

FIRST AMENDMENT TO INTERLOCAL AGREEMENT

THIS FIRST AMENDMENT TO INTERLOCAL 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 "CITY")

A municipal corporation whose 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 does own certain school sites and other real estate parcels located in the CITY of Hollywood, Broward County, Florida, hereinafter referred to as "school grounds"; and

WHEREAS, based on the heavy demands existing in the CITY as a result of the increase of the population of school children, SBBC and CITY entered into that certain Interlocal Agreement ("Agreement") dated June 18, 2002, to meet community needs and provide linkage between the District, the CITY and numerous civic and community groups; and

WHEREAS, pursuant to the provisions of the Agreement, SBBC agreed to enter into long-term lease for the McNicol Community Center and appurtenances thereto for a period of forty (40) years; and

WHEREAS, the CITY and SBBC continue to support and endorse the concept of providing a multipurpose recreational facility that meets community needs and provides linkage between the school system, the CITY, and numerous civic and community groups; and

WHEREAS, CITY and SBBC believe that such established arrangement will continue to be of mutual benefit to all parties and will continue filling a great need in that area of the community and that cooperation between the parties hereto produces great benefits to the residents of the CITY; and

WHEREAS, subsequent to approval of the Agreement, CITY and SBBC entered into a separate lease agreement on July 25, 2006 ("2006 Base Lease Agreement") whereby CITY agreed to assume primary use of a majority of building space within North Building "A"; and

WHEREAS, the 2006 Base Lease Agreement has been renewed several times, is currently active and being recommended for renewal again for a five (5) year term, commencing on

November 1, 2021 through October 31, 2026, ("Current Lease Agreement") as a companion Board agenda item of this First Amendment; and

WHEREAS, the CITY and SBBC, wish to amend the Agreement pursuant to Section 163 .01, Florida Statutes, for the purpose of updating responsibilities for the use and operation of the McNicol Community Administrative Center based on the provisions contained in the Current Lease Agreement.

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

1. The following Sections of the Agreement dated June 18, 2002, are hereby amended by interlineation, to be replaced with the following language:

2.01 Leased Property. Exhibit A of the Agreement is hereby amended as shown on the sketch attached hereto as **Exhibit "A"** and made a part hereof.

2.04 Uses Permitted.

(a) North Building "A" will hereinafter be referenced to as Building "1" and South Building "B" will hereinafter be referenced to as Building "2".

(b) **Building "1".** The CITY shall have exclusive rights to utilize rooms 119 and 123, and storage room 130 in Building "1" which equals 2,192 square feet (as depicted in **Exhibit "A"**), for community use.

(c) **Building "2".** The CITY will have exclusive rights to Building "2". The uses and purposes of said premises shall be a Community Center under the control of the CITY during its course of operation. The SBBC will have use of the facility based on availability of the CITY's scheduling regarding its use of the Building. Building "2" has a community meeting room that may be used in the evenings for an Afterschool Care Program, Dances, and other functions as approved by the CITY. Hours of operation are as set forth in Section 2.17 herein.

2.05 Utilities. All utility costs for Building "2" shall be paid by the CITY.

2.07 Recreational Improvements. The location and plans of any and all improvements (hereafter referred to as the “Improvements”) to be placed on the Leased Property, shall first be approved in writing by SBBC. SBBC shall have the sole discretion to approve the location and plans of any Improvements the CITY makes on the Leased Property. The SBBC’s approval of the location and plans 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 SBBC to the SBBC Chief Facilities Officer or his/her designee and the SBBC Chief Building Official or his/her designee. Subject to the provisions of the foregoing paragraph, the parties further agree that CITY will prepare and submit plans to the Chief Facilities Officer or his/her designee and the SBBC Chief Building Official or his/her designee 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 Chief Facilities Officer 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 Chief Facilities Officer 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 Chief Facilities Officer 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 insurance, surety payment, and performance bonds, as applicable, 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 within the warranty period of such work performed.

2.16 Maintenance and Repairs.

(a) Building "2" shall be maintained by the CITY for daily cleaning at its sole cost. The CITY will be responsible for all repairs deemed necessary by SBBC and/or the CITY upon inspection of Building "2" by SBBC. The CITY shall keep the recreational grounds herein leased clean, sanitary and free from trash and debris. The SBBC shall cut and mow all exterior recreational grounds to prevent unsightly accumulation of weeds and other vegetation. Upon failure of the CITY to comply with the provisions of this section, SBBC shall give written notice to the CITY of such failure to comply, by Certified **Mail**, Return Receipt Requested. If, after a period of ten (10) days of such mailing, the CITY has not commenced to complete the cleaning of said recreational area, SBBC shall have the right to enter upon the premises, remove trash and debris from the area, and charge the CITY the cost to SBBC for such services. Billing for trash and debris removal shall be on a per-cleaning basis and shall be due and payable within thirty (30) days after receipt of said billing by CITY.

(b) Notwithstanding any of the provisions of the foregoing paragraph, the parties further agree that the CITY, in addition to the above, will clean up the premises after each and every event it sponsors, and SBBC will be responsible to clean up the premises after each and every event it sponsors.

2.17 Hours of Operation. The two rooms under the control of the CITY in Building "1" will operate Monday through Friday, 6:00 am to 7:00 pm; and Building "2", which is under the control of the CITY will operate Monday through Friday 8:00 am to 10:00 pm for community and recreational activities. On Saturdays, Sundays, and School Holidays, the CITY may schedule activities, accordingly, provided there are no McNicol Middle School programs taking place on the school grounds. The Administrators for the SBBC and the CITY will collaborate and to generate a monthly, "Schedule of Activities" for the two cited meeting rooms in Building "1".

ARTICLE 3 – CONDITIONS

2. The following Section of the Agreement dated June 18, 2002, is hereby amended by interlineation, to be replaced with the following language:

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. The following provisions shall be added to the Interlocal Agreement dated June 18, 2002, by interlineation, 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 Leased Property as a result of the anticipation of imminent existence or existence of any of the conditions listed in Article 3.13 - Force Majeure - hereinabove.

3.20 Not Used.

3.21 Public Records. Any party contracting with SBBC is required to: (1) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (2) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. 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 applicable Florida law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 921-

3211, pcerney@hollywoodfl.org, 2600 Hollywood Boulevard, Room 221, Hollywood, FL 33020.

3.22 Not Used.

3.23 Insurance. Upon execution of this Agreement, the Parties shall submit to each other, copies of their certificate(s) of insurance or self-insurance evidencing the required coverage.

3.24 Required Insurance Coverages. The Parties acknowledge without waiving their rights of sovereign immunity as provided by Section 768.28, Florida Statutes, that they are insured or self-insured for general liability under state law with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary wavier limits that may change and be set forth by the legislature.

(a) The Parties shall maintain General Liability Insurance, with limits of liability not less than \$1,000,000 Each Occurrence \$2,000,000 General Aggregate. The Parties shall procure and maintain at their own expense and keep in effect during the full term of the Agreement, a policy or policies of insurance or self-insurance under a Risk Management Program in accordance with Florida Statutes, Section 768.28 for General Liability.

(b) The Parties shall procure and maintain at their expense and keep in effect during the full term of the Agreement, insured or Self-insured Worker's Compensation Insurance with Florida statutory benefits in accordance with Chapter 440, Florida Statutes including Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

(c) Automobile Liability Insurance: The Parties shall maintain Automobile Liability Insurance covering all Owned, Non-Owned and Hired vehicles in an amount of not less than One Million Dollars (\$1,000,000) per occurrence Combined Single Limit for Bodily Injury and Property Damage.

(d) Self-insurance and/or insurance requirements shall not relieve or limit the liability of either party, except to the extent provided by, Section 768.28, Florida Statutes. The Parties reserve the right to require other insurance coverage that the Parties deem mutually necessary depending upon the risk of loss and exposure to liability, subject to each party's Commission or Board approval, if necessary.

(e) Violations of the terms of this section and its subparts shall constitute a material breach of the Agreement and the non-breaching party may, at its sole discretion, cancel the Agreement and all rights, title and

interest shall thereupon cease and terminate.

(f) No activities under this Agreement shall commence until the required proof of self-insurance and/or certificates of insurance have been received and approved by the Risk Managers of each party.

3.25 Environmentally Hazardous Material. The CITY hereby acknowledges that SBBC prohibits at any time the storage of Environmentally Hazardous materials on SBBC's property. The CITY agrees not to store any Environmentally Hazardous materials on SBBC's property and understands that violation of this stipulation will result in SBBC's immediate termination of this Agreement and the CITY shall restore and return the property to the same condition that it was in on the date hereof, less any improvements.

3.26 Equal Opportunity Provision. The Parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the Parties' respective duties, responsibilities and obligations under this Agreement.

3.27 Not Used.

4. 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 Interlocal Agreement; then
- (b) The Interlocal Agreement.

5. Other Provisions Remain in Force. Except as modified herein, said Interlocal Agreement dated June 18, 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 Interlocal Agreement.

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

Approved as to form and legal content:

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

THE CITY

(Corporate Seal)

CITY OF HOLLYWOOD, FLORIDA

ATTEST:

By _____

Name: Josh Levy

Title: Mayor

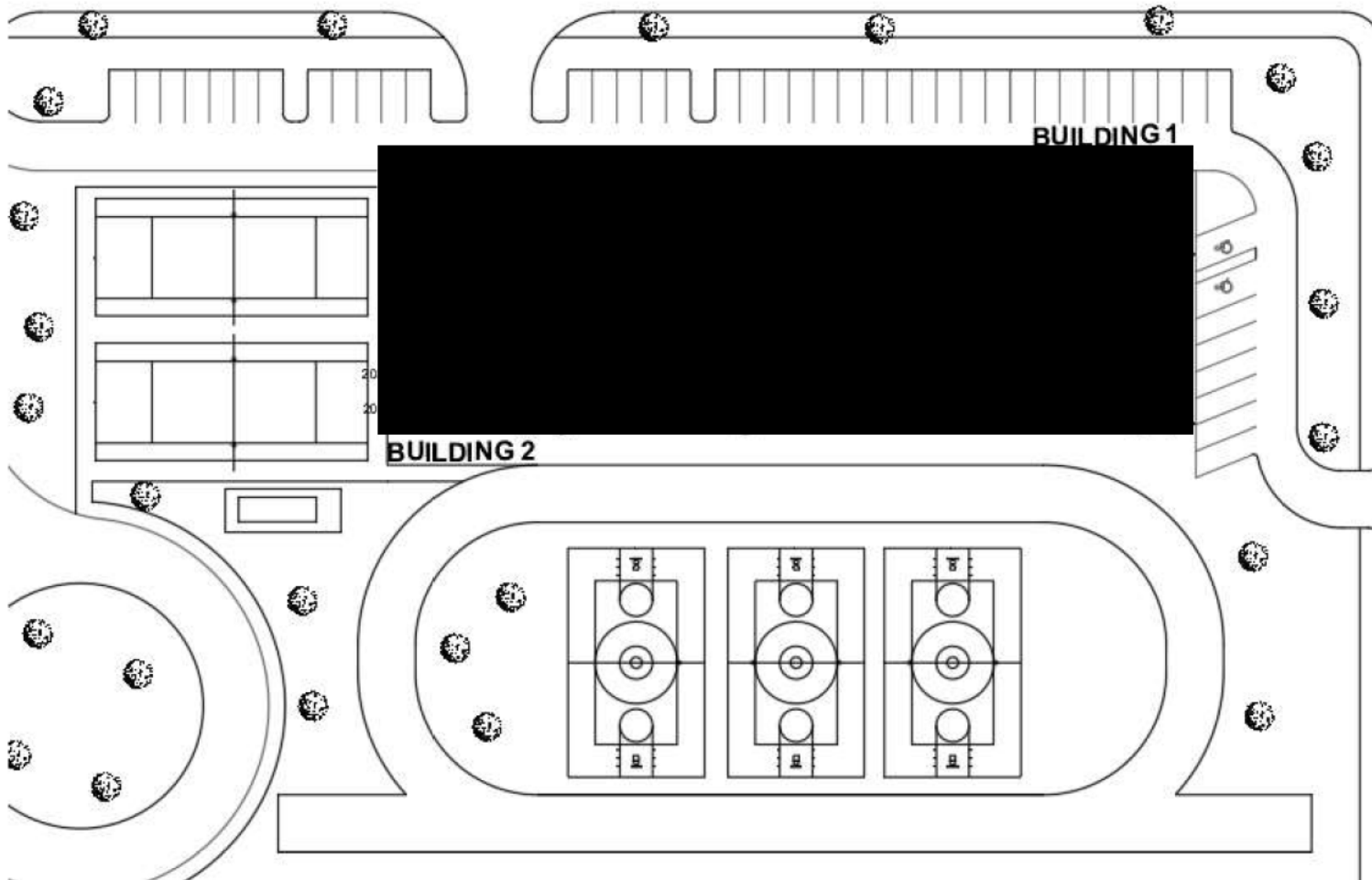
Patricia A. Cerny, MMC
City Clerk

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

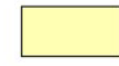
By: _____

Name: Douglas R. Gonzales, Esq.

Title: City Attorney



LEGEND

 LEASED PROPERTY
(5,852 Square Feet)