

**INTERAGENCY AGREEMENT BETWEEN
THE SCHOOL BOARD OF PINELLAS COUNTY
AND
THE CITY OF TARPON SPRINGS
REGARDING
TARPON SPRINGS HIGH SCHOOL POOL FACILITIES**

THIS INTERAGENCY AGREEMENT (“Agreement”), is made and entered into this _____ day of _____, 2016, by and between the **SCHOOL BOARD OF PINELLAS COUNTY, FLORIDA**, a public school board organized and operating under Florida law (“Board”), and the **CITY OF TARPON SPRINGS, FLORIDA**, a municipality organized and operating under Florida law (“City”).

WITNESSETH:

WHEREAS, the Board owns real property commonly known as Tarpon Springs High School (“School”) in the City of Tarpon Springs, Florida (“Property”); and

WHEREAS, the City desires to fund the construction of a swimming pool on a portion of the Property for the mutual benefit of the parties and desires to pay a portion of the future costs of the operation of the pool; and

WHEREAS, the Board desires to collaborate with the City regarding the construction of the pool and desires to pay a portion of the future costs of the operation of the pool; and

WHEREAS, the Board desires to allow the City to construct and use the pool as further described herein; and

WHEREAS, the parties desire to agree upon terms to allow such improvement and joint use;

NOW, THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration, the Board and the City each agree as follows:

1. Property

The Board owns certain real property commonly known as Tarpon Springs High School located at 1411 Gulf Road, Tarpon Springs, Florida. The Board desires to lease a portion of this real property depicted on Exhibit “A” (“Joint Use Area” or “JUA”), incorporated herein by reference, to the City for the purposes of the City’s construction of a swimming pool and joint use by the parties as further described herein.

2. Lease

The Board hereby leases the JUA to the City for the purposes of the City’s construction of a swimming pool and joint use by the parties as further described herein. The cost of such lease shall be comprised of the costs paid by the City to perform its duties and obligations described

herein, including without limitation, the cost of construction and its portion of the on-going costs of maintenance.

3. Term and Renewal

The effective date of this Agreement shall be the date it is executed by the second party to execute (“Effective Date”), and it shall expire fifty (50) years after the Effective Date. The parties may renew the agreement by separate writing at any time before or after the expiration of the Agreement.

4. Termination

4.1 Termination with Cause

Either party may terminate this Agreement upon the occurrence of a substantial breach of this Agreement by the other party, but such termination will only be effective after the offending party has had an opportunity to, and failed to, cure the breach after receiving a ninety (90) day written notice of breach from the other party. In the event the Board terminates this Agreement for cause prior to the completion of the construction of the pool facilities, the City shall pay the Board the remaining cost needed to complete the construction of the pool facilities.

4.2 Termination without Cause

At any time on or after July 1, 2035, either party may terminate this agreement without cause and without further obligation to the other party, so long as such party has provided at least ninety (90) days advance written notice to the other at the address contained herein.

4.3 Removal of Property

Upon termination of this Agreement, the Board shall provide City access to the JUA for thirty (30) calendar days from the effective date of the termination to remove any and all non-fixture property belonging to the City. The City shall not cause any damage to the JUA, or any other Board-owned property during this period or any other period during the Agreement, and agrees to reimburse the Board for any damages it causes.

5. Improvement of Property

City agrees to reimburse the Board for the full cost of improving the JUA with a fully functioning multi-lane swimming pool suitable for public high school swim meets, as well as other appropriate supporting improvements (collectively, “Improved JUA”). The exact plans, dimensions, and other details of the pool and other improvements shall be agreed upon by the City’s Manager and the Board’s Superintendent, or their respective designees, no later than 150 calendar days after the Effective Date, unless extended by mutual agreement of the parties, and in no case shall exceed a total cost of One Million Five Hundred Thousand Dollars (\$1,500,000.00).

All improvements to the JUA shall be processed by the Board in accordance with its real property improvement procedures, including without limitation selection of the architect and construction manager and payment of all vendors. The Board shall submit invoices at its convenience to the City for reimbursement. The City shall remit payment for invoices within forty-five (45) days of receipt unless the City's Manager and the Board's Superintendent, or their respective designees, agree to a separate payment schedule whereby the City will submit reimbursement to the Board over the course of time, not to exceed three (3) fiscal years, wherein the City shall remit the first one-third (1/3) of the total cost no later than September 30, 2017, the second one-third (1/3) of the total cost no later than September 30, 2018, and the final one-third (1/3) of the total cost no later than September 30, 2019.

The improvements to the JUA shall be deemed completed upon the Board's receipt of an unrestricted Certificate of Occupancy issued by the applicable authority.

6. Use of Property

Each party shall be entitled to use the Improved JUA as described below.

6.1 Sole Use by Board

Unless otherwise arranged pursuant to Section 6.3 of this Agreement, the Board will have unfettered and sole use of the Improved JUA during regular school hours during the school year, as well as for high school swim practice and meets at times it chooses and communicates to the City. During Board's sole use, Board shall be responsible for all supervision and other safety measures regarding use of the Improved JUA, and shall, subject to the monetary limitations and defenses contained in s. 768.28, F.S., hold the City harmless from any claims or damages arising out of such use. After each sole use by Board, Board staff shall ensure that the Improved JUA is cleaned of all trash and debris, including emptying trash cans and clearing the grounds, furnishing, and improvements of the Improved JUA.

6.2 Sole Use by City

Unless otherwise arranged pursuant to Section 6.3 of this Agreement, the City will have unfettered and sole use of the Improved JUA at times and for such purposes as is agreed to by the School Principal or his/her designee and the City's Manager or his/her designee. Such use shall include reasonable use of parking located on the Property that has been designated by School's Principal for such use, so long as such use does not interfere with School's use of the Property; the School's Principal shall have the sole discretion to determine whether City's use of parking facilities on the Property interferes with School's use of the Property.

During City's sole use, City shall be responsible for all supervision and other safety measures, including without limitation the hiring of lifeguards, regarding use of the Improved JUA, and shall, subject to the monetary limitations and defenses contained in s. 768.28, F.S., hold the Board harmless from any claims or damages arising out of such

use. During such use, the City shall comply with the following additional requirements:

- a. The City shall provide a staff member to grant the public access to the Improved JUA and generally monitor the Improved JUA. Such City staff member, as well as all other City staff members and agents on School grounds, shall be a full-time or part-time City employee who has successfully passed a Level 2 criminal background screening.
- b. All persons using the Improved JUA will abide by all Board policies, including Board policies that preclude consumption of tobacco products or alcoholic beverages on Board property.
- c. After each use by City, City staff shall ensure that the Improved JUA is cleaned of all trash and debris, including emptying trash cans and clearing the grounds, furnishing, and improvements of the Improved JUA.

6.3 Simultaneous Use by Board and City

From time to time, the parties may desire to simultaneously use the Improved JUA. The parties' designees will agree upon the times and purposes of such simultaneous uses reasonably in advance of such uses. During such simultaneous uses, the following conditions shall apply:

- a. Each party shall be responsible for the supervision and other safety measures regarding their own use of the Improved JUA, and shall, subject to the monetary limitations and defenses contained in s. 768.28, F.S., hold the other party harmless from any claims or damages arising out of their own use. For example, if three lanes of the pool on the Improved JUA are used by School for swim team practice and the remainder of the pool is used by the City for public swim, then the Board shall be responsible only for supervision and safety of the three lanes and the City shall be responsible for the supervision and safety, including the hiring of lifeguards, for the remainder of the pool.
- b. The City shall provide a staff member to grant the public access to the Improved JUA and generally monitor the Improved JUA. Such City staff member shall be a full-time or part-time City employee who has successfully passed a Level 2 criminal background screening.
- c. All persons using the Improved JUA will abide by all Board policies, including Board policies that preclude consumption of tobacco products or alcoholic beverages on Board property.

7. Post-Construction Costs

The parties agree to share the costs to operate the Improved JUA during the term of this Agreement as follows.

7.1 Maintenance

The parties agree that the City shall pay all costs associated with the maintenance of the swimming pool, including without limitation chemical treatments to the pool, cleaning of the pool, and non-capital equipment replacement such as filters. The Board shall contract with an outside vendor to perform such services, or otherwise secure the services, in accordance with its standard procurement procedures. The Board shall invoice the City on a monthly basis for the full costs of such maintenance and City shall remit payment of all outstanding invoice balances within forty-five (45) days of receipt. Nothing herein shall preclude the Board from maintaining its property as it sees fit.

7.2 Utilities

The parties agree that Board will pay all utility costs associated with the construction and operation of the Improved JUA.

7.3 Capital Repairs and Replacements

The parties agrees that the costs of all normal wear and tear capital repairs and replacements to the Improved JUA, including without limitation pool pump or plumbing repairs or replacement and pool resurfacing, shall be divided equally among the parties. The parties' designees shall agree upon all such repairs in advance and the Board shall be the party securing the goods or services. Once the Board has paid for the goods and services, it shall invoice the City for one-half of the cost and the City shall remit payment within forty-five (45) days of receipt. Nothing herein shall preclude the Board, in its sole discretion, from unilaterally making such repairs and replacements so long as it pays the entire cost of such repairs and replacements.

Notwithstanding this section or anything else contained herein to the contrary, if any fixture, equipment, or improvement on the Improved JUA is damaged by one of the parties or their employees, agents, guests, invitees, or students, that party shall be responsible for the entire cost of the capital repair or replacement of that fixture, equipment, or improvement.

7.4 All other Costs of Operations

The parties agrees that all other costs of operations of the Improved JUA not addressed herein shall be shall be divided equally among the parties. The parties' designees shall agree upon all such additional costs in advance and the Board shall be the party securing the goods or services. Once the Board has paid for the goods and services, it shall invoice the City for one-half of the cost and the City shall remit payment within forty-five (45) days of receipt.

8. Liability

In addition to the liability and hold harmless provisions contained elsewhere in this Agreement,

the Board and City agree to be fully responsible for their own acts of negligence, and their respective employees' and agents', including contractors', acts of negligence when acting within the scope of their employment or agency and agree to be liable for any damages resulting from said negligence to the extent of the monetary limitations and defenses contained in Section 768.28, F.S. Nothing herein is intended to serve as a waiver of sovereign immunity by either the Board or City. Nothing herein shall be construed as consent by the Board or City to be sued by third parties in any manner arising out of this agreement.

To the extent that City requires its guests and invitees to execute any written waiver, hold harmless, or release before using the Improved JUA, City shall include Board and its employees and agents as additional protected parties in the written waiver, hold harmless, or release such that the Board and its employees and agents shall enjoy the same protection as the City.

9. Insurance

The parties acknowledge and warrant that they are self-insured in compliance with Florida law for both general liability and workers compensation, that their self-insurance covers persons acting on their behalf or under their control, and that their self-insurance covers their use of the Improved JUA as contemplated by this Agreement.

10. Unforeseen Questions

The Board and City agree that in the event of unforeseen questions arising out of the subject matters of this Agreement, questions will be settled in writing between the Board's Superintendent and the City's Manager, or their designees; however, neither party waives any right to claims or remedies as provided by law.

11. Assignment

The City may not assign this Agreement nor its rights or responsibilities under it, nor sublet the Improved JUA, or any part thereof, without the prior written consent of the Board's Superintendent.

12. Notice & Contact Persons

Any notice required under this Agreement shall be delivered to the contact person below by certified mail, return receipt requested, or in person with proof of delivery. The Board and the City designate the following persons as contact persons for this Agreement:

City Contact: Mark LeCouris, City Manager
Mailing Address: 324 East Pine Street
Tarpon Springs, Florida 34689

Board Contact: Clint Herbic, Associate Superintendent, Operational Services
Mailing Address: Pinellas County Schools
Walter Pownall Service Center
11111 South Belcher Road

13. Entire Agreement; Modifications

This Agreement constitutes the entire Agreement of the parties, and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions and agreements that have been made in connection with this subject. No modification or amendment to this Agreement shall be binding on the parties unless the same is in writing and signed by the parties.

14. Compliance with Laws

Each party shall comply, at its own cost, with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

15. Severability

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability, unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be construed as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

16. Applicable Law; Venue

This Agreement and the rights and obligations of the parties shall be governed by and construed according to the laws of the State of Florida. Venue for purposes of any action brought to enforce or construe this Agreement shall lie in Pinellas County, Florida.

17. Survival

Any term, condition, covenant, or obligation which requires performance by either party subsequent to termination or expiration of this Agreement shall remain enforceable against such party subsequent to termination or expiration, including but not limited to Sections 4, 7, and 8 of this Agreement.

REMAINDER OF PAGE INTENTIONALLY BLANK

18. **Nondiscrimination**

The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, pregnancy, disability or sexual orientation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF TARPON SPRINGS, FLORIDA

By: _____

Attest:

Approved as to form:

City Attorney

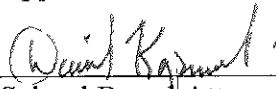
SCHOOL BOARD OF PINELLAS COUNTY, FLORIDA

By: _____
Chairperson

Attest:

Superintendent

Approved as to form:



School Board Attorney

Exhibit "A"

The area bounded by the fence along Florida Avenue marking the western-most part of the property generally known as Tarpon Springs High School and extending south to the fence marking the southern-most part of the property generally known as Tarpon Springs High School extending to the fence marking the eastern-most part of the current retention area/parking lot on such property extending to the fence marking the northern-most boundary of the paved parking area on such property.