of its Venues, Parks & Arts Department (“VPA”), as well as other departments, commissions, boards, employees, officers and agents (collectively referred to hereinafter as the “City”), acting by and through its Board of Park Commissioners (the “Board”), and the Boys & Girls Clubs of St. Joseph County, a non-profit organization, located at 502 E. Sample Street, South Bend, Indiana 46601 (“BGCSC”) (each a “Party” and collectively the “Parties”).

Definitions

BCCSC: The Boys & Girls Clubs of St. Joseph County, a non-profit entity, with its principal place of business located at 502 E. Sample Street, South Bend, IN 46601.

BPC: Board of Park Commissioners, legislated governing body of VPA.

Charles Black Community Center: the Charles Black Center, a facility owned by the City and under management by the City’s Venues, Parks & Arts Department, located at 3419 W. Washington Street, South Bend, IN 46619.

Martin Luther King, Jr. Community Center: The MLK Center, a facility owned by the City and under management by the City’s Venues, Parks & Arts Department, located at 1522 W. Linden Avenue, South Bend, IN 46628.

Pinhook Park Recreation Center: The Pinhook Park Recreation Center, a facility owned by the City and under management by the City’s Venues, Parks & Arts Department, located at 2801 Riverside Dr. South Bend, IN 46616

The Parties: Collectively all staff, agents, volunteers, and representatives of BGCSC, O’Brien, VPA, and BPC (collectively, the “City”).

VPA: Venues Parks & Arts, a Department within the City with offices at 219 S. St. Louis Blvd South Bend, IN 46617.

Recitals

WHEREAS, the BGCSC is offering an eLearning program (the “Program”) for K-12 students (the “Participants”) in South Bend while in-person instruction is not available at South Bend community schools; and

WHEREAS, the BGCSC Program is designed to provide a safe and supportive environment for Participants to receive supervision and assistance with online class

assignments, technology and internet access, recreational activities and daily provision of breakfast, lunch, and a late afternoon snack; and

WHEREAS, BGCSC has requested to use of the City's Charles Black Community Center, the Martin Luther King, Jr. Community Center and Pinhook Park Recreation Center as site locations for the Program (collectively referred to hereinafter as the City "Facilities"), and to work cooperatively with the City, through its Venues, Parks & Arts Department, to operate the Program at the City Facilities.

NOW THEREFORE, it is agreed as follows:

1. Party Responsibilities for Program Services:

VPA

- a. VPA will be responsible for making available space within the two City Facilities sufficient to conduct the eLearning Activity, as well as recreational activities and other related activities.
- b. VPA will provide Facilities' custodial services following the Centers for Disease Control and Prevention ("CDC") recommendations for reducing the risk of exposure and spread of coronavirus (or SARS-CoV-2 virus that causes COVID-19).
- c. VPA will provide staff to proctor the eLearning curriculum and BGCSJC programming activities.
- d. VPA staff will work cooperatively with BGCSJC on the research and evaluation components of the eLearning curriculum and assist with tracking attendance, pre/post testing assessment and overall impact of the curriculum.
- e. VPA staff will assist BGCSJC with identifying, organizing and implementing reasonably appropriate security for each City Facility.
- f. VPA will schedule mutually agreed to numbers of VPA staff to provide eLearning services at the Facilities in coordination with BGCSJC staff.
- g. VPA is responsible for ensuring that VPA staff who provide services under this Agreement comply with applicable BGCSJC eLearning Program requirements, to the extent that such requirements do not conflict with City policies and procedures or federal, state or local laws, regulations and rules.

BGCSJC

- a. BGCSJC will serve as the lead organization for the implementation and operation of the eLearning program at the City Facilities.
- b. BGCSJC will be responsible for recruiting, engaging training, and supervising BGCSJC staff as well as volunteers or other participating individuals for the eLearning Program held at City Facilities.
- c. BGCSJC will be responsible for communicating with and providing information to VPA leadership regarding VPA employees' participation in the eLearning Program.

- d. BGCSJC will be responsible for managing the day-to-day operations of the eLearning Program and notify VPA leadership of any issues or concerns that arise with respect to the Program at the City Facilities or with VPA staffs' involvement in the Program.
- e. BGCSJC will be responsible for tracking participants' enrollment and attendance in the eLearning program and provide that information to VPA on a monthly basis for the City Facilities.
- f. BGCSJC staff agrees to make staff available for in-service training throughout the Program year
- g. BGCSJC will be responsible for conducting the research and evaluation component of the eLearning Program to ensure compliance with federal, state, and local laws, regulations, program and operation requirements.
- h. BGCSJC agrees to ensure that City Facilities used for operation of the eLearning Program are kept in orderly and clean fashion with daily removal of trash, and daily storage of supplies and other Program materials.
- i. BGCSJC will be responsible for ensuring that all BGCSJC staff at City Facilities have complied with all federal, state and local requirements to act as an eLearning instructor and for ensuring all staff and volunteers have received required clearances.
- j. BGCSJC will be responsible for developing procedures and protocols for emergency notification of parents and/or guardians of Program participants.

Joint Responsibilities of BGCSJC and VPA

- a. Structure and facilitate meaningful communication between the staff, volunteers and the eLearning Program.
- b. Provide on-going opportunities for VPA staff and BGCSJC staff to plan, coordinate, and integrate curricular areas with eLearning activities.
- c. Hold regularly scheduled meetings between the staff of the community partners, as well as other appropriate personnel, to discuss all issues pertaining to the eLearning Program. Issues for discussion include, but are not limited to, staff and volunteer performance, effectiveness of eLearning Program features, participants' development and other issues of Program evaluation.
- d. Develop mechanisms and opportunities to communicate on a regular basis with the family members of the Program participants.
- e. Disseminate procedural information to effectively conduct the Program.

Term and Termination

The term of this MOU shall commence no earlier than August 17, 2020 and continue through December 31, 2020. This MOU may be renewed on an annual basis upon mutual written agreement of the Parties. This MOU may be terminated by either Party by providing sixty (60) days prior written notice.

Amendments

This MOU may only be amended by mutual written agreement of the Parties.

Indemnification, Hold Harmless and Insurance

- a. Indemnification: BGCSJC agrees to indemnify, defend and hold harmless the City, its board of trustees, departments, officers, agents and employees from and against any and all claims, costs, demands, expenses, including reasonable attorney's fees, losses, damages, injuries and liabilities of third parties, arising solely out of or related to the acts or omissions of the BGCSJC under this Agreement. It is understood that such indemnity shall survive the termination of this MOU.
- b. Insurance: As part of, but without limiting the hold harmless covenant, BGCSJC shall, at all times during the term of this MOU, and for any subsequent renewals, maintain the following insurance:
 - Comprehensive general liability and property damage insurance in the amount of no less than FIVE MILLION DOLLARS (\$5,000,000.00). **The City shall be listed as an additional named insured in said policy.**
 - An Abuse and Molestation liability policy in the amount of ONE MILLION DOLLARS (\$1,000,000.00).
 - A Workers' Compensation policy meeting Indiana's statutory requirements and including employers' liability coverage of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for each type of coverage. The policy shall also include a waiver-of-subrogation endorsement for the benefit of the City.

Certificates of Insurance evidencing the above policies shall be provided to the executive director of the City's VPA Department prior to commencement by BGCSJC of any activity under this MOU at City Facilities and upon reasonable request by VPA at any time thereafter. Said insurance shall contain a clause prohibiting cancellation without ten (10) days advance written notice to the City VPA. A certificate of insurance showing compliance with these requirements shall be filed with VPA Executive Director.

Independent Contractor Status

The Parties hereto agree that the relationship created by this MOU is that of independent contractors. Each Party will be responsible for providing its own salaries, payroll taxes, withholding, insurance, workers compensation coverage and other benefits of any kind, as required by law, for its own employees.

Background Checks

BGCSJC shall ensure that background check have been secured for all of its employees and representatives that will have access to the City Facilities under this MOU; and, upon receipt of those background checks, certify to VPA that no employee of the BGCSJC with access to City Facilities has been convicted of a violent or serious felony of a nature that would disqualify the individual from having one-on-one access to minor Program Participants. BGCSJC shall not permit any its employees or representatives to have any such contact with a Program Participants or City Facilities staff, visitors or volunteers until such certification has been received.

BGCSJC shall supply VPA with a list of names of those employees who are cleared to work with Program Participants at City Facilities.

VPA will ensure that background checks are secured on all City VPA employees that will provide Program services under this MOU. City VPA employees shall not have access to Program Participants until the background checks have been secured and the employees have been cleared for Program participation by the City.

Counterparts

This MOU may be executed in two or more counterparts, which together shall constitute one and the same instrument among the Parties.

Notice

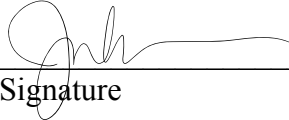
Each notice hereunder shall be in writing and shall be delivered or mailed by first class mail and shall be deemed to have been given on the date of its delivery.

Entire Agreement and Controlling Law This MOU sets forth the entire agreement and understanding between the Parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understanding of any and every nature between them. This MOU will be construed and interpreted according to the laws of the State of Indiana, and any dispute arising out of this MOU or otherwise concerning a Party's performance under this MOU will be resolved in the courts located in St. Joseph County, Indiana, unless the Parties mutually agree to a different method of dispute resolution.

[Signatures appear on the following page]

IN WITNESS WHEREOF, this MOU has been executed effective as of the date first appearing above.

**BOYS & GIRLS CLUBS
OF ST. JOSEPH COUNTY**



Signature

Jacqueline Kronk, CEO

Name and Title

CITY OF SOUTH BEND, INDIANA



Aaron Perri, Executive Director
Venues, Parks & Arts Department
Through Authorization of Board of Park
Commissioners via Resolution 0007-2020