

AMENDED
LEASE AGREEMENT
BETWEEN
THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA
AND
TOOLEY COMMUNITY DEVELOPMENT GROUP, INC.

THIS LEASE AGREEMENT (the “Agreement”), made and entered into this ____ day of _____, 2023 (the “Effective Date”), by and between the School Board of Brevard County, Florida, a public corporation and governing body of the School District of Brevard County, duly created in accordance with Article IX, Section 4 of the Florida Constitution (the “School Board”) and Tooley Community Development Group, Inc., a Florida not for profit corporation (“Tooley”). The School Board and Tooley may be collectively referred to herein as the “Parties” and may be individually referred to herein as a “Party”.

WHEREAS, the School Board owns a vacant building comprised of approximately 15,000 square feet, and as more particularly described on Exhibit “A” (the “Property”);

WHEREAS, Tooley desires to lease the Property in accordance with the terms and conditions of this Agreement and for the purposes set forth in this Agreement; and

WHEREAS, the School Board intends to lease the Property to Tooley in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated by reference as if fully restated herein.

2. Use of Property; Quiet Enjoyment.

a. The School Board leases the Property to Tooley in order for Tooley to use the Property to offer and provide aerospace training and other classes (the “Classes”) to residents (children and adults) of the East Mims community. The Classes that will be offered and provided by Tooley are set forth on Exhibit “B”; provided, however, the Parties acknowledge and agree that the Classes may be subject to change, as determined by Tooley, in Tooley’s sole discretion. For students that do not qualify for tuition reimbursement from either governmental or employer resources, Tooley shall have the right to charge reasonable fees for the Classes, with such fees offered on a sliding scale that is based on income. Failure to provide Classes set forth in Exhibit B within Five (5) years of the Effective Date of this Agreement shall constitute a material default. Once Classes set forth in Exhibit B have started, failure to provide Classes will also constitute a material default.

b. In addition to the Classes, Tooley shall have the right to use the administrative offices that are located in the Property, which includes, without limitation, the right

to offer such administrative offices for use by other not for profit corporations providing low or no cost services to the East Mims community pursuant to a license agreement that sets forth the schedule and fees for such use (the “Administrative Office License Agreement”).

c. Tooley’s occupancy and use of the Property shall comply with all federal, state, and local laws, rules, regulations, ordinances, and codes, including, but not limited to: (i) those which govern the use, storage, handling, and disposal of hazardous substances, wastes, or materials; (ii) zoning; and (iii) land use.

d. The School Board covenants that if and so long as Tooley performs all of its obligations hereunder, including, without limitation, the obligation to pay Rent (as hereinafter defined), Tooley shall have the right of quiet enjoyment to the Property.

e. Tooley will submit an Annual Report to the School Board no later than January 31 of each year of the lease summarizing the classes, community services, partnerships and outcomes resulting from Tooley’s use of the Property.

3. Term; First Right of Refusal.

a. This Agreement shall commence on the Effective Date and continue for Fifty (50) years (the “Initial Term”), unless the Agreement is sooner terminated in accordance with the terms of this Agreement.

b. After the expiration of the Initial Term, this Agreement automatically renews, under the same terms and conditions provided for herein, every Five (5) year(s) (the “Renewal Term”); provided, however, if either Party does not desire to renew this Agreement, then such Party shall provide written notice to the other Party at least Ninety (90) days before the expiration of the Initial Term or the Renewal Term.

c. The Initial Term and the Renewal Term may be referred to herein collectively as the “Term”.

d. If at any time during the Term of this Agreement, or if at the expiration of the Term, the School Board receives a purchase offer for the Property (the “Purchase Offer”), the School Board shall notify Tooley in writing within Sixty (60) days of the School Board’s receipt of such Purchase Offer. Tooley shall have a first right of refusal to purchase the Property on the same terms as the Purchase Offer; provided, however, within Thirty (30) days of Tooley’s receipt of written notice from the School Board, Tooley shall notify the School Board in writing of Tooley’s intention to exercise the first right of refusal.

4. Rent. Tooley shall pay the School Board rent in the amount of Ten Dollars (\$10) per year (the “Rent”), which shall be due and payable on January 1 of each year. Tooley’s obligation to pay rent shall commence upon the date that Tenant takes possession of the Property (the “Rent Commencement Date”). No State of Florida sales tax shall be due upon any lease payments due to Tooley’s status as a tax-exempt organization under Section 501(c)(3) of the

Internal Revenue Code, and Tooley shall furnish a copy of its Certificate of Exemption upon request.

5. Utilities. From the Effective Date until the Agreement is terminated Tenant shall be responsible for all utility charges assessed in connection with the Property. Tooley's failure to comply with this Section 5. shall be considered a material default of this Agreement, and the School Board shall have the right to terminate this Agreement without further obligation hereunder to Tooley.

6. Improvements; Maintenance and Repairs.

a. Notwithstanding anything contained in this Agreement to the contrary, in the event that the Property requires renovations in order to bring the Property into compliance with current building codes, including, without limitation, any applicable building code, then the Tenant shall be responsible for the costs of any such renovations.

b. Tooley shall have the right to make and/or undertake any improvements, maintenance, or repairs to the Property in order for Tooley to use the Property for the purposes set forth in this Agreement, and Tooley shall be responsible for any and all costs and charges incurred for such improvements, maintenance, or repairs.

c. Any improvement, maintenance, or repair undertaken by Tooley pursuant to this Agreement shall be in accordance with any and all applicable laws, rules, regulations, ordinances, and codes and permitted through the School Board Building Official. Tooley is responsible for determining and complying with any additional permitting requirements under the law.

d. Except as otherwise provided in this Agreement, the School Board shall not be liable for any labor, material, or services furnished to Tooley or anyone acting under Tooley. No mechanic or other liens for such labor, materials, or services shall attach to or affect any interest of the School Board in or to the Property.

7. Casualty. In the event of partial or total damage by fire or other natural disaster, the School Board may, at the School Board's option, reconstruct the Property. If the School Board declines to repair or reconstruct the Property as necessary to resume use of the Property for the purposes set forth in this Agreement, then this Agreement shall terminate, and the Parties hereto shall have no further obligations hereunder except for those obligations that by their terms survive the expiration or termination of this Agreement. Tooley shall remove all structures, improvements, and personal property from the Property, at Tooley's cost, unless such removal is fully or partially waived by the School Board. Tooley shall retain title to, and ownership of, all structures, improvements, and personal property purchased by the Tooley and placed within the Property.

8. Condemnation.

a. If the Property or any part thereof is condemned, or otherwise leased or taken under the right of eminent domain by any competent authority for public use, or is taken by

private purchase in lieu of condemnation, then either Tooley or the School Board shall have the right to terminate this Agreement upon Ninety (90) days' notice to the other Party, and the Parties hereto shall have no further obligations hereunder except for those obligations that by their terms survive the expiration or termination of this Agreement.

b. Notwithstanding anything contained herein to the contrary, Tooley shall be entitled to make a separate claim against the condemning authority for any and all damages incurred by Tooley by reason of such condemnation, including, without limitation, any loss of or damage to Tooley's structures, improvements, and personal property, and any moving expenses.

9. Insurance. Tooley shall at all times maintain liability insurance in amounts of One Million (\$1,000,000) per occurrence. At all times during the Term of this Agreement, Tooley shall provide and maintain at its sole cost and expense and furnish a Certificate of Insurance naming The School Board of Brevard County, Florida as certificate holders and additional insured with general liability limits of at least \$1,000,000 per occurrence and \$3,000,000 aggregate with insurance carriers or self-insurance programs. Failure to have adequate proof of current insurance meeting the requirements of this section shall entitle the School Board to immediately suspend the use of the property by Tooley until such proof is furnished and shall warrant termination of this Agreement provided the School Board notifies Tooley of Tooley's failure to deliver such certificate. By requiring this insurance, School Board does not represent that coverage and limits will necessarily be adequate to protect Tooley and such coverage and limits shall not be deemed as a limitation on Tooley's liability under this Agreement.

10. Rights and Remedies. Each right and remedy of either Party provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement, or now or hereafter existing at law or in equity, and the exercise or beginning of the exercise by a Party of any one or more of the rights or remedies provided for in this Agreement, or now or hereafter existing at law or in equity, shall not preclude the simultaneous or later exercise by such Party of any or all other rights or remedies.

11. Representations and Warranties.

a. The School Board represents and warrants that: (i) The School Board has all rights and title to the Property, and is able to lease the Property to Tooley in accordance with the terms and conditions of this Agreement; (ii) as of the Effective Date, there are no liens, encumbrances, or mortgages on the Property; (iii) the School Board has been authorized by all necessary action to execute and deliver this Agreement, and has the lawful power to execute and deliver this Agreement and to perform the School Board's obligations hereunder; (iv) the undersigned is authorized to execute and deliver this Agreement on behalf of the School Board; (v) the execution and delivery by the School Board of this Agreement, and the performance by the School Board of its obligations hereunder, does not violate the School Board's organizational documents, constitute a breach of or a default under any material agreements to which the School Board is bound, violate any judgment, decree or order of any court or administrative tribunal applicable to the School Board, or violate any applicable laws, rules or regulations; and (vi) there is no action, suit or proceeding, at law or in equity, or by or before any governmental agency, now

pending or overtly threatened in writing against the School Board, that in any way affects the School Board's ability to enter into, or perform the terms and conditions of, this Agreement.

b. Tooley acknowledges that the Property is part of Parcel ID 21-35-17-00-777, Tax Account 2103426. Tooley may request the School Board to consider subdividing the property at Tooley's expense.

c. Should the property become taxable as a result of Tooley's use of the property, Tooley shall be responsible for taxes.

d. Tooley is accepting the building and related site improvements in an as-is condition. Nothing contained in this Agreement shall financially obligate the School Board in any way. Tooley's sole remedy is to terminate this Agreement.

e. Tooley represents and warrants that: (i) Tooley is a not for profit corporation, duly organized, validly existing, and in good standing under the laws of the State of Florida, and its corporate status is active; (ii) Tooley has been authorized by all necessary action to execute and deliver this Agreement, and has the lawful power to execute and deliver this Agreement and to perform Tooley's obligations hereunder; (iii) the undersigned is authorized to execute and deliver this Agreement on behalf of Tooley; (iv) the execution and delivery by Tooley of this Agreement, and the performance by Tooley of its obligations hereunder, does not violate Tooley's organizational documents, constitute a breach of or a default under any material agreements to which Tooley is bound, violate any judgment, decree or order of any court or administrative tribunal applicable to Tooley, or violate any applicable laws, rules or regulations; and (v) there is no action, suit or proceeding, at law or in equity, or by or before any governmental agency, now pending or overtly threatened in writing against Tooley, that in any way affects Tooley's ability to enter into, or perform the terms and conditions of, this Agreement.

12. Assignment of Property; Assignment of Agreement. Except for entering into an Administrative Office License Agreement, Tooley shall not assign or sublease the Property or any portion thereof, nor shall Tooley assign this Agreement or any of Tooley's rights or obligations hereunder, without obtaining the School Board's prior written approval, which shall not be unreasonably withheld.

13. Amendment; Waiver. No amendment, change, modification, or waiver of any of the provisions or conditions of this Agreement shall be valid unless in writing, signed by a duly authorized representative for each Party. Waiver of any breach of the Agreement, or failure to follow any provision of the Agreement, shall not be deemed a waiver of any other or subsequent breach, and shall not be considered to be a modification of the terms of this Agreement.

14. Governing Law; Construction; Venue; Severability. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to any conflict of law principles. The Parties agree that this Agreement was the

result of a fully negotiated, arms' length transaction; therefore, any principal of contract interpretation that would result in ambiguity being construed against either Party, shall not apply, and is not intended by the Parties to apply, to this Agreement. Venue for all claims, disputes, and other actions arising under this Agreement shall be in any state or federal court sitting in Brevard County, Florida, to the exclusion of all other venues. In the event any portion of this Agreement is declared invalid or unenforceable by any court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

15. Entire Agreement. This Agreement represents the entire agreement between the Parties, and it incorporates, replaces, and supersedes all prior agreements, promises, proposals, representations, understandings, and negotiations, written or not, between the Parties in connection therewith. The making, execution, and delivery of this Agreement has not been induced by any representations, statements, warranties or agreements other than those expressed herein.

16. Notice. Any notice required to be provided herein shall be in writing, and shall be deemed to be delivered when actually received via personal delivery, when there has been delivery confirmation if sent via electronic mail or facsimile, or three (3) days after deposit in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the persons shown below, or at such other addresses as the Parties have hereafter specified by written notice.

If to School Board at: The School Board of Brevard County
Office of the Superintendent
2700 Judge Fran Jamieson Way
Viera, Florida 32940-6699

If to Tooley at: Tooley Community Development Group, Inc.
Attention: Karen M. Curry, Executive Director
2617 Bethune Avenue
Mims, Florida 32754

17. Counterparts. This Agreement may be executed by each of the Parties in separate counterparts; each counterpart when so executed and delivered shall be deemed an original. When executed by all Parties, such counterparts shall, together, constitute and be one and the same Agreement.

18. Headings; Captions. Any headings or captions contained in this Agreement are for purposes of reference only.

19. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors, heirs, legal representatives, and assigns.

20. Attorneys' Fees. In the event of any legal action to enforce the terms of this Agreement, each Party shall bear its own attorneys' fees and costs.

21. Termination:

a. Tooley may terminate this Agreement with ninety (90) days prior written notice.

b. In the event Tooley fails to fulfill its obligations under this agreement, including events of material default, the School Board may terminate this Agreement by providing thirty (30) days prior written notice to Tooley.

c. Upon failure to provide the required liability insurance, Tooley will cease use of the property immediately and shall provide the required certificate of insurance within ten (10) days, otherwise the Agreement will be terminated.

d. School Board may terminate this Agreement with ninety (90) days prior written notice if Tooley has not met the following milestones:

1. Obtained a building permit for improvements necessary to occupy the Property by December 31, 2023
2. Started construction of renovations necessary to occupy the Property by July 1, 2024
3. Completed construction of renovations necessary to occupy the Property and begin classes and/or community services by July 1, 2025
4. Submission of Annual Report by January 31 of each year

22. Assumption of Risk: Tooley expressly acknowledges and agrees that it assumes any and all risk of bodily injury, personal injury, death or property damage or loss arising out of or related to the use of the Property for the purpose contemplated by this Agreement suffered by any student, employee, guest, agent or contractor of Tooley regardless of whether caused in whole or in part by negligence, strict liability or other legal fault attributable to the School Board. Tooley acknowledges and agrees that the School Board has not made any promises, guarantees or warranties regarding the adequacy or fitness of the Property for the purpose contemplated by this Agreement and Tooley hereby agrees to accept the Property in an as is condition with all faults, known and unknown. Nothing herein shall be deemed a waiver by the School Board of its sovereign immunity rights under the laws of the State of Florida, nor deemed as consent by the School Board to be sued by third parties.

23. Indemnification. In consideration of the purposes of this Agreement, Tooley hereby agrees to indemnify and hold the School Board and its agents, servants, and employees harmless from all liability for any injury or damage which occurs on the Property made available to Tooley by the School Board pursuant to this Agreement and which occurs during the course of use by Tooley. This Agreement to indemnify and hold harmless includes an obligation to indemnify and hold the School Board harmless for any negligence on the part of the School Board. Tooley's promise to indemnify and hold harmless also includes an obligation to assume full responsibility and expense of investigation, litigation, judgment and/or settlement of any complaint, claim or legal action, up to its insurance limits.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date written above.

The School Board of Brevard County, Florida

By: _____
_____, Chairman

**Tooley Community Development Group, Inc.,
a Florida not for profit corporation**

By: _____
Karen M. Curry, Executive Director

Exhibit "A"
Description of the Property

The property is located at 2327 Harry T. Moore Avenue, Mims, Florida, 32754, in unincorporated Brevard County, Florida. The subject property is approximately 2.1 acres at the southwest corner of Parcel ID 21-35-17-00-777, Tax Account 2103426.

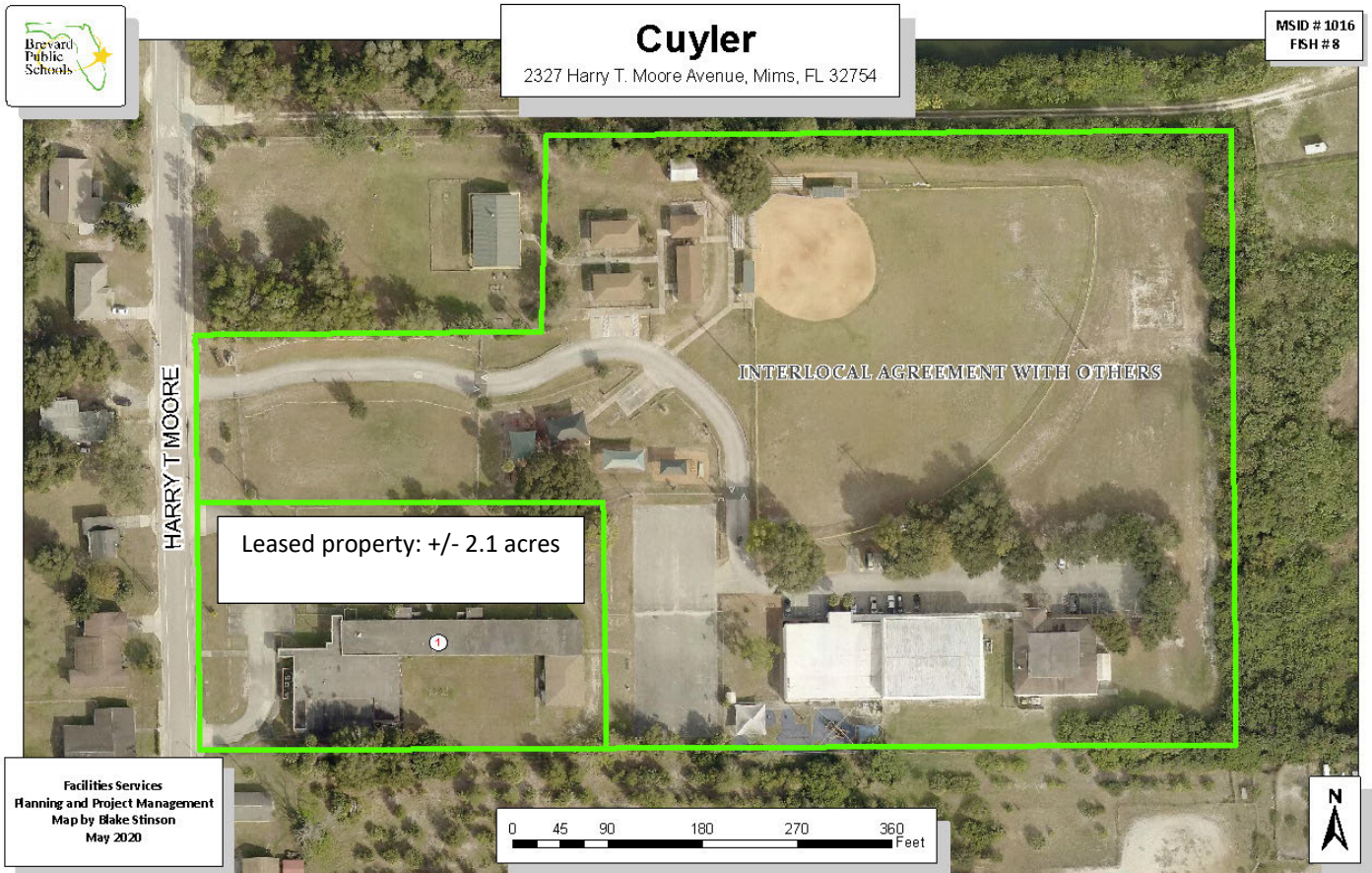
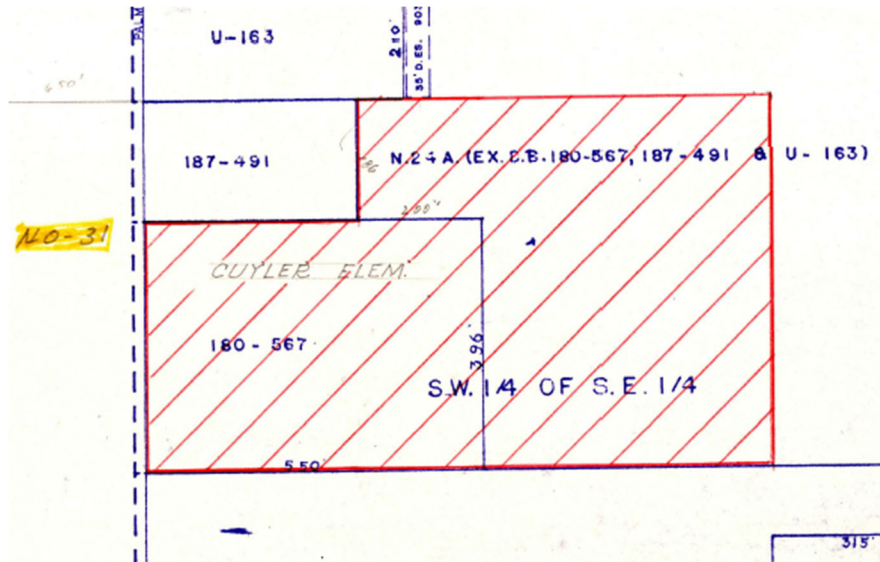


Exhibit "B"
Description of the Classes

Reference Tooley Community Development Group – Organizational Introduction & Cuyler School Use Proposal