

R-2003-370
11/19/03

THIS SUBLEASE AGREEMENT is made and entered into this 19th day of Nov, 2003, by and between BOYS AND GIRLS CLUBS OF BROWARD COUNTY, (hereinafter "BAGC") and THE CITY OF HOLLYWOOD, FLORIDA, a municipal corporation of the State of Florida, (hereinafter "CITY").

WHEREAS, the CITY entered into a forty (40) year Lease Agreement with the School Board of Broward County, Florida, relating to the lease by the CITY of certain real property located in Hollywood, Florida; and

WHEREAS, the lease specifically allows for a sublease by the CITY of certain designated areas within the leased property to entities such as BAGC; and

WHEREAS, on January 8, 1992, CITY and BAGC entered into a sublease wherein BAGC constructed the existing BAGC facility as depicted on Exhibit "A" (labeled existing facility with diagonal shaded lines) attached hereto and incorporated herein by reference; and

WHEREAS, CITY has funded the entire construction of a West Hollywood Neighborhood Network Center located at 1111 N. 69th Way, which will provide various city services to the local community and is located on the leased property from the School Board and adjacent to the existing BAGC facility; and

WHEREAS, CITY has agreed to provide space in the West Hollywood Neighborhood Network Center where BAGC will occupy administrative offices, conduct classroom activities and provide recreational programs for the children in the community; and

WHEREAS, the Neighborhood Network Center located at 1111 N. 69th Way is situated on property owned by the Broward County School Board and leased to the CITY for nominal consideration; and

WHEREAS, CITY desires to sublease a portion of the Neighborhood Network Center to BAGC consistent with the uses referenced above; and

WHEREAS, CITY and BAGC believe that such an arrangement will be of mutual benefit to all parties and further satisfy specific needs of the community; and

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises and covenants contained herein, it is hereby agreed by and between the parties hereto, as follows:

ARTICLE 1 - RECITALS

1.01 Recitals. The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 –CONDITIONS

2.01 Subleased Property. CITY does hereby sublease to BAGC space within the area depicted in Exhibit "A" as the 'New Building' (in the white box with the smaller box inserted).

2.02 Term. Unless extended or terminated in accordance with the provisions hereof, the term of this Sublease is twenty-nine (29) years from the date of the execution of this Sublease by both parties. It is specifically understood and agreed that by mutual agreement of the parties, the term of this Sublease may be shortened or extended, subject to the provisions of Default and Expiration of Sublease set forth herein.

2.03 Rental. The rental shall be One Dollar (\$1.00) per year payable to CITY on the yearly anniversary of the Sublease agreement.

2.04 Uses Permitted. The CITY has designated this location as a Neighborhood Network Center to provide various Police and City services to the local community. The CITY has agreed to provide space inside the Neighborhood Network Center to BAGC strictly to be used for administrative offices, recreational programs and classroom activities which shall be operated, maintained and controlled by BAGC. It is acknowledged by the parties that during the term of this Sublease, the space utilized by BAGC shall be under the sole and exclusive custody and control of BAGC. However, the use of the Neighborhood Network Center for Police and CITY services shall always take priority in determining the use of the Subleased Area. BAGC will cooperate with CITY in providing mutually beneficial programs for the CITY'S residents at the Subleased Area.

2.05 Utilities. Expenses related to providing water, sewer treatment, electric, sanitation and telephone services will be paid entirely by CITY.

2.06 Liability Insurance. Upon execution of this Sublease Agreement, BAGC shall provide proof of one million dollars (\$1,000,000.00) premises liability insurance, including fire insurance covering the Subleased Area and its improvements to CITY. Further, BAGC shall provide insurance for bodily injury per person in the amount of \$1,000,000.00 per occurrence, if reasonably available. Said insurance policies shall name the CITY as an additional insured and the annual premiums shall be paid by BAGC in a timely manner. Certificates of Insurance shall be forwarded to the CITY'S Police Legal Advisor with a copy to the CITY'S Risk Management Division. BAGC shall be obligated to maintain insurance coverage at all times during this Sublease Agreement. Failure of BAGC to maintain such insurance policies shall constitute a material breach of this Sublease.

2.07 Maintenance.

(a) CITY shall maintain the exterior of the Neighborhood Network Center, including but not limited to keeping the grounds sanitary and free from debris.

(b) CITY shall employ a janitorial service to clean and otherwise maintain the interior of the Neighborhood Network Center.

(c) BAGC shall clean and otherwise exercise best efforts to maintain their designated office space and recreational locations inside the Neighborhood Network Center. BAGC will be responsible for any known damages done to the subleased space as a result of BAGC'S use of the premises only after the CITY notifies BAGC after BAGC'S use of the space/premises that such damages have been caused and it is ascertained that such damages arose from BAGC'S use. BAGC shall be responsible to clean up the premises after each and every recreational or other program it sponsors.

2.08 Indemnification.

(a) To the extent permitted by law, CITY agrees to be fully responsible for its own acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

(b) BAGC shall indemnify and hold harmless and defend CITY, its officers, agents and employees from and against any loss, damage or expense (including all costs and reasonable attorneys' fees) suffered by City from (a) any claim, demand, judgment, decree, or cause of action of any kind or nature arising out of any error, omission, or negligent act of BAGC, its agents, servants, employees or contractors in the performance of services under this Agreement (b) any breach of the Sublease Agreement, (c) any inaccuracy in or breach of any of the representations, warranties or covenants made by the BAGC herein, (d) any claims, suits, actions, damages or causes of action arising during the term of this contract for any personal injury, loss of life or damage to property sustained by reason or as a result of performance of this Sublease by the BAGC and the BAGC's agents, employees, contractors, invitees, and all other persons, and (e) any claims, suits, actions, damages or causes of action for any personal injury, loss of life or damage to property sustained by reason or as a result of the presence of the BAGC and/or the BAGC agents, employees, contractors, invitees, and all other persons on the property. These provisions shall survive the expiration or earlier termination of this SubLease Agreement. Nothing in this Sublease Agreement shall be construed to affect in any way the City's sovereign immunity and its rights, privileges, and immunities as set forth in Florida Statutes §768.28.

(c) Except as otherwise provided herein, BAGC shall indemnify and save harmless the City from suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury or property damage arising from or out of any occurrence in, upon, at or from the demised premises or the occupancy or use by BAGC of said premises or any part thereof, or occasioned wholly or in part by any act or omission of BAGC, its agents, contractors, employees, servants, invitees, licensees or concessionaires. BAGC shall store its property in and shall occupy the demised premises at its own risk, and release the City, to the full extent permitted by law, from all claims of every kind resulting in loss of life, personal or bodily injury or property damage. City shall not be responsible or liable at any time for any loss or damage to BAGC's merchandise or equipment, fixtures or other personal property of BAGC or to

BAGC's business. City shall not be responsible or liable to BAGC or to those claiming by, through or under BAGC for any loss or damage to either the person or property of BAGC that may be occasioned by or through the acts or omissions of persons occupying adjacent, connecting or adjoining premises.

ARTICLE 3 – GENERAL CONDITIONS

3.01 No Waiver of Sovereign Immunity. Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

3.02 No Third Party Beneficiaries. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

3.03 Non-Discrimination. The Parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

3.04 Records. Each Party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each Party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

3.05 Breach or Default. CITY hereby agrees that should BAGC breach this Sublease Agreement or be in default of its respective terms, then prior to the CITY claiming any right to relief as a result of said breach or default, CITY shall give written notice to BAGC of the specific breach or default and thereafter, BAGC shall have thirty (30) days to cure said breach or default or such additional time to cure as may be approved by the CITY, which extensions will not be unreasonably withheld so long as BAGC is making a good faith effort to cure such breach or default. In the event that BAGC is unable to cure any such breach or default, then CITY has the right to terminate this Sublease Agreement upon thirty (30) days written notice. Upon such termination, BAGC shall vacate the Subleased space and premises.

Further, if BAGC shall abandon or vacate the Subleased space area in the Neighborhood Network Center before the end of the term of this Sublease Agreement, then the City may, at its sole option, cancel and terminate this Sublease or it may enter the Subleased space area as the agent of BAGC, by force or otherwise, without being liable in any way, and relet the premises as the agent of BAGC, at such price and upon

such terms and for such duration of time as the CITY may determine, and receive the rent, or at its option, the CITY may use the Sublease area for any other valid public purpose as consistent with the Lease Agreement with the School Board.

3.06 Ownership of Neighborhood Network Center. At the expiration of the term of this Sublease Agreement unless such term is extended by the parties pursuant to a written amendment and a written amendment extending the CITY's Lease with the School Board, BAGC will vacate said subleased space and the premises. BAGC agrees and acknowledges that the Neighborhood Network Center shall remain the CITY'S property subject only to the terms of the Lease Agreement with the School Board.

3.07 Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.08 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.09 Preparation of Agreement. The Parties acknowledge that they have sought and obtained whatever competent advise and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.10 Waiver. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

3.11 Compliance with Laws. Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 Governing Law. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement

or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.13 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.14 Assignment. Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party.

3.15 Force Majeure. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.16 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.17 Notice. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To BAGC: Matthew J. Organ, Senior Area Director
Boys and Girls Clubs of Broward County
1111 N. 69th Way
Hollywood, Florida 33024

To CITY: James H. Scarberry, Chief of Police
City of Hollywood Police Department
3250 Hollywood Boulevard
Hollywood, Florida 33021

With a Copy to: City Attorney
2600 Hollywood Blvd., Room 407
Hollywood, Florida 33020

3.18 Captions. The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and

in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR BAGC

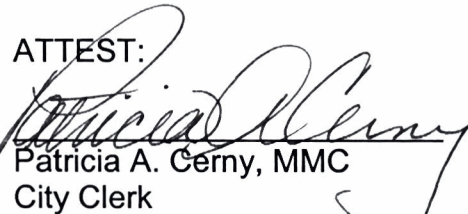
BOYS AND GIRLS CLUBS OF
BROWARD COUNTY, FLORIDA

By 
Matthew J. Organ, Senior Area Director

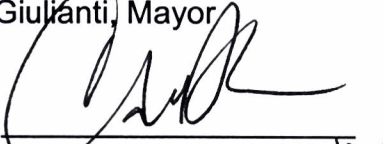
FOR CITY

CITY OF HOLLYWOOD, FLORIDA, a
municipal corporation of the State of
Florida

ATTEST:


Patricia A. Cerny, MMC
City Clerk

By: 
Mara Giuliani, Mayor

Approved: 
Cameron D. Benson
City Manager

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida, only


Daniel L. Abbott, City Attorney