

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AGREEMENT FOR OPERATION AND PROGRAMMING OF
RICHMOND-ROSENBERG COMMUNITY CENTER**

THIS AGREEMENT, is made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, hereinafter called "**County**," and the Boys and Girls Clubs of Greater Houston, Inc., a non-profit, Texas corporation, hereinafter referred to as "**Contractor**" for operation and programming of the Richmond-Rosenberg Community Center located at 1800 James L. Pink Boulevard, Richmond, in Fort Bend County, Texas, hereinafter referred to as "**Community Center**."

WITNESSETH:

WHEREAS, County has a responsibility to provide for the support of its citizens who are unable to support themselves;

WHEREAS, County has the authority to provide recreational facilities as well as support for its citizens;

WHEREAS, County and Contractor agree that Contractor provide an organized and supervised outreach program;

WHEREAS, the Commissioners Court of Fort Bend County finds that it is in the public interest and serves the general welfare of the community, for Contractor to manage, operate and maintain the Community Center and for Contractor to provide organized and supervised youth activities;

WHEREAS, County and Contractor agree that Contractor will manage, operate and maintain the Community Center and provide organized and supervised youth activities and programs;

WHEREAS, the Commissioners Court of Fort Bend County finds that by entering into this Agreement with Contractor, it will be promoting public safety and furthering its interest in law enforcement, by reducing crime, especially juvenile crime;

WHEREAS, County has determined that the work to be performed under this Agreement serves a public purpose of community and economic development made by a county under Section 381.004 of the Texas Local Government Code and therefore exempt from competitive bidding under Section 262.024(a)(10) of the Texas Local Government Code; and

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to the parties herein named, it is hereby agreed as follows:

**ARTICLE I.
INCORPORATION OF PREAMBLE**

The parties affirm that all of the matters set forth in the preamble are true and correct and hereby incorporate said preamble as a material part of this Agreement.

ARTICLE II. SERVICES

- 2.01 Contractor shall perform all services outlined in Exhibit A, attached hereto and incorporated by reference.
- 2.02 Contractor shall use the Community Center for the purpose of operating its programs and for no other event and/or activity that is not sponsored by Contractor or not otherwise permitted or sanctioned under its articles of incorporation, charter, and/or by-laws.
- 2.03 Notwithstanding anything contained herein to the contrary, under no circumstances *whatsoever* will Contractor allow any activity and/or event that is not an organized, supervised youth activity and/or event to take place in the Community Center or on its grounds.
- 2.04 Contractor will only use the Community Center for organized, supervised youth programs such as character and leadership development, education and career development, health and life skills, artistic training, sports, fitness and recreation.
- 2.05 Contractor will at all times comply with any and all orders, regulations and policies, and amendments thereto, issued by County for the purpose of maintaining an orderly and compatible use of the Community Center by all parties involved.
- 2.06 In the event that events and/or activities other than those normally organized and supervised by Contractor are conducted at the Community Center, Contractor will, at least thirty (30) days prior to each event and/or activity, submit to the Fort Bend County Parks Director for prior written approval, said approval not to be unreasonably withheld or delayed, a list of the names of the groups, performers and/or organizations desiring to use the Community Center:
 - A. The list should include the name of the group, performer and/or organization, its owner, the products or services offered, and copies of all permits and licenses required to offer such goods and/or services.
 - B. The Contractor will handle all the publicity and public relations for each event.
 - C. Notwithstanding anything contained herein to the contrary, any event and/or activity must comply with §2.04, supra.
- 2.07 Any event or activity permitted under the terms of this Agreement to be conducted upon the Community Center shall be supervised by Contractor's personnel, all of whom shall be properly trained, adequate in number and who shall remain in the Community Center during the entire course of the event or activity.

ARTICLE III. CONSIDERATION

As consideration for this Agreement, County will pay to Contractor an amount not to exceed **FIFTY THOUSAND DOLLARS (\$50,000)**. Payment shall be tendered to contractor in a single payment within thirty (30) days of the execution of this Agreement at the address provided in section 9.01.

ARTICLE IV. TERM

- 4.01 This Agreement shall be effective on execution by County and shall terminate on **September 30, 2015**.
- 4.02 This Agreement may be terminated without cause prior to the expiration of the term herein at the option of either County or Contractor upon the giving of thirty (30) days written notice to the other party in the manner and form provided for herein.
- 4.03 The termination of the Agreement will be effective upon the last day of the month in

which the expiration of the thirty (30) day period occurs.

**ARTICLE V.
CONTRACTOR'S RESPONSIBILITIES AND OBLIGATIONS**

- 5.01** During the term of this Agreement, Contractor's obligations and/or responsibilities hereunder, in addition to others specified herein, shall include the employment of:
- A. One (1) full-time Branch Director who will coordinate all Contractor Staff on-site and shall be responsible for the overall success of the program.
 - B. One (1) part-time Education Director who will coordinate the educational, health and life skills programming.
 - C. One (1) part-time Athletic Director who will coordinate the fitness, recreation and sports program.
 - D. One (1) part-time Membership Coordinator who will coordinate membership and maintain on-site records.
- 5.02** Contractor will be responsible for any and all costs and expenses in connection with the operation of the Community Center, including, but not limited to: personnel salary and expenses, telephone, food, beverages, materials, supplies, etc., incidental to the operation of the Community Center.
- 5.03** In addition to utilities as set forth above, Contractor shall pay all items of cost incident to the operation of the Community Center, including, but not limited to, security of the Community Center, installation and maintenance of all Contractor's necessary equipment, together with all the wages and salaries of all employees retained by Contractor, for the portion of the Community Center occupied by Contractor.
- 5.04** Contractor shall also be solely responsible for all program supplies necessary to fulfill the requirements of Article II and V above.
- 5.05** Contractor will not allow any illegal activity to take place at the Community Center and will immediately report any and all illegal activity to law enforcement.
- 5.06** Breach of any provision of this Article shall be grounds for immediate termination of this Agreement.

**ARTICLE VI.
ACCESS TO COMMUNITY CENTER BY COUNTY**

- 6.01** County may enter the Community Center at any and all times:
- A. To inspect same;
 - B. To determine whether Contractor is complying with the provisions of this Agreement;
 - C. To post notices; and/or
 - D. For any reason that County may, in its sole discretion, deem worthy.
- 6.02** County may inspect all phases of Contractor's operation including, but not limited to, the condition of the property and equipment and/or the operation and management of Contractor's programs and/or the Community Center.
- 6.03** County shall have the right to impose regulations, policies and/or restrictions upon the Community Center from time to time as County, in its sole discretion, deems appropriate.

**ARTICLE VII.
ASSIGNMENT**

- 7.01** **CONTRACTOR WILL NOT, IN WHOLE OR IN PART, TRANSFER, ASSIGN, ALL OR ANY PORTION, ABANDON, OR OTHERWISE DISPOSE OF ITS RIGHTS UNDER THIS AGREEMENT, WITHOUT THE PRIOR EXPRESS WRITTEN CONSENT OF COMMISSIONERS COURT.**

- 7.02 ANY SUCH TRANSFER, ASSIGNMENT, ABANDONMENT OR OTHER DISPOSITION, WITHOUT THE PRIOR WRITTEN CONSENT OF COMMISSIONERS COURT, OR ANY ASSIGNMENT OF CONTRACTOR'S RIGHTS HEREUNDER BY OPERATION OF LAW, IS VOID AND OF NO FORCE AND EFFECT AS AGAINST COUNTY.
- 7.03 SUBJECT TO THE ABOVE REQUIREMENT THAT COMMISSIONERS COURT WRITTEN CONSENT FIRST BE OBTAINED UPON THE ASSIGNMENT OR TRANSFER OF RIGHTS UNDER THIS AGREEMENT BY CONTRACTOR, THE PARTY TO WHICH SUCH RIGHTS ARE ASSIGNED OR TRANSFERRED SHALL BE BOUND BY THE TERMS AND PROVISIONS OF THIS AGREEMENT TO THE SAME EXTENT AS CONTRACTOR, AND THE INSTRUMENT OF ASSIGNMENT OR OTHER WRITTEN EVIDENCE OF THE TRANSFER OF RIGHTS UNDER THIS AGREEMENT SHALL INCLUDE A PROVISION TO SUCH EFFECT.

ARTICLE VIII. INSURANCE AND LIABILITY COVERAGE

- 8.01 Contractor shall furnish certificates of insurance to County evidencing compliance with the insurance requirements hereof. Certificates shall indicate name of Contractor, name of insurance company, policy number, term of coverage and limits of coverage.
- 8.02 Contractor shall cause its insurance companies to provide County with at least 30 days prior written notice of any reduction in the limit of liability by endorsement of the policy, cancellation or non-renewal of the insurance coverage required under this Agreement.
- 8.03 Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- A. Workers' Compensation insurance in accordance with the laws of the State of Texas, or state or hire/location of Services, and Employers' Liability coverage with a limit of not less than \$500,000 each employee for Occupational Disease, \$500,000 policy limit for Occupational Disease; and Employer's Liability of \$500,000 each accident.
 - B. Commercial General Liability insurance including coverage for Products/Completed Operations, Blanket Contractual, Contractors' Protective Liability Broad Form Property Damage, Personal Injury/Advertising Liability, and Bodily Injury and Property Damage with limits of not less than:
 - \$2,000,000 general aggregate limit
 - \$1,000,000 each occurrence
 - \$1,000,000 aggregate Products, combined single limit
 - \$1,000,000 aggregate Personal Injury/Advertising Liability
 - \$ 100,000 Fire Legal Liability
 - C. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.

- 8.04 County and the County Commissioners shall be named as additional insured to all required coverage. All policies written on behalf of Contractor shall contain a waiver of subrogation in favor of County and County Commissioners.

ARTICLE IX. NOTICE

- 9.01 Any notice required or permitted hereunder to be given, shall be given by registered or certified United States Mail, return receipt requested, postage prepaid, addressed to:

To County:

Fort Bend County
401 Jackson, 1st Floor
Richmond, Texas 77469
Attn: County Judge
Phone (281) 341-8608
Fax: (281) 341-8609

To Contractor:

Boys and Girls Clubs of Greater Houston, Inc.
Administrative Office
1520-A Airline Drive
Houston, Texas 77009
Attn: Chief Operating Officer
Phone: (713) 868-3426
Fax: (713) 868-3703

With Copies To:

Fort Bend County Attorney
401 Jackson Street, 3rd Floor
Richmond, Texas 77469
Phone: (281) 341-4555
Fax: (281) 341-4557

Douglas M. Selwyn
3850 One Houston Center
1221 McKinney Street
Houston, Texas 77010-2028
Phone: (713) 650-3850
Fax: (713) 650-3851

- 9.02 Such notice will be considered given and completed upon deposit of notice in the U.S. Mail.
- 9.03 Notwithstanding anything to the contrary herein contained, County is not precluded from giving actual notice to the Contractor in any manner.
- 9.04 Any change to Contractor's addresses will be in writing, signed by the Contractor, and will be delivered to the Commissioners Court of the County.

ARTICLE X. INDEMINIFICATION

CONTRACTOR AGREES TO AND SHALL INDEMNIFY, SAVE AND HOLD HARMLESS AND DEFEND THE COUNTY, ITS OFFICIALS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES (WHETHER 1ST PARTY OR 3RD PARTY) AND RELATED COSTS, ARISING OUT OF OR CONNECTED IN ANY WAY WITH THE PERFORMANCE OF THE CONTRACTOR'S RESPONSIBILITIES UNDER THIS AGREEMENT, CAUSED BY THE CONTRACTOR'S SOLE NEGLIGENCE OR ITS SOLE INTENTIONAL ACT OR OMISSION; OR IS CAUSED BY THE JOINT NEGLIGENCE OF THE CONTRACTOR AND ANY OTHER PERSON, OR ENTITY OR THE JOINT INTENTIONAL ACT OR OMISSION OF THE CONTRACTOR AND OTHER PERSON OR ENTITY.

**ARTICLE XI.
PUBLIC ACCESS**

- 11.01 Contractor expressly states that it understands that the Community Center is a public facility, open to the public, and that at times this fact may impose a hardship on Contractor.
- 11.02 Contractor expressly states that it understands that there will be times when County or its designee shall need to use the Community Center during the time period that Contractor would normally occupy the Community Center and Contractor expressly agrees to accommodate such disruptions.
- 11.03 County agrees that it will endeavor to inform Contractor, as far in advance as possible of an event that would cause it to displace Contractor from the Community Center.
- 11.04 County agrees that it will endeavor to assist Contractor to make reasonable accommodations when it requires Contractor to vacate the Community Center.
- 11.05 Contractor expressly states that it understands that, notwithstanding that the primary purpose of the Community Center is to provide organized and supervised youth activities, no member of the public may be precluded from using the Community Center, subject to Contractor's disciplinary policies and procedures.

**ARTICLE XII.
RIGHTS AND REMEDIES**

- 12.01 All rights and remedies provided hereunder shall be cumulative and none shall exclude any other provision of this Agreement.
- 12.02 All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.
- 12.03 A waiver by either party of a breach of this Agreement by the other party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.

**ARTICLE XIII.
CONTRACTOR IS AN INDEPENDENT CONTRACTOR**

- 13.01 In the performance of work or services under this Agreement, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers or volunteers performing work required hereunder shall be deemed solely as employees of Contractor, or where permitted, its subcontractors.
- 13.02 Contractor and its agents, employees, officers or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

**ARTICLE XIV.
MISCELLANEOUS**

- 14.01 Except as otherwise provided for herein, all consents, rules, and regulations as provided for herein by the County shall only be those approved or adopted by the Commissioners Court of Fort Bend County, Texas.
- 14.02 Wherever the phrase "Commissioners Court" is used herein, it refers to the Commissioners Court of Fort Bend County.

- 14.03** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- 14.04** Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.
- 14.05** No member, official, or employee of County shall be personally liable to Contractor or any successor in interest, in the event of any default or breach by County or for any amount which may become due to Contractor, its successors, or on any obligations under the terms of this Agreement.
- 14.06** This Agreement shall be governed by the laws of the State of Texas. Venue for all purposes is the County of Fort Bend, Texas.

**ARTICLE XV.
CONTRACTOR'S REPRESENTATIONS AND ACKNOWLEDGEMENTS**

- 15.01** Contractor warrants and represents unto County that:
- A. Contractor is a duly organized and existing legal entity, in good standing in the state of Texas;
 - B. Contractor has full right and authority to execute, deliver and perform this Agreement;
 - C. The person executing this Agreement on behalf of Contractor was authorized to do so;
 - D. That prior to County's execution of this Agreement, Contractor will deliver to County satisfactory evidence of the person executing this Agreement's authority to execute this Agreement on behalf of Contractor;
 - E. Has received and is receiving from County hereunder absolutely no warranty or representation as to the condition of, or suitability of the Community Center.

**ARTICLE XVI
ENTIRE AGREEMENT**

- 16.01** This Agreement constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the County, acting through its Commissioners Court, and Contractor.
- 16.02** Contractor hereby agrees that no representations or grants or rights or privileges shall be binding upon County unless expressed in writing in this Agreement.
- 16.03** This Agreement shall supersede any and all prior agreements between the parties hereto relating to the Community Center and to the extent of any inconsistencies in the provisions of this Agreement with the provisions of any said prior agreement, the provisions of this Agreement shall control.
- 16.04** Any oral representations or modifications concerning this instrument will be of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

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**ARTICLE XVII.
EXECUTION**

IN TESTIMONY AND WITNESS OF WHICH this Agreement has been executed in duplicate originals as follows:

FORT BEND COUNTY:

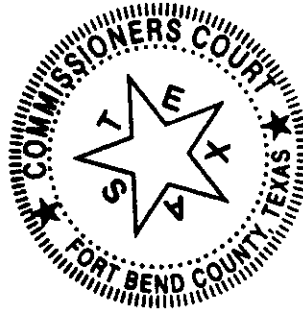


Robert E. Hebert, County Judge 1-13-2015

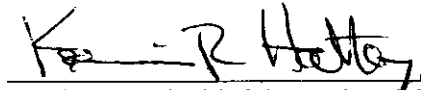
ATTEST:



Laura Richard, County Clerk



BOYS AND GIRLS CLUBS OF GREATER HOUSTON, INC.




President and Chief Operating Officer

1.5.15

Date

Auditor Certificate

I hereby certify that funds in the amount of **50,000.00** are available to pay the County's obligation within the foregoing Agreement for the Operation and Programming by the Boys & Girls Club at the Richmond-Rosenberg Community Center located at 1800 James L. Pink Boulevard, Richmond, Texas 77469.



Ed Sturdivant, County Auditor

EXHIBIT A

GREAT FUTURES START HERE.



BOYS & GIRLS CLUBS
OF GREATER HOUSTON

Boys & Girls Clubs of Greater Houston provides children and teens, aged 6-17, a safe place to learn and grow, life-enhancing programs, mentorships with caring adults, free meals and snacks, and opportunities for a better future. Our three core priority outcome areas for youth development include:

- **Academic Success** – provide youth with academic assistance, tutoring, and high-yield learning activities. Programs are focused on homework assistance; literacy; STEM; college and career preparation; technology and 21st century skills; fine arts; creative writing; digital arts; and summer slide prevention.
- **Healthy Lifestyles** – programs focus on health, nutrition and overall wellbeing; drug, alcohol, gang, and teen pregnancy prevention; physical fitness; healthy eating habits; and sports.
- **Good Character and Citizenship** – empowers youth to positively influence their Club and community, respect themselves and others, and understand cultural differences. Programs focus on teen leadership; community service; and mentorships.

Programming to be Provided: Richmond-Rosenberg Boys & Girls Club

Boys & Girls Clubs of Greater Houston will operate a new Richmond-Rosenberg Boys & Girls Club located at 1800 James L. Pink Boulevard, Richmond, TX 77469. The Richmond-Rosenberg Club is currently being built with a grand opening anticipated for Spring 2015. This Club will be open from 3 p.m. to 7 p.m. Monday – Friday during the school year and 9:00 a.m. – 5:30 p.m. Monday – Friday during the summer vacation.

Boys & Girls Clubs programming addresses our community's critical need to help economically disadvantaged youth by giving them the necessary supports, tools and opportunities to develop the

skills they need to achieve great futures. Programs focus on three priority outcome areas—Academic Success, Healthy Lifestyles, and Good Character & Citizenship. Club programs and activities listed below will be offered at the Richmond-Rosenberg Boys & Girls Club.

FOCUS AREA	DESCRIPTION
ACADEMIC SUCCESS	<ul style="list-style-type: none"> • Power Hour helps Club members develop academic, behavioral and social skills through daily homework completion, high-yield learning activities, and tutoring. • Diplomas to Degrees promotes high school graduation, goal-setting and college readiness and guides and prepares youth for post-secondary education, trade school, or military so they can gain the knowledge and skills needed to develop and maintain successful careers. • Summer Learning Program engages youth in interactive and meaningful learning activities that reinforce skills and knowledge gained during the school year to reduce the risk of Club members' regression over the summer break. • Club Tech helps Club members utilize technology to complete homework assignments, conduct research and complete reports to enable them to be successful in school and better prepared for 21st century education and career opportunities.
HEALTHY LIFESTYLES	<ul style="list-style-type: none"> • Triple Play is a comprehensive health and wellness program that educates youth about good nutrition, making physical fitness a daily practice, and developing individual strengths. • Kids Café provides each Club member a hot, balanced meal and snacks every day through collaboration with the Houston Food Bank. • SMART Moves (SMART= Skills Mastery and Resistance Training) helps Club members grow in their confidence to make healthy decisions, strengthens their critical-thinking abilities and teaches them how to avoid and/or resist negative peer pressure, alcohol, tobacco, drugs and other risky behaviors. • Sports Leagues allows Club members to participate in co-ed sports leagues, including basketball, flag football, and soccer, that promote regular physical activity, skill development, sportsmanship, teamwork and cooperative learning.
GOOD CHARACTER AND CITIZENSHIP	<ul style="list-style-type: none"> • Keystone Clubs are small-group leadership and service clubs focused on character development. These programs provide Club members an opportunity to gain leadership and service experience by electing officers, holding meetings, and working together to implement community service activities. Teen members also tutor and recruit younger Club members. • Youth of the Year is Boys & Girls Clubs' premier youth recognition program that promotes and celebrates service to Club, community, and family; academic performance, moral character, life goals, and poise and public speaking ability. Local Club organizations select a Youth of the Year who then participates in state, regional, and national competitions. The National Youth of the Year receives a \$50,000 scholarship and is recognized by the President

	of the United States.
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Staffing & Material Requirements

In order to perform all of these programs listed above, we have hired staff to work at the Richmond-Rosenberg Boys & Girls Club. The staff that has been hired to run the programs includes:

One (1) full-time Club Director

One (1) part-time Athletic Director

One (1) part-time Social Director

One (1) part-time Lead Staff Director

Once the Richmond-Rosenberg Club opens in 2015, we will hire five more staff members to run the programs in addition to the above-mentioned four staff members. The anticipated staff includes:

One (1) part-time Teen Director

One (1) part-time Tech Director

One (1) part-time Arts & Crafts Director

One (1) Floater

One (1) Membership Coordinator

Request

The Boys & Girls Clubs of Greater Houston respectfully requests \$50,000 for the fiscal year beginning 10/1/2014 and closing on 9/30/2015 to help cover the costs of providing the above-mentioned programs.