

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (the "First Amendment") is made and entered into this _____ day of _____, 2021, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(hereinafter referred to as "SBBC"),

A political subdivision of the State of Florida,

having its principal place of business at

600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

CITY OF HOLLYWOOD, FLORIDA

(hereinafter referred to as the "City"),

a municipal corporation of the State of Florida

whose address is

2600 Hollywood Blvd., Hollywood, FL 33020

WHEREAS, on October 15, 2002, SBBC and the City entered into a forty (40) year Lease Agreement (hereafter "Lease Agreement"), to allow the City to utilize a portion of Driftwood Elementary School and Driftwood Middle School ("school grounds") for community recreational purposes; and

WHEREAS, the Lease Agreement permitted the City to construct a swimming pool, bath house, and community center on the school grounds for use by both schools during the schools' scheduled activities, and for use by City residents during and after school hours, making for a great partnership between the Parties; and

WHEREAS, the City has expressed an interest in making additional improvements to enhance the recreational amenities at Driftwood Elementary and Driftwood Middle Schools, including a playground, pavilion, the installation of safety surfacing and shade system, along with installation of ancillary park equipment (benches, tables, etc.); and

WHEREAS, SBBC and the City desire to enter into this First Amendment to Lease Agreement to simplify the procedure for making such additional improvements on the school grounds at the sole expense of the City; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree 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 Articles 2.06 and 3.13 of the Lease Agreement are hereby DELETED and REPLACED in their entirety with the following:

2.06. Improvements. The location of any and all recreational improvements (hereafter referred to as the “Improvements”) to be placed on the Leased Property, shall first be approved in writing by SBBC. The SBBC shall have the sole discretion to approve the location of any Improvements the City makes on the Leased Property. The SBBC’s approval of the location of the City’s Improvements shall not be unreasonably withheld. Any Improvements placed on said Leased Property without the prior written approval of SBBC shall be removed or relocated within ninety (90) calendar days of written demand by SBBC. However, the Parties may agree that any unauthorized Improvements should remain and amend this Agreement to include the use and responsibility of those Improvements.

(a) The authority to grant this approval regarding the Improvements in this Agreement is hereby delegated by the SBBC to the Executive Director, Capital Projects, Office of Facilities & Construction and the Chief Building Official. Subject to the provisions of the foregoing paragraph, the Parties further agree that City will prepare and submit plans to the Executive Director, Capital Projects, Office of Facilities & Construction (hereafter referred to as the “Executive Director”) and the Chief Building Official for review and approval. Any plans must meet State of Florida Building Code Requirements, Florida Fire Protection Code, and State Requirements for Educational Facilities (hereafter referred to as the “SREF”), as may be applicable, and any other requirements imposed by applicable law. The Executive Director, and the Chief Building Official shall have forty-five (45) calendar days from the date of receipt to review and comment on the submitted plans. In the event the Executive Director and Chief Building Official fail to provide their review or comments within the forty-five (45) day period, the City’s plans shall be deemed approved. All design documents shall be approved by the Executive Director and the Chief Building Official prior to submission to the Florida Department of Education, if required. City agrees to obtain all necessary permits, inspections, and approvals to obtain a Certificate of Occupancy from the School District.

(b) Before the commencement of the Improvements, City shall require the engaged contractor to furnish required insurance, surety payment, and performance bonds that guarantee completion of the Improvements, to include full payment for all suppliers, material men, laborers or subcontractors employed to complete the Improvements. City shall ensure that the contractor shall be required by contract to deliver a copy of said insurance and surety bonds to the City. Such insurance shall remain current throughout the construction of the Improvements. Such bonds shall remain in effect for one (1) year after completion of the Improvements. City shall ensure that the contractor will cause the correction of any defective or faulty work or materials that appear after the completion of the Improvements, security fencing, and gates within the warranty period of such work performed.

(c) City shall be solely responsible for all contractual obligations to the contractor engaged to construct the Improvements.

* * *

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. In the event any of the licensed facilities, or any part thereof, shall be destroyed by fire or any other cause, or if any other casualty or any unforeseen occurrence shall render the fulfillment of this Agreement by either party impossible, then and thereupon, this Agreement shall be modified to exclude the use of the damaged licensed facility until such time as the owning party, at its discretion, returns the facility to an operable condition.

2.02 New Article 3.19 - Contract Administration, is hereby ADDED to the Lease Agreement as follows:

3.19 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 owned facilities as a result of the anticipation of imminent existence or existence of any of the conditions listed in Article 3.16 - Force Majeure - hereinabove.

2.03 Order of Precedence among Agreement Documents. In the event of conflict between the provisions of the Agreement and the provisions contained herein, the provisions of the following documents shall take precedence in this order:

- (a) This First Amendment to Lease Agreement; then
- (b) The Lease Agreement.

2.04 Other Provisions Remain in Force. Except as modified herein, said Lease Agreement dated October 15, 2002, shall remain in full force and effect.

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have each executed this First Amendment to the Lease Agreement.

FOR SBBC

(CORPORATE SEAL)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By: _____
Laurie Rich Levinson, Chair

Dr. Vickie L. Cartwright,
Interim Superintendent of Schools

Approved as to form and legal content:

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

THE CITY

(Corporate Seal)

CITY OF HOLLYWOOD, FLORIDA

ATTEST:

Patricia A. Cerny, MMC
City Clerk

By _____
Josh Levy, Mayor

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance
Of the City of Hollywood, Florida, only.

By: _____
Name: Douglas R. Gonzales, Esq.
Title: City Attorney