

INTERLOCAL AGREEMENT

By And Between The School Board Of Brevard County And City Of Palm Bay, Florida
Relating To Use Of City and School Board Property

This Interlocal Agreement by and between the School Board of Brevard County, Florida (the "Board"), 2700 Judge Fran Jamieson Way, Melbourne, FL 32940, and the City of Palm Bay (the "City"), 120 Malabar Road, Palm Bay, FL 32907, for the purpose of sharing the use of sports and recreational facilities. This Agreement is entered into pursuant to the provisions of the Florida Interlocal Cooperation Act of 1969, set forth in section 163.01, et seq., Florida Statutes, and is further authorized pursuant to the parties' respective Home Rule powers granted by the Florida Constitution. This Interlocal Agreement was made on 15th day of December 2020,

RECITALS

WHEREAS, the Board holds and controls certain real properties, (the Board property), located within the City of Palm Bay, Florida including school buildings that have sports and recreational facilities attached to these facilities;

WHEREAS, the City controls sports and recreational facilities at several locations throughout the City of Palm Bay, Florida, (the City property); City properties are located in the vicinity of the Board's school property;

WHEREAS, the Board and the City find it desirable to enter into a Interlocal Agreement;

WHEREAS, the City and the Board continue to seek mutual benefit by maintaining and redeveloping existing sports and recreational facilities on City and Board property;

WHEREAS, this Interlocal Agreement will permit the joint use to Board property located in the City of Palm Bay.

NOW, THEREFORE, in consideration of the premises, mutual covenants, and other good and valuable considerations, herein contained, the parties, each intending to be legally bound, agree as follows:

- 1) **Recitals.** The above recitals are true and correct and are hereby incorporated by reference.
- 2) **Effective Date, Renewal and Termination.** The Agreement shall remain in effect for a period of ten (10) years, amended by mutual Agreement by both parties, unless terminated by either the Board or the City. This Agreement shall become effective on December 15, 2020 and expire on December 14, 2030. If it is at the best interest of both parties, within 365 days from expiration, the City and the Board shall commence negotiations for renewal. Extensions of the Agreement shall be by mutual consent of both parties. The Board and the City may terminate this Agreement with or without cause by providing written notice to all other parties within this Agreement. Such termination shall be effective sixty (60) days from the receipt of the termination notice.

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- 3) **Notices.** All notices must be in writing and sent to the party's address stated above by certified mail, return receipt requested.
- 4) **Entire Agreement.** This Agreement sets forth the entire Agreement between the parties as to the subject matter hereof and supersedes all previous written or oral negotiations, Agreements, bids and/or understanding. There are no understandings, representations, warranties or Agreements with respect to the subject matter hereof unless set forth explicitly in this Agreement.
- 5) **Dispute Resolution.** If substantial violations of the Agreement occur, a written notice from one party to the other is required allowing 30 days to correct the violation. If the violation is not resolved mutually between both parties, and the dispute under this Agreement continues, the parties shall first attempt to resolve the dispute by non-binding arbitration, with each party paying equal costs of the arbitration. In no case shall either party take a dispute to court rather the only outcome of an unresolved dispute is that this agreement shall terminate.
- 6) **Properties and Facilities Covered by the Agreement.** The Agreement covers the Board's property located in Palm Bay, including all sports and recreation properties, located in the City limits. This Agreement shall only apply to existing facilities on the date the Agreement was signed. Usage of new or modified fields, buildings and facilities shall be permitted by mutual consent of both the Board and the City.
- 7) **Use of City facilities.** The City shall make available their facilities for Elementary, Middle School and High School team practice, meets and matches and other school functions as mutually agreed to by both the City and the School Board. When City facilities are being used by the Board, the Board shall be responsible for all actual costs to the City for extra utility costs, personnel cost (if this is required as an extra duty assignment), custodial clean-up costs, etc. per the Council approved Parks and Recreation fees and charges, including the provision for fee schedule for discounts.
- 8) **Use of Board facilities.** The Board has a recreational sharing agreement with Brevard County Board of County Commissioners (COUNTY) that gives them first right of refusal for the use of School Board recreational facilities. If Board facilities are not in use by the COUNTY, then the City may use the Board's Multi-Purpose Fields before other entities and groups are permitted access to do so. Should the City wish to use Board facilities it shall coordinate facility use with school administration, complete the district's use agreement form, be responsible for actual costs to the Board such as extra utility costs, personnel cost (if this is required as an extra duty assignment), custodial clean-up costs, etc. as outlined in Board Policy 7510 while the City is using in-door school auditoriums, gymnasiums, or Football Stadiums. No custodial use is need for outside practice fields and basketball courts - Upon request and as stated in this section, the Board agrees to allow the City the use of these facilities. Neither the City nor at the City's approval, shall it's recreation leagues or the general public be permitted to use school facilities for games, practices, or anything related to recreational activities during the school day or while school programs such as, but not

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limited to the Board's before and after school childcare program is taking place until 30 minutes before school or 30 minutes after all school programs end each day. Should a school facility not be available due to unforeseen emergency events, the School Board, and Staff retain the right to cancel all recreational events that may have been scheduled prior to the emergency.

- 9) **Scheduling.** Use of Board and City facilities shall be subject to scheduling per mutual benefit of both parties and as outlined in sections 7, 8, and 10 .
- 10) **Usage Rates.** Use of City facilities shall be charged at a special reduced rate.
- 11) **Security.** The Board shall provide necessary supervision and security to reasonably ensure that the City's facilities are protected from damage. During the time that the City conducts programs or allows public use of facilities located on Board property, the City shall provide security at a level to reasonably ensure the Board's facilities are protected from damage.
- 12) **Indemnification.** To the extent allowed by law and subject to the provisions set forth in Sec. 768.28, Florida Statutes, each party is responsible for the negligent or wrongful acts or omissions of its own employees, agents or other representatives while acting within the scope of their employment or otherwise within their authorized capacity, arising from the activities encompassed by this Agreement. Nothing contained within this Agreement requires either party to indemnify the other party for any losses, damages or injuries caused by or otherwise arising from the negligent or wrongful act or omission of its employees, agents or representatives. Neither party, by execution of this Agreement, will be deemed to have waived its statutory right/defense of sovereign immunity, or to have increased its limits of liability under Sec. 768.28, Florida Statutes, as may be amended from time to time. Each party shall retain all rights, defenses, and remedies under Florida law in the event of any claims, suits or other disputes arising from its performance of the obligations under this Agreement. Nothing in this Agreement shall be interpreted to create any causes of action for any third parties not a party to this Agreement.
- 13) **Insurance.** The City shall name and maintain the Board as an additional insured on the City's liability policy. The Board shall provide the City with a copy of a "Notice of Coverage" upon request of the City.
- 14) **Intent of Agreement.** The Board shall not take actions, which will materially prevent the City from carrying out the public recreation intent of this Agreement.
- 15) **Delegation of Contract Management.** The City and the Board delegate ministerial and administrative powers to manage the intent of this Agreement to: On behalf of the City – City Manager or Designee; On behalf of the Board – Superintendent or Designee.
- 16) **Public Records.** Pursuant to section 119.0701, Florida Statutes, the Board and the City shall:
 - a. Retain all records in accordance with Chapter 119.
 - b. Keep and maintain public records required in order to perform the Agreement's

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requirements.

- c. Upon request from the City or Board custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in State Statute or as otherwise provided by law.
- d. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements and are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement.
- e. If the City or Board, in its sole discretion, requests a copy of all Public records in possession of the other party, the Board or City shall duplicate and provide to the records, at no cost, all Public records in possession within a reasonable amount of time and in a format that is accessible.

17) Compliance with local code, rules, policy and State Statutes. If any provisions of this

Agreement is determined to be in violation of any applicable Statutes, rule ordinance or policy, this Agreement shall be modified so as to be in compliance.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates below:

ATTEST:

City of Palm Bay

Date: _____

Approved as to form and legality for City_____

Print Name: _____

ATTEST:

School Board of Brevard County

Date: _____

Approved as to form and legality for Board_____

Print Name: _____