

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into as of this ____ day of _____, **2021**, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(hereinafter referred to as “**SBBC**”),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

CITY OF HOLLYWOOD, FLORIDA

(hereinafter referred to as “**City**”),
a municipal corporation
whose principal place of business is
2600 Hollywood Blvd., Hollywood, Florida 33020

WHEREAS, SBBC is the controlling body of the Public Schools of Broward County Florida and owns certain school sites and other real estate parcels located in the City of Hollywood, Broward County, Florida, and has certain administrative office facilities (Office Facilities) centrally located on the campus of McNicol Middle School, in the City of Hollywood, Florida that has been determined the SBBC will not be utilizing during the anticipated term of this agreement; and

WHEREAS, the City and SBBC have previously entered into a Lease Agreement for the use of the Office Facilities for a term of five years (5) years from November 1, 2016, through October 31, 2021; and

WHEREAS, the City and SBBC wish to enter into this Lease Agreement pursuant to Section 163.01, Florida Statutes for the purpose of extending the City’s use of the Office Facilities for another five (5) year term, and

WHEREAS, the City and SBBC believe that such an arrangement will continue to be of mutual benefit to all parties and will continue to fill a need in that area of the community and that cooperation between the parties hereto will continue to result in benefit to the citizens of the City;

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 **Leased Property.** The SBBC does hereby lease to the City, the following described properties located at 1405 South 28th Avenue, Hollywood, Florida 33020, herein referred to as (Building 1).

Building 1 of the Leased Property is 14,374 square feet, of which the City will be leasing 7,434 square feet in the areas depicted in **Exhibit B** (Floor Plan).

2.02 **Lease Term.** Unless terminated early pursuant to Section 3.04 of this Lease Agreement, the term of this Lease Agreement shall be for five (5) years commencing on November 1, 2021 and concluding on October 31, 2026.

2.03 Hours of Operation and Permitted Use of Leased Property.

- a. The Leased Property shall be used during hours as determined by the City which may include nights, weekends, and holiday operations.
- b. The City agrees to utilize Building 1 of the Leased Property only as an Administrative Office and for Community use.
- c. The Leased Property shall be used by the City for the purpose described in Section 2.03(b), and for no other purpose without the prior written consent of SBBC, which consent may be granted or withheld at SBBC's sole discretion.
- d. The City shall not do or permit to be done in or about the Leased Property, nor bring or keep or permit to be brought or kept therein, anything which is prohibited by or will in any way conflict with any law, statute, School Board Policy, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated; or which is prohibited by any standard form of fire insurance policy or will in any way increase the existing rate of or affect any fire or other insurance upon the Building in which the Leased Property is situated or any of its contents, or cause a cancellation of any insurance policy covering said building or any part thereof or any of its contents.

2.04 Rental.

- a. The City shall pay the following rental amount for the Leased Property; however, Years 2 through 5 rental payments are contingent upon an annual appropriation of

funds by the Hollywood City Commission in accordance with Section 30.05, Hollywood Code of Ordinance.

The rental amount due for the Leased Property shall increase annually by three percent (3%), and all increases for years two (2) through five (5) shall occur on November 1st of each year for the term of this Lease Agreement and as depicted below.

<u>Year - Term</u>	<u>Annual % Increase</u>	<u>Annual Amount</u>	<u>Monthly Amount</u>
1 - November 1, 2021 – October 31, 2022		\$100,359	\$8,363.25
2 - November 1, 2022 – October 31, 2023	3%	\$103,369.77	\$8,614.15
3 - November 1, 2023 – October 31, 2024	3%	\$106,470.86	\$8,872.57
4 - November 1, 2024 – October 31, 2025	3%	\$109,664.99	\$9,138.75
5 - November 1, 2025 – October 31, 2026	3%	\$112,954.94	\$9,412.91

- b. All rent payments shall be paid on or before the 1st day of each calendar month by the City. Rent payments shall be transmitted to the School Principal's office, McNicol Middle School, 1602 S. 27th Avenue, Hollywood, Florida 33020; with check made payable to The School Board of Broward County, Florida
- c. In the event any monthly payment is not received within five (5) business days after it is due, the SBBC shall notify the City in writing and the City shall remedy the situation in a timely manner. If not remedied then the SBBC shall be entitled, in addition to any other remedy that may be available, to an administrative fee and late charge of five percent (5%) of the amount of the payment due. In addition to the five percent (5%) administrative fee and late charge, an additional two percent (2%) late charge will be applied for each consecutive month payments are not made after the five (5) business days of the payment due date.

2.05 **ADA**. The SBBC hereby represents that the Leased Property herein meets all accessibility requirements of the Federal Americans with Disabilities Act (ADA) and Florida Accessibility Code for Building Construction implemented under the Florida Americans with Disabilities Implementation Act, except as modified by State Requirements for Educational Facilities, for the use or occupancy intended by the Parties.

2.06 **Asbestos**. The SBBC hereby represents that the Leased Property described herein is free from friable asbestos as defined in the Asbestos Hazard Emergency Response Act (AHERA), 40 CRF Part 763, Asbestos Materials in Schools, October 30, 1987, and Florida State Requirements for Educational Facilities (SREF) 1999, whichever is more stringent.

2.07 **Condition of Premises**. The City accepts the Leased Property **AS-IS** at the time of occupancy. Removal or change of location of any appliance or equipment, occasioned by the City's use of said Leased Property, shall be made by the City at the City's sole expense, but no such removal or change shall be made without prior approval by the SBBC (which approval shall not be unreasonably withheld). Any appliance or equipment removed or relocated by City shall be replaced as found.

2.08 **Air Conditioning.** The SBBC agrees to furnish to the City, air conditioning for the Leased Property during the term of the Lease Agreement. During the term of this Lease Agreement, SBBC shall also maintain the air conditioning unit in the Leased Property in working condition.

2.09 **Light Fixtures.** The SBBC agrees to maintain in the Leased Property, light fixtures installed for use by the City. The SBBC shall be responsible for replacement of all bulbs, lamps, tubes, and starters used in such fixtures for the purpose of furnishing light.

2.10 **Maintenance and Repairs.**

- a. The City shall provide janitorial services regarding cleaning of the interior of the office and restrooms located in the Leased Property in accordance with generally accepted good practices.
- b. The City shall be responsible for the supply of toilet paper, liquid soap, paper towels, and any other related consumables the City desires for its use regarding the Leased Property.
- c. The SBBC shall maintain and keep in good repair the exterior of the Leased Property during the term of this Lease Agreement and shall be responsible for the replacement of all windows, doors and ancillary fixtures broken and damaged at the Leased Property, except if such breakage or damage is caused to the exterior of the Leased Property by the City, its officers, agents or employees. SBBC will mow and maintain all exterior spaces of the Leased Property. The City will de-litter and keep the exterior free of trash and litter.

2.11 **Utilities.** The City shall pay to SBBC, \$1,121.30 per month for utilities which consist of gas (if applicable), water, electricity, and trash, which amount shall be for the monthly utility payments due for the first year of the lease term. Thereafter, the utility amount cited herein shall increase annually by three percent (3%) on November 1st for the term of this Lease Agreement. Additionally, SBBC shall invoice the City timely and prior to the 1st day of each month for the utility amount due, and payment due shall be made payable by the 1st day of each month to The School Board of Broward County, Florida. The City upon receipt of the invoice, shall pay the total invoiced amount due to the SBBC no than later thirty (30) days of receipt of the invoice. The City shall transmit the payment due to the appropriate SBBC department noted in the invoice, and/or as per the instructions noted in the invoice. In the event the total payment due for utility is not received by the due date, SBBC shall be entitled, in addition to any other remedy that may be available, to a monthly late charge of five percent (5%) of the total payment amount due.

2.12 **Indemnification.**

- a. By SBBC: To the extent permitted by law, SBBC agrees to indemnify, defend and hold the City, including the City's officers, agents and employees, harmless from and against any and all claims, damages, losses, liabilities, causes of action of any kind or nature whatsoever arising out of or because of SBBC's negligence of that of its employees acting within the scope of their employment with regard to the

City's use and occupancy of the Leased Property, providing that SBBC's indemnification obligations under this Lease Agreement shall be adjusted in the same proportion as the extent that such claim, damage, loss, liability or cause of action is due to the City's negligence or that of City's employees acting within the scope of their employment or of City's invitees. The City reserves the right to select its own counsel in any proceeding for which it is entitled to indemnity by SBBC under this Lease Agreement, and all reasonable attorney's fees and costs associated therein shall be the responsibility of the SBBC under this indemnification agreement. Compliance with the requirements of this section shall not relieve SBBC of any other obligation existing under this Lease Agreement. Nothing contained herein is intended nor shall it be construed to waive SBBC's rights, immunities or limits to liability existing under the common law, sovereign immunity or Section 768.28, Florida Statutes.

- b. By City: To the extent permitted by law, the City agrees to indemnify, defend and hold SBBC, including SBBC's officers, agents and employees, harmless from and against any and all claims, damages, losses, liabilities, causes of action of any kind or nature whatsoever arising out of or because of the City's use and occupancy of the Leased Property, providing that the City's indemnification obligations under this Lease Agreement shall be adjusted in the same proportion as the extent that such claim, damage, loss, liability or cause of action is due to SBBC's negligence or that of its employees action within the scope of their employment. The City's obligation to indemnify SBBC under this Lease Agreement shall not be limited to the amount of any comprehensive general liability insurance that the City is required to provide pursuant to this Agreement. SBBC reserves the right to select its own counsel in any proceeding for which it is entitled to indemnity by the City under this Lease Agreement and all reasonable attorney's fees and costs associated therewith shall be the responsibility of the City under this indemnification agreement. Compliance with the requirements of this section shall not relieve the City of any other obligation existing under this Lease Agreement. Nothing contained herein is intended nor shall it be constructed to waive the city's rights, immunities or limits to liability existing under the common law, sovereign immunity or Section 768.28, Florida Statutes.

2.13 **Insurance.** The City shall maintain in full force and effect during the Term of this Lease Agreement the following minimum insurance requirements:

- a. **General Liability:** Each party represents that it is self-insured against the risk inherent in this Lease Agreement. Upon the written request of a party, the other party shall furnish evidence of its self-insurance program.
- b. **Worker's Compensation:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c. **Property Damage:** Damage to rented premises in the amount of \$500,000 combined single limit per occurrence.

- d. **Acceptability of Insurance Carriers:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated at least A-VI by AM Best or Aa3 by Moody's Investor Services.
- e. **Verification of Coverage:** Proof of the required insurance must be furnished by the City to the SBBC Risk Management Department by providing a Certificate of Insurance within fifteen (15) days of the date of this Lease Agreement. All certificates (and any required document) must be received and approved by SBBC Risk Management Department within fifteen (15) days of the date of this Lease Agreement. The City shall immediately remedy any deficiencies. FAX CERTIFICATE OF INSURANCE TO SBBC RISK MANAGEMENT AT 1-866-897-0424.
- f. **Required Conditions:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance: **The School Board of Broward County, Florida, its members, officers, employees and agents as additional insured. The endorsement number shall be provided to the SBBC Risk Management Department. All liability policies are primary of all other valid and collectible coverage maintained by the School Board of Broward County, Florida. (**Please include the Contact # and Title of the Certificate of Insurance.) (Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301.)**
- g. **Cancellation of Insurance:** The City is prohibited from providing services under this Lease Agreement with SBBC without the minimum required insurance coverage and must notify SBBC within two (2) business days if required insurance is cancelled.

2.14 **Parking.** SBBC shall keep and maintain the parking areas adjacent to the Leased Property in good condition. The City personnel assigned to work in the Leased Property and any community residents visiting the Leased Property shall upon the effective date of this Lease Agreement and/or occupation of the Leased Property by the City, have the right to use the specified parking area depicted in **Exhibit A and Exhibit B** for vehicular parking only. Any City staff or community resident found to be parking improperly in another area of the parking area not designated in **Exhibit A and Exhibit B** shall have their parking privileges revoked and their vehicles will be subject to towing at the sole expense of the vehicles' owners. For the purposes of this Lease Agreement, a vehicle shall be defined as a car, van, pick-up truck, SUV and/or motorcycle.

2.15 **Subletting.** The City acknowledges that the City's obligations and duties under this Lease Agreement are unique and not subject to being adequately performed by any other party. As such, the City agrees that it shall not assign or sublet the Leased Property described in this Lease Agreement, assign its interests or rights existing under this Lease Agreement, or use said Leased Property or any part thereof, for any purpose other than that set out in the Lease Agreement.

2.16 **SBBC's Access to the Leased Property.** The SBBC or its authorized agent or agents shall have the right to enter upon the Leased Property at all reasonable times for the

purposes of inspecting the same, preventing waste, making such repairs as SBBC may require, or to perform maintenance services.

2.17 **Improvements.** The location of any and all improvements (hereafter referred to as “Improvements”) to be placed on the Leased Property, shall first be approved in writing by SBBC, it being intended that SBBC shall have absolute control over the location of any Improvements before they are placed on the Leased Property. However, such approval by SBBC shall not be unreasonably withheld. Any Improvements placed on said Leased Property without the prior written approval of SBBC as to location shall immediately be removed or relocated within ninety (90) days of written demand by SBBC, unless the parties agree that the Improvements should remain whereby this Lease Agreement will be amended to reflect the use and responsibility of the Improvements.

- a. The authority to grant this approval regarding this Lease Agreement is hereby delegated by the SBBC to the SBBC’s Chief Facilities Officer or designee and Chief Building Official or designee. Subject to the provisions of the foregoing paragraph, the parties further agree that the City will prepare and submit plans to the SBBC’s Chief Facilities Officer or designee and Chief Building Official or designee for review and approval. Any plans must meet State of Florida Building Code Requirements, and State Requirements for Educational Facilities as applicable, and any other requirements imposed by applicable law. The SBBC’s Chief Facilities Officer or designee and Chief Building Official or designee shall have ninety (90) days from the date of receipt of the plans to review and comment. All design documents shall be approved by the SBBC’s Chief Facilities Officer or designee and Chief Building Official or designee prior to submission to the Department of Education, if applicable. The City agrees to obtain all necessary permits and approvals and to contract with a Contractor for the construction of the Improvements.
- b. The City shall be solely responsible for all contractual obligations to the contractor hired to construct the Improvements.
- c. Before the commencement of the Improvements, the City shall require the engaged contractor to furnish a surety payment and performance bonds that guarantee the completion of the Improvements and the performance of the work necessary to complete the Improvements; as well as, full payment of all suppliers, material men, laborers or subcontractors employed to provide services to complete the Improvements. The contractor shall be required by contract to deliver a copy of the surety bond to the City. Such bonds shall remain in effect for one (1) year after completion of the Improvements. The contractor will cause the correction of any defective or faulty work or materials that appear after the completion of the Improvements within the warranty period of such work performed.
- d. Any Improvements made by the City to the Leased Property shall become the property of SBBC upon the termination of this Lease Agreement.

2.18 **City’s Property.** The City agrees to remove all of its property and that of its personnel from the Leased Property within a reasonable timeframe not to exceed seven (7) days

after the conclusion or termination of City's permitted use of the Leased Property. The City agrees that any property left behind at the Leased Property more than seven (7) days beyond than the period permitted under this Lease Agreement shall be left at the City's peril, shall be considered abandoned, and may be disposed of at the sole discretion of SBBC without any recourse by the City. It is agreed that no bailor/bailee relationship shall be construed to exist between SBBC and the City with regard to any property left by the City at the Leased Property at times other than the period permitted under this Lease Agreement.

2.19 **Licenses and Permits.** The City agrees to obtain at its sole expense' any permits, licenses or additional authorizations required by law or ordinance for City's use of the Leased Property.

2.20 **Hazardous Materials.** The City shall not cause or permit any Hazardous Material (as hereinafter defined) to exclude general cleaning materials, to be brought upon, kept or used in or about the Leased Property by the City, its agents, principals, employees, contractors, consultants or invitees without the prior written consent by the SBBC, which consent may be withheld for any reason whatsoever or for no reason at all. If the City breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material upon the Leased Property caused or permitted by the City (or the aforesaid others) results in (a) any contamination of the Leased Property, the surrounding area(s), the soil or surface or ground water or (b) loss or damage to person(s) or property, or if contamination of the Leased Property or the surrounding area(s) by Hazardous Material otherwise occurs for which the City is legally, actually or factually liable or responsible to SBBC (or any party claiming, by through or under SBBC) for damages, losses, costs or expenses resulting therefrom, then the City shall be solely responsible for all costs, expenses and amounts required to remediate, clean up and correct such matter and the City shall further fully and completely indemnify, defend and hold harmless SBBC (or any party claiming by, through or under SBBC) from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses [including, without limitation: (i) diminution in the value of the Leased Property and/or the land on which the Leased Property are located and/or any adjoining area(s) which SBBC owns or in which it holds a property interest; (ii) damages for the loss or restriction on use of rentable or usable space of any amenity of the Leased Property or the land on which the Leased Property are located; (iii) damages arising from any adverse impact on marketing of space; and (iv) any sums paid in settlement of claims, reasonable attorneys and paralegals' fees, (whether incurred in court, out of court, on appeal or in bankruptcy or administrative proceedings) consultants fees and expert fees] which arise during or after the term of this Lease Agreement or any renewal thereof, as a consequence of such contamination. This indemnification of SBBC by the City includes, without limitation, costs incurred in connection with any investigation or site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Leased Property. The City shall be given 30 days to cure any contamination that maybe found on the Leased Property due to the City's neglect.

- a. Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Leased Property or the surrounding area(s) caused or permitted by the City (or the aforesaid others) results in (a) any contamination of the Leased Property, the surrounding area(s), the soil or surface or ground water or (b) loss or damage to person(s) or property, then the City shall immediately notify SBBC of any contamination, claim of contamination, loss or damage and, after consultation

and approval by SBBC, take all actions at the City's sole expense as are necessary or appropriate to return the Leased Property, the surrounding area(s) and the soil or surface or ground water to the condition existing prior to the introduction of any such Hazardous Material thereto, such that the contaminated areas are brought into full compliance with all applicable statutory regulations and standards. The foregoing obligations and responsibilities of the City shall survive the expiration or earlier termination of this Lease Agreement.

- b. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law. "Hazardous Material" includes any and all material or substances which are defined as "hazardous waste", "extremely hazardous waste" or a "hazardous substance" pursuant to local, state or federal governmental law. "Hazardous substance" includes, but is not restricted to, asbestos, polychlorobiphenyls ("PCB's"), petroleum, any and all material or substances which are classified as "biohazardous" or "biological waste" (as such terms are defined by Florida Administrative Code ("F.A.C.") Chapter 17-712, as amended from time to time), and extremely "hazardous waste" or "hazardous substance" pursuant to federal, state or local governmental law.
- c. SBBC and its agents shall have the right, but not the duty, to inspect the Leased Property at any time to determine whether the City is complying with the terms of this Lease Agreement. If the City is not in compliance with this Lease Agreement, SBBC shall have the right to immediately enter upon the Leased Property to remedy at the City's expense any contamination caused by the City's failure to comply, notwithstanding any other provision of this Lease Agreement. SBBC shall use its best efforts to minimize interference with the City's operations but shall not be liable for any interference caused thereby.
- d. Any non-compliance by the City with its duties, responsibilities and obligations under this Section shall constitute a default of this Lease Agreement, no notice of any nature from SBBC to the City being required.

2.21 **Holding Over.** The failure of the City to surrender the Leased Property on the date provided herein for the expiration of any term of this Lease Agreement (or at the time the Lease Agreement may be terminated otherwise by SBBC), and the subsequent holding over by the City, with or without the consent of SBBC, shall result in the creation of a tenancy at sufferance and the City shall, for the duration of such tenancy, pay double the sums payable at the expiration of this Lease Agreement. This provision does not give the City any right to hold over at the expiration of any term of this Lease Agreement, and SBBC's acceptance of any payments following the expiration of this Lease Agreement shall not be deemed to be a renewal of the term of the Lease Agreement, either by operation of law or otherwise.

2.22 **City's Default.** The City shall be in default of its obligations hereunder in the event that any of the following occurs:

- a. The City's failure to pay any other sums payable hereunder for a period of five (5) business days after written notice by SBBC;
- b. The City's failure to observe, keep or perform any of the other terms, covenants, agreements or conditions of this Lease Agreement or in applicable School Board Policies for a period of ten (10) business days after written notice by SBBC;
- c. The bankruptcy of the City;
- d. The City making an assignment for the benefit of creditors;
- e. A receiver or trustee being appointed for the City or a substantial portion of the City's assets;
- f. Voluntary petitioning by the City for relief under, or otherwise seeking the benefit of, any bankruptcy, reorganization, arrangement or insolvency law;
- g. The City's deserting, vacating or abandoning any substantial portion of the Leased Property or attempting to mortgage or pledge or otherwise encumber in any way its interest hereunder;
- h. The City's interest under this Lease Agreement being sold under execution or other legal process;
- i. The City's interest under this Lease Agreement being modified or altered by an unauthorized assignment or subletting or by operation of law;
- j. Any of the goods or chattels of the City used in, or incident to, the City's operations upon the Leased Property being seized, sequestered, or impounded by virtue of, or under authority of, any legal proceeding;
- k. In the event of any of the foregoing happenings, SBBC, at its election, may declare this Lease Agreement to be terminated, ended and null and void, and re-enter upon and take possession of the Leased Property whereupon all right, title and interest of the City in the Leased Property shall end and the City shall immediately vacate the Leased Property no later than a reasonable timeframe not to exceed seven (7) days thereafter. The exercise by SBBC of this right shall not be deemed to preclude the exercise of any others herein listed or otherwise provided by statute or general law at the same time or in subsequent times or actions. No re-entry or retaking possession of the Leased Property by SBBC shall be construed as an election on its part to terminate this Lease Agreement, unless a written notice of such intention be given to the City, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any monies due to SBBC hereunder or of any damages accruing to SBBC by reason of the violations of any of the terms, provisions, and covenants herein contained. SBBC's acceptance of any monies following any

event of default hereunder shall not be construed as SBBC's waiver of such event of default. No forbearance by SBBC of action upon any violation or breach of any of the terms, provisions, and covenants herein contained shall be deemed or construed to constitute a waiver of the terms, provisions, and covenants herein contained. Forbearance by SBBC to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of any other violation or default. Legal actions to recover for loss or damage that SBBC may suffer by reason of termination of this Lease Agreement or the deficiency from any reletting as provided for above shall include the expense of repossession or reletting and any repairs or remodeling undertaken by SBBC following repossession.

2.23 **Construction Liens.** The City is prohibited from making, and agrees not to make, alterations upon the Leased Property, except as permitted by Section 2.17, and the City will not permit any construction lien or liens to be placed upon the Leased Property or improvements thereon during the term hereof or any renewal term thereafter, caused by or resulting from any work performed, materials furnished or obligation incurred by or at the request of the City, and in the case of the filing of any such lien the City will promptly pay the same. If the City has not satisfied such lien or transferred it to bond within ten (10) days after written notice from SBBC to the City, SBBC shall have the right and privilege, solely at SBBC's option, of paying the same or any portion thereof without inquiry as to the validity thereof, and any amounts so paid, including expenses, interest, and reasonable attorneys' and paralegals' fees (whether incurred in court, out of court, on appeal or in bankruptcy or administrative proceedings), shall be considered additional operating expenses hereunder due from the City to SBBC and shall be repaid to SBBC immediately on rendition of a bill therefor, together with interest per annum at the maximum rate permitted by law until repaid, and if not so paid within ten (10) days of the rendition of such bill shall constitute a default under Section 2.22 hereof.

- a. SBBC's interest in the Leased Property shall not be subject to liens for improvements made by the City. The City shall notify every contractor making such improvements of the provision set forth in the preceding sentence. The parties agree, should SBBC so request, to execute, acknowledge and deliver, without charge to the other, a Short Form Lease in recordable form in accordance with Chapter 713, Florida Statutes, containing a confirmation that the interest of SBBC shall not be subject to liens for improvements made by the City to the Leased Property.

2.24 **Office Equipment and Furnishing.** The City agrees to provide all office equipment, computers, copiers, facsimile machines and office supplies necessary for the City personnel to conduct the City's business at the Leased Property during the term of this Lease Agreement. In addition, the City shall provide office furniture and furnishings for the Leased Property during the term of this Lease Agreement.

2.25 **Removal of Persons.** SBBC reserves the right, through its representatives, to eject any objectionable person or persons from SBBC property including, without limitation, the Leased Property, and in the event of the exercise of this authority by SBBC through its representatives, agents or through law enforcement personnel.

2.26 **School Board Policies.** The City shall faithfully observe and comply with all applicable School Board Policies related to this Lease Agreement and that are in effect during the term of this Lease Agreement. SBBC shall have the right to unilaterally enact additional Policies without the consent of the City, and the same shall be effective from the date the City receives notice thereof. The City shall acquire no vested rights as to its use of the Leased Property as relates to School Board Policies, and all modifications or additions to or deletions from the School Board Policies shall take effect immediately upon notice of the same by SBBC to the City, regardless of any past use or practice by the City upon the Leased Property. SBBC shall not be responsible to the City for the nonperformance of any said School Board Policies by any other occupant or user of the building within which the Leased Property are situated. The City shall and does hereby have an affirmative obligation to notify its agents, employees, principals, assigns, subtenants and invitees of the contents of such School Board Policies and of this Lease Agreement and to assure their compliance therewith, and the City's indemnification to SBBC under Section 2.33 hereof includes, without limitation, the City's indemnity to SBBC for any claims, losses or damages resulting from the City's breach or the breach by its agents, employees, principals, assigns, subtenants and invitees of the School Board Policies.

2.27 **Damage by Fire or the Elements.**

- a. In the event that the Leased Property should be totally destroyed by fire, hurricane, tornado or other casualty, or in the event the Leased Property should be so damaged that rebuilding or repairs cannot be completed within two hundred seventy (270) days after the date of such damage, either SBBC or City may, at its option, by written notice to the other given not more than thirty (30) days after the date of such fire or other casualty, terminate this Lease Agreement. In such event, the sums payable under this Lease Agreement shall be abated during the unexpired portion of this Lease Agreement effective with the date of such fire or other casualty.
- b. In the event the Leased Property should be damaged by fire, hurricane, tornado, or other casualty covered by SBBC's insurance but only to such extent that rebuilding or repairs can be completed within two hundred seventy (270) days after the date of such damage, or if the damage should be more serious but neither SBBC nor the City elects to terminate this Lease Agreement, then SBBC shall, within thirty (30) days after the date of such damage or such election, commence to rebuild or repair the Leased Property and shall proceed with reasonable diligence to restore the Leased Property to substantially the same condition in which they were immediately prior to the happening of the casualty, except that SBBC shall not be required to rebuild, repair or replace any part of the furniture, equipment, fixtures and other improvements which may have been placed by the City within the Leased Property. The City shall, unless such damage is the result of the negligence or willful misconduct of the City or the City's employees, agents, principals, contractors, consultants, assigns, subtenants or invitees, allow the City a fair diminution of any sums payable to SBBC under this Lease Agreement during the time of such rebuilding or repairs. SBBC shall have no obligation to utilize insurance proceeds to rebuild the Leased Property and this Lease Agreement shall terminate upon notice to the City. Any insurance which may be carried by SBBC or the City against loss or damage to the Leased Property shall be for the sole benefit of the party carrying such insurance and under its sole control.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing contained in this Lease Agreement is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or as a waiver of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Lease Agreement and shall be fully binding until such time as any proceeding brought on account of this Lease Agreement is barred by applicable statutes of limitation.

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 Lease Agreement. None of the parties intend to directly or substantially benefit a third party by this Lease Agreement. The parties agree that there are no third-party beneficiaries to this Lease Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Lease 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 Lease Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

3.04 **Termination.** This Lease Agreement may be canceled with or without cause by either party during the term hereof upon one-hundred eighty (180) calendar days written notice to the other regarding the desire to terminate this Lease Agreement. In the event of such termination, the City agrees that it is not entitled to any damages of any kind including any damages that may be attributable to the cancellation of any event planned by the City. SBBC shall have no liability for any property left on SBBC's property by any party to this Lease Agreement after the termination of this Lease Agreement. Any party contracting with SBBC under this Lease Agreement agrees that any of its property placed upon SBBC's Leased Property pursuant to this Lease Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Lease Agreement and that any such property remaining upon SBBC's Leased Property after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.05 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. City shall keep and maintain public records required by SBBC to perform the services required under this Lease Agreement. Upon request from SBBC's custodian of public records, City shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. City shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Lease Agreement's term and following completion of the Lease Agreement if City

does not transfer the public records to SBBC. Upon completion of the Lease Agreement, City shall transfer, at no cost, to SBBC all public records in possession of City or keep and maintain public records required by SBBC to perform the services required under the Lease Agreement. If City transfers all public records to SBBC upon completion of the Lease Agreement, City shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If City keeps and maintains public records upon completion of the Lease Agreement, City shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, RECORDREQUESTS@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION 600 SE THIRD AVENUE, FORT LAUDERDALE, FL 33301.

3.06 **Entire Lease 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 Lease 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.

3.07 **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 Lease Agreement and executed by each party hereto.

3.08 **Preparation of Lease Agreement.** The Parties acknowledge that they have sought and obtained whatever competent advice 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 Lease Agreement has been their joint effort. The language agreed to herein express 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.

3.09 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Lease Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Lease Agreement shall not be deemed a waiver of such provision or modification of this Lease Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.10 **Compliance with Laws.** Each party shall comply with all applicable federal, state and local, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Lease Agreement.

3.11 **Governing Law.** This Lease 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 Lease 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.

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

3.13 **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, epidemics, pandemics, government regulations, and the issuance or extension of existing government orders of the United States, the State of Florida, or local county and municipal governing bodies, 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.

3.14 **Severability.** In case any one or more of the provisions contained in this Lease 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 affect any other provision and this Lease Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.15 **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 SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue – 10th FL
Fort Lauderdale, Florida 33301

With a Copy to: Director, Facility Planning and Real Estate
The School Board of Broward County, Florida
600 Southeast Third Avenue – 8th FL
Fort Lauderdale, Florida 33301

To CITY: City Manager
City of Hollywood
2600 Hollywood Boulevard
Hollywood, FL 33020

With a Copy to: Director
Parks, Recreation and Cultural Arts
1405 South 28th Avenue
P.O. Box 229045
Hollywood, FL 33022

3.16 **Captions.** The captions, section numbers, article numbers, title and headings appearing in this Lease 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 Lease Agreement, nor in any way affect this Lease Agreement and shall not be construed to create a conflict with the provisions of this Lease Agreement.

3.17 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement. Such actions shall include, but not be limited to, the immediate suspension of the use or occupancy of any or all SBBC Leased Premises as a result of the anticipation of imminent existence or existence of any of the conditions listed in Article 3.13 - Force Majeure - hereinabove.

3.18 **Authority.** Each person signing this Lease Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Lease 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 Lease Agreement.

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

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Dr. Rosalind Osgood, Chair

Dr. Vickie L. Cartwright
Interim Superintendent of Schools

Date: _____

Approved as to Form and Legal Content:

Office of General Counsel

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FOR THE CITY

(Corporate Seal)

CITY OF HOLLYWOOD, FLORIDA

ATTEST:

City Clerk

By _____
Josh Levy, Mayor

Approved as to form and legality:

City Attorney

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the School Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of
_____, 2021 by _____ of

Name of Person
_____, on behalf of the corporation/agency.
Name of Corporation or Agency

He is personally known to me or produced _____ as
identification and did/did not first take an oath. _____
Type of Identification

My Commission Expires:

Signature – Notary Public

(SEAL)

Printed Name of Notary

Notary's Commission No.

MCNICOL MIDDLE SCHOOL AERIAL VIEW



