SAN LEANDRO UNIFIED SCHOOL DISTRICT

Administrative Office
14735 Juniper Street, San Leandro, CA 94579
510-667-3538

This MEMORANDUM OF UNDERSTANDING (MOU), dated as of September 8, 2011 (Effective Date), is by and between the SAN LEANDRO UNIFIED SCHOOL DISTRICT (DISTRICT) and the SAN LEANDRO BOYS AND GIRLS CLUB (CLUB).

RECITALS

A. The DISTRICT and CLUB intend to implement and operate jointly an after school program for kindergartners ("Kindercare") at Washington Elementary School.

B. The purpose of this MOU is to set forth terms and conditions on which the DISTRICT and CLUB will operate the "Kindercare" program.

C. Shared Vision: The "Kindercare" program will offer afterschool activities for kindergartners in a safe and nurturing environment.

NOW, THEREFORE, intending to be legally bound hereby, the parties agree as follows:

1 Employment of After School Kindercare Program Staff

1.1 The CLUB will employ and administratively supervise all Kindercare program staff.

1.2 Recruitment: The CLUB will recruit and screen potential staff members for the Kindercare program. The decision to hire such staff will be made by the Club Director of Operations as an agent of the CLUB and conditional on the prospective staff member meeting the requirements of employment as put forth by the CLUB; and the staff in the Kindercare program will meet, at the least, the requirements for an Instructional Aide as required by NCLB.

1.3 Screening: The CLUB will provide the DISTRICT with a list of employees that have cleared a fingerprint scan by the United States Department of Justice and the Federal Bureau of Investigations (FBI). All pre-employment screening, including but not limited to NCLB testing, and tuberculosis testing for each Kindercare staff member will be conducted pursuant to the regulations already in use by the CLUB Personnel Policies and Practices. By execution of this MOU, the DISTRICT and CLUB acknowledge that Education Code Section 45125.1 applies services under the Kindercare Program. Section 45125.1 requires that employees of entities providing such services to school districts must be

fingerprinted by the California Department of Justice and the FBI for a criminal records check.

1.3.1 CLUB expressly acknowledges that:

1.3.1.1 CLUB and all of CLUB's employees and contractors working on the school site must submit fingerprints in a manner authorized by the Department of Justice and the FBI, together with the requisite fees as set forth in Education Code Section 45125.1;

1.3.1.2 CLUB shall not permit any employee or contractor to come in contact with students until the Department of Justice and the FBI have ascertained that the employee or contractor has not been convicted of a serious or violent felony;

1.3.1.3 CLUB shall certify in writing to the DISTRICT that none of its employees or contractors who may come in contact with students have been convicted of a serious or violent felony;

1.3.1.4 CLUB shall provide to DISTRICT a list of names of its employees who may come in contact with students. The CLUB shall fulfill these requirements at its own expense.

1.3.1.5 Volunteers in the Kindercare Program will abide by the District's Volunteer Policy.

1.4 Specific Employee Issues: CLUB Personnel Policies and Practices will not apply to DISTRICT staff under this MOU. Policies regarding terms of employment will be incorporated in a contract with each employee, which will specify holidays, salaried or hourly compensation, and days of work to conform to site-specific requirements for each school site.

1.5 The CLUB will be responsible for and shall implement all procedures involving CLUB employee evaluation, compensation decisions and disciplinary actions for all CLUB employees.

2 <u>Responsibilities of the DISTRICT under this MOU</u>

2.1 The DISTRICT will provide a classroom, separate from ASES, specifically for the afterschool Kindercare Program. A Kindergarten classroom would be ideal if available.

2.2 The DISTRICT will provide custodial services for the PROGRAM space at the District's expense.

2.3 The CLUB will provide participants with a daily snack as supplied by The DISTRICT.

2.4 Provide for distribution of materials and publications prepared by CLUB and approved by the DISTRICT to students and families of the DISTRICT.

3 Responsibilities of the CLUB under this MOU

3.1 The CLUB shall provide afterschool activities for kindergartners in a safe and nurturing environment.

3.2 The CLUB will provide the following management and human resources services to the DISTRICT and the School Sites for the entire term of this MOU:

3.2.1 Payroll and benefits program and management for all contracted Kindercare program staff members employed by the CLUB;

3.2.2 Personnel supervision and discipline within the parameters of its employment contracts.

3.2.4 The CLUB will employ one lead Kindercare Coordinator (6.5 hours per day) and one support staff position (3 hours per day) at each site.

3.2.5 Although the Kindercare Program is separate from ASES, the ASES Site Director will be the direct supervisor of the Kindercare staff.

3.2.6 The CLUB will require a minimum registration of 20 students (AM and or PM Kinders) at each site. If at any time less than 20 students are registered at a site, the program will be terminated unless parents wishing to remain in the program can provide the additional funds necessary to subsidize the program. Parents will be given at least one week notice prior to program termination. If more than 25 Kinders are registered, additional staff will be hired.

3.3 The CLUB shall be responsible for intake of fees, registration of all Kindercare participants and the management of all registration information. The DISTRICT will assist the CLUB with Kindercare related administrative support.

3.3.1 The CLUB will submit registration lists to the DISTRICT in a timely fashion and provide updated lists on a regular, on-going basis.

3.3.2 100% of the Kindercare fees taken in as revenue shall be counted as income for the Boys and Girls Club to be applied to the Kindercare Program only.

3.3.3 The Kindercare Program is a fee-for service program. There will not be any opportunities for scholarships.

3.4 It is expressly agreed that the CLUB shall have no authority to make any contract or binding promise of any nature on behalf of the DISTRICT, whether oral or written, without the express written consent of the DISTRICT.

4 Training and Planning

4.1 The DISTRICT will invite all Kindercare staff members to participate in all appropriate in-service training offered to the employees of the DISTRICT.

5 Program Purpose

5.1 The Kindercare Program is a service for parents in need of afterschool care for their Kindergartners. The primary purpose of the Kindercare Afterschool Program is to provide participating kindergartners with a safe, fun environment until parents pick them up (by 6:00 pm)

5.2 Students in the Kindercare Program may be picked up anytime afterschool but no later than 6:00 pm.

6 Insurance

6.1 CLUB shall maintain at its own cost and expense policies of comprehensive liability insurance and property damage insurance coverage as set forth below. The parties agree that DISTRICT, and its officers, agents, employees and representatives shall be specifically named in any and all such policies of insurance as additional named insured's. Any and all policies of insurance maintained by CLUB pursuant to this Section shall be deemed primary to any potentially applicable policy or policies of insurance maintained by DISTRICT and/or its officers, agents, employees and representatives. Additional insurance may also be obtained as required by CLUB or as otherwise required by law.

6.1.1 Workers' Compensation.

6.1.2 General Liability and Property Insurance: Comprehensive general liability coverage shall be in the amount of not less than two (2) million dollars - occurrence based. Property coverage shall be for replacement value.

6.1.3 CLUB shall obtain necessary insurance commensurate with its corporate status and assets.

6.1.4 CLUB may obtain indemnity coverage for errors and omissions for its directors and officers and any other insurance the CLUB deems appropriate.

7 Indemnification

7.1 CLUB Obligation: The CLUB shall indemnify, defend and hold harmless the DISTRICT, its officers, agents, and employees from and against any claims, damages, expenses, including an amount equal to reasonable attorney's fees, or liabilities arising out of or in any way connected with this MOU, including, without limitation the loss or damage to any property, or the death or injury to any person or persons in proportion to and to the extent that such claims, damages, expenses, or liabilities arise from the negligence or willful acts or omissions of the CLUB, its officers, agents, or employees.

7.2 DISTRICT Obligation: The DISTRICT shall indemnify, defend and hold harmless the CLUB, its officers, agents, and employees from and against any claims, damages, expenses, including an amount equal to reasonable attorney's fees, or liabilities arising out of or in any way connected with this MOU including, without limitation the loss or damage to any property, or the death or injury to any person or persons

in proportion to and to the extent that such claims, damages, expenses, or liabilities arise from the negligence or willful acts or omissions of the CLUB, its officers, agents, or employees.

8 Status of Contract

8.1 This is not an employment contract. Nothing herein shall be construed as creating an employer-employee relationship between the parties.

9 Assignment

9.1 The obligations of CLUB under this MOU shall not be assigned by CLUB without the express written consent of DISTRICT.

10 Notices

10.1 The CLUB shall notify DISTRICT within 5 days of any claim or lawsuit filed against CLUB that relates to the operation of the Kindercare Program at any site where CLUB provides a program pursuant to this MOU.

10.2 Any notice required by the MOU shall be in writing and shall be conclusively deemed given and received when personally delivered or deposited in the United States mail, registered or certified, postage prepaid, addressed to the other party at the following respective address, or at such other addresses or to such other persons as the parties may from time to time designate by written notice to the other:

San Leandro Unified School District
Administrative Office
14735 Juniper Street
San Leandro, CA 94579

San Leandro Boys and Girls Club
401 Marina Boulevard
San Leandro, CA 94577

11 Amendments

11.1 No Amendment to or modification of the MOU shall be effective unless set forth in writing (a side letter) and signed by the parties.

12 Conflict Resolution

12.1 Should a problem arise between the DISTRICT and the CLUB regarding the Kindercare program philosophy, Kindercare Program delivery, organization expectations, vision, etc., it is expected that both organizations will work diligently together as partners to communicate and resolve the conflict. Terminating this MOU should only be a last resort.

13 Term and Termination

13.1 This MOU shall commence on the effective Date and shall continue until June 30, 2012 unless sooner terminated pursuant to this paragraph. Either party may terminate this MOU prior to expiration as a result of a breach by the other party of any material term of this MOU. Following receipt of written notice of such a breach, the breaching party shall have thirty (30) calendar days from the date of receipt to cure the breach. If after the thirty days from receipt of the notice the breach has not been resolved, the non-breaching party may terminate this MOU, effective seven (7) calendar days after the notice of termination. Payment for all services rendered to the date of termination shall be due and payable within fifteen (15) calendar days after termination. All reports required to be prepared by the Club and which are outstanding at the date of termination shall be delivered to the DISTRICT within fifteen (15) calendar days after termination.

13.2 This MOU constitutes the entire understanding of the parties and any changes, amendments, or addenda shall be agreed upon in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this MOU as of the date first written above.

SAN LEANDRO UNIFIED SCHOOL DISTRICT

By: _____

Cindy M. Cathey
Superintendent of Schools

SAN LEANDRO BOYS AND GIRLS CLUB

By: _____

Robert Glotch
Executive Director