

LEASE, MANAGEMENT & OPERATION AGREEMENT

THIS LEASE, MANAGEMENT AND OPERATION AGREEMENT ("Agreement") is dated effective the 1st day of January, 2017 (the "Effective Date"), by and between **The School Board of Pinellas County, Florida** (the "School Board"), a Florida public school district, with an office at 301 Fourth Street S.W., Largo, FL 33770, and **Belle of the Ball, Inc.**, a **Florida Nonprofit Corporation**, with an address at 1810 Cross Creek Way E, Dunedin, FL 34698

Recitals:

WHEREAS, School Board owns the land and facility formerly known as Curtis Fundamental, located at 1210 Holt Avenue, Clearwater, FL 33775, and Belle of the Ball, Inc. desires to lease the Media Center (the "Premises"), as more particularly described and shown in **Exhibit "A"** to this Agreement, attached hereto and incorporated herein by reference; and

WHEREAS, Belle of the Ball, Inc. desires to lease, manage and operate the Premises for the purpose of providing homecoming and prom dresses to in-need; low-income high school girls in Pinellas, Hillsborough and surrounding cities, and

WHEREAS, the mission of Belle of the Ball, Inc. is; "no girl should be denied the opportunity to attend her high school dance because of financial difficulties.", and

WHEREAS, School Board desires to assist Belle of the Ball, Inc. in its mission by providing use of the Premises as described herein; and

WHEREAS, School Board and Belle of the Ball, Inc. acknowledge that this Agreement is strictly reliant on Belle of the Ball's intent to operate the Premises for facilitating its mission, as described above, and therefore, any use inconsistent with the intent expressed in this Agreement shall provide School Board with the right and option to terminate this Agreement; and

WHEREAS, School Board and Belle of the Ball, Inc. wish to enter into this Agreement subject to the terms and conditions as hereinafter stated.

NOW THEREFORE, in consideration of the payment of \$10.00 per year by Belle of the Ball, Inc. to the School Board and the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Incorporation of Recitals

The above recitals are agreed to be true and correct and are hereby incorporated into this Agreement as if fully expressed within the body of this Agreement.

2. Term and Termination

2.1 Term: School Board does hereby lease the Premises to Belle of the Ball, Inc., and Belle of the Ball, Inc. does hereby take and lease the defined Premises from School Board, subject to the terms and conditions set forth herein. The term of the lease shall commence on the Effective Date, and shall continue for an initial term expiring on the date that is one (1) year after the commencement of the term (the "Initial Term"), unless the Agreement is terminated early as provided for herein. This Agreement may be renewed under the same terms and conditions with

approval of the parties Belle of the Ball, Inc. does hereby acknowledge the condition of the Premises and does hereby accept the Premises in its as-is, where-is condition. The School Board has informed Belle of the Ball, Inc. completely of the known existing defects and conditions of the Premises. School Board makes no other representations or warranties regarding the condition of the Premises, the structural integrity of the Premises, or the suitability of the Premises.

2.2 Termination:

During the Term of this Agreement, either party may terminate this Agreement with or without cause upon sixty (60) days prior written notice.

2.3 Removal of Property: Upon termination of this Agreement, Belle of the Ball, Inc. shall leave the Premises and all property belonging to School Board in no worse condition than the condition of the Premises on the Effective Date, less normal wear and tear. If Belle of the Ball, Inc. chooses to remove any approved improvement, modification and/or alteration, as provided in Section 10.1 of this Agreement, that under industry standards or common law would reasonably be interpreted as a permanent attachment to the Premises, Belle of the Ball, Inc. must replace said improvement, modification and/or alteration with a reasonably similar permanent attachment and repair any damage caused by the same.

3. Use of the Premises

3.1 Use:

Belle of the Ball, Inc. shall use and occupy the Premises as a non-profit organization which provides homecoming and prom dresses to in-need, low-income high school girls in Pinellas, Hillsborough and surrounding counties. The premises may be used for related general administrative and office purposes, subject to all legally required permits and approvals, and for no other purpose. Such general administrative office(s) may be used for any use consistent with the purpose of supporting Belle of the Ball, Inc. Belle of the Ball, Inc. shall pay School Board rent equal to \$10 per year during the Term, payable on or before the first day of each year during the Term.

3.2: Parking:

Belle of the Ball, Inc. and its guests, volunteers, contractors or invitees shall not park on any of the grassy areas on School Board grounds at any time. Belle of the Ball, Inc. shall use the circular drive located in the front of the Media Center on Saturdays. The remainder of the week, Belle of the Ball, Inc. shall use the available parking spaces that are not being utilized by staff at Clearwater Intermediate. Curtis Fundamental main parking lot is available to Belle of the Ball, Inc. for use at any time.

3.3 Signage:

Belle of the Ball, Inc. shall be permitted to place one banner or other removable sign on the building and directional signs on the school property, subject to any applicable local ordinances.

4. Operation, Management and Maintenance

Belle of the Ball, Inc. will be responsible, at its sole cost and expense, for the day-to-day management and operation of the Premises.

4.1 Activities and Events:

The Belle of the Ball, Inc. Board and/or his/her designee will use his/her reasonable efforts to maintain regular, ongoing communication with the School Board, and School Board meetings when requested.

4.2 Utilities: Belle of the Ball, Inc. shall, at its sole cost, be responsible to contribute \$120.00 per month towards the water, sewer and garbage and \$300.00 per month towards the electric. Pinellas County Real Estate Department will invoice Belle of the Ball, Inc. on a quarterly basis. Payments will be mailed to our Real Estate Department at 11111 So. Belcher Rd, Largo, FL 33773. Belle of the Ball, Inc. is solely responsible for humidity control to meet adequate interior building conditions for the Premises. School Board shall provide cooperation as needed for Belle of the Ball, Inc.

4.3 Other Operational Expenses: Belle of the Ball, Inc. shall be responsible for the Premises' other operational expenses, including, but not limited to, (to the extent desired by Belle of the Ball, Inc.) expenses of telephones, cable, internet, trash collection management, and office management Belle of the Ball, Inc. shall also be responsible for an annual service contract for any for a fire alarm monitoring company along with the expense of the telephone line and all other utility facilities that exist to support such system, as required by applicable law. Subject to the requirements set forth in Section 5, Belle of the Ball, Inc. shall provide access to School Board or its designee for purposes of conducting periodic fire safety inspections. Additionally, Belle of the Ball Inc. will be responsible for pest control.

4.4 Maintenance and Repairs of Building, Grounds and Fixtures:

(a) Belle of the Ball, Inc. shall at its sole cost and expense, repair, replace and maintain the Premises' improvements, and facility, as well as all equipment, including but not limited to: all heating, ventilating, air-conditioning equipment and facility fixtures for supplying heat, light power, hot and cold water services to the Premises, roofing, windows, floors, walls, plumbing fixtures and all drainage and waste pipes or facilities leading from the Premises, and those portions of all utility lines supplying said Premises which are located outside the Premises, unless such utility lines are maintained or repaired by utility companies. This obligation includes any improvements needed to bring the Premises into the condition Belle of the Ball, Inc. desires in order to begin its intended use, in Belle of the Balls sole discretion. Any and all improvements by Belle of the Ball, Inc. must be pre-approved by the School Board in accordance with Section 10.1.(b) School Board shall not be responsible for any damage to the Premises caused by the acts, omissions or negligence of Belle of the Ball, Inc. or its guests, volunteers, contractors or invitees.

(c) School Board shall enter the Premises to perform inspections to verify proper upkeep and maintenance and Belle of the Ball's performance of all obligations under this Agreement.

(d) Belle of the Ball, Inc. shall not be responsible for any damage to the Premises caused by the acts, omissions or negligence of School Board or its guests, employees, contractors or invitees, subject to sovereign immunity limitations as provided by Florida law.

4.5 Security: Belle of the Ball, Inc. shall provide reasonable security for the protection of the Premises, and shall be responsible for any special security needs associated with any activities held at the Premises, in Belle of the Ball's sole discretion.

4.6 Miscellaneous:

(a) Belle of the Ball, Inc. shall ensure that all representatives and/or volunteers are attired in clothing reasonably appropriate for a wholesome atmosphere while at the Premises.

(b) No activity or event shall include the use of fire, chemicals or other substances that may in any way be deemed hazardous or dangerous without first obtaining the permission of the School Board. Any hazardous chemicals or other substances that are required to be stored at the Premises shall be properly handled and stored in accordance with all applicable federal, state and local laws and regulations, and the manufacturer's instructions for handling and storage. Belle of the Ball, Inc. shall not permit the generation of or disposal of any hazardous substances or toxic materials in or on the Premises.

(c) The Premises will not be used for any purpose outside the scope of this Agreement.

(d) Belle of the Ball, Inc. shall obtain all licenses and permits necessary for its management and operation of the Premises.

(e) Belle of the Ball, Inc. affirms that it is aware of the provisions of Section 287.133(2) (a), Florida Statutes, and that at no time has Belle of the Ball, Inc. its Board or volunteers, have been convicted of a public entity crime. Belle of the Ball, Inc. agrees that it shall not violate such law and further acknowledges and agrees that any conviction thereof during the Term may result in the termination of this Agreement.

(f) Advertising: Any advertising or promotional material by or for Belle of the Ball, Inc. that includes the name or address of the School must also contain the statement "The School Board of Pinellas County, Florida, is neither sponsoring nor affiliated with this event."

(h) Pursuant to Section 404.056(5), Florida Statutes, the following notice is provided to Belle of the Ball, Inc. as tenant regarding radon gas: RADON GAS is a naturally occurring radioactive gas that when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the Pinellas County public health unit.

(i) Belle of the Ball, Inc. and all its invitees will abide by all Board policies, including policies which state that the consumption of tobacco products, including e-cigarettes or alcoholic beverages on Board property, including any outside area, is prohibited.

5. Right of Entry by the School Board

Following advance written notice to Belle of the Ball, Inc., School Board's authorized representatives may enter the Premises so long as School Board's presence is not disruptive to the normal operations of Belle of the Ball, Inc. Should Belle of the Ball, Inc. change out any locks, Belle of the Ball, Inc. shall notify School Board and provide a replacement key. Within a reasonable time following the Effective Date of this Agreement, both parties shall work to re-key the building at Belle of the Ball's expense. Notwithstanding the foregoing, School Board shall have the right to access the Premises in the event of an emergency (as determined by School Board in its reasonable discretion) for the purposes of mitigating such emergency, performing search and rescue functions and related acts and evaluating damage or other harm to School Board's property and the Premises relating to such emergency.

6. Taxes

School Board: School Board is exempt from the payment of taxes. If Belle of the Ball, Inc. use of the Premises results in the Premises being taxable by any government entity with the authority to assess taxes, Belle of the Ball, Inc. shall be responsible for such taxes at its sole cost and expense.

7. Authority to Enter into Contracts

Belle of the Ball, Inc. acknowledges and agrees that it does not have the authority to enter into contracts on behalf of School Board for the Premises, even if such contracts are for the sole benefit of the Premises, and pursuant to Section 13 of this Agreement, this Agreement does not imply or create a partnership or relationship other than that of tenant and landlord. This provision does not prohibit Belle of the Ball, Inc. from entering into contracts on its own behalf, provided that such contracts do not obligate or commit School Board or the Premises (except for Belle of the Ball's leasehold interest in the Premises) in any way.

8. Prohibition Against Liens

Belle of the Ball, Inc. shall defend, indemnify, and hold harmless School Board and its respective officers, directors, agents, employees and attorneys from any claim or demand, including attorney's fees, on the part of any person, firm or corporation performing labor or furnishing materials in connection with the construction of any improvements to the Premises undertaken by Belle of the Ball, Inc. Belle of the Ball, Inc. shall not engage in any financing or any other transaction creating any mortgages, or any other encumbrances, liens or claims of any kind upon School Board's fee interest in the Premises or any other land owned by School Board. It is distinctly understood and agreed that any person, firm or corporation furnishing materials or performing labor on behalf of Belle of the Ball, Inc. on any improvements to the Premises shall look only to Belle of the Ball, Inc. for any payment, and that no lien or claim shall be allowed to attach to School Board's fee interest in the Premises. In the event that Belle of the Ball, Inc. shall fail and refuse to pay and discharge any amount of money that may be due for materials furnished or labor performed in connection with the construction of improvements to the Premises undertaken by Belle of the Ball, Inc., and such default shall have continued for a period of thirty (30) days after School Board shall have given Belle of the Ball, Inc. notice of such default, School Board may, at its option, declare this Agreement terminated; provided, however, Belle of the Ball, Inc. shall have the right during said thirty (30) day period, in accordance with Florida Statutes, to post a surety bond with the Clerk of Circuit Court in and for Pinellas County, Florida, and have any such lien transferred to said bond, and said action by Belle of the Ball, Inc. shall cure the default and School Board shall have no right of termination.

9. Proof of Insurance/Required Limits of Liability

9.1 During the Term of this Agreement, Belle of the Ball, Inc. will furnish to the Board's Real Estate Department a Certificate of Insurance that evidences a broad form Commercial General Liability policy with insurance in the amount of One Million Dollars (\$1,000,000). The School Board of Pinellas County, Florida, will be named as an additional insured on the certificate and will be listed as the certificate holder.

9.2 Certificates of Insurance: A certificate of insurance (or a copy of the policy, if requested by School Board) shall be furnished to School Board no later than five (5) business days after the commencement of the Term.

9.3 Specialty Insurance: Any specialty insurance required for special events or specialized equipment or material stored at the Premises shall be provided by Belle of the Ball, Inc. at its sole expense and shall also name School Board as an additional insured.

10. Property

10.1 Improvements and Modifications to the Premises: No improvements, modifications or alterations shall be made to the Premises without the prior approval of the School Board's Associate Superintendent of Operational Services. All approved improvements to the Premises shall be completed in a commercially reasonable manner, properly permitted, in compliance with all governmental regulations and codes, and the work shall be performed by a properly licensed and insured contractor. All improvements made to the Premises shall be the property of the School Board. Notwithstanding the foregoing, any approval provided by School Board shall be accompanied with a statement of whether the approved alterations will be required to be removed at termination or expiration of this Agreement.

10.2 Damage to School Board Property: Belle of the Ball, Inc. shall not alter or damage the Premises and/or the School Board's property in any way without School Board's prior written approval. In the event that Belle of the Ball, Inc. damages or alters the Premises without the prior approval of School Board, whether willfully or accidentally, Belle of the Ball, Inc. shall immediately upon notice from the School Board, (i) fully repair the damage/alteration or (ii) reimburse School Board for its reasonable costs incurred in making such repairs.

10.3 Destruction of Premises: If the Premises is totally destroyed by fire or other casualty, this Agreement shall automatically terminate. If the Premises is partially damaged by fire or other casualty, School Board, in its sole and absolute discretion, may (i) terminate this Agreement, or (ii) restore the Premises to a kind and quality substantially similar to that existing immediately prior to such damage. If School Board elects to restore the Premises, School Board shall have no responsibility or liability whatsoever for any disruption to Belle of the Ball's activities.

10.4 Moveable Property of the School Board: Moveable property purchased by and/or donated to School Board will remain the property of School Board.

10.5 Moveable Property of the Belle of the Ball, Inc.: Moveable property purchased by and/or donated to Belle of the Ball, Inc. and used at the Premises will remain the property of Belle of the Ball, Inc.

11. Indemnification

11.1 Indemnification by Belle of the Ball, Inc.: Belle of the Ball, Inc. shall defend, indemnify and hold harmless School Board and its respective officers, directors, agents, employees and attorneys, from and against any and all actions, claims, suits, damages, fines and liabilities arising directly or indirectly from Belle of the Ball's, or any of its resident's, invitee's, contractor's, employee's, guest's or volunteers, and/or use of the Premises.

11.2 Indemnification by the School Board: To the extent of the monetary limitations contained in Section 768.28, Florida Statutes, School Board shall indemnify and hold harmless Belle of the Ball, Inc. and its respective officers, directors, agents, and volunteers, from and against any and all actions, claims, suits, damages, fines and liabilities arising directly or indirectly as a result of the School Board's or any of its invitee's, contractor's or employee's use of the Premises or negligence or willful misconduct with respect to the Premises. This indemnification shall not be deemed a waiver of School Board's sovereign immunity nor the limitations of liability or recovery contained in Section 768.28, Florida Statutes, nor a consent by either party to be sued by a third party. Any claim must comply with the notice and pre-suit procedures of the aforementioned

statute. By providing such indemnification, School Board is neither waiving sovereign immunity as provided by Florida law or consenting to be sued by a third party.

12. Amendments

This Agreement may not be amended unless such amendment is in writing and duly executed by the parties hereto, except that non-significant amendments may be executed in writing by Belle of the Ball, Inc. and the School Board's Superintendent.

13. Relationship of Parties

Nothing herein contained shall be deemed to constitute either of the parties hereto as a joint venture, partner or agent of the other, and neither party shall claim any status which is contrary to the terms of this Agreement.

14. Severability

If any one or more of the provisions of this Agreement should be held contrary to law or public policy, or should for any reason whatsoever be held invalid or unenforceable by a court of competent jurisdiction, then such provision or provisions shall be null and void and shall be deemed separate from the remaining provisions of this Agreement, which remaining provisions shall continue in full force and effect, provided that the rights and obligations of the parties contained herein are not materially prejudiced and the intentions of the parties continue to be effective.

15. Waiver of Provisions

No change, waiver or discharge of the provisions in this Agreement shall be valid unless in writing and signed by the party against which it is sought to be enforced. No delay or omission by either party in exercising any right or remedy or enforcing any obligation hereunder shall be construed as a waiver of that right, remedy or obligation. A waiver by either of the parties of any default or breach shall not operate as a waiver of any succeeding default or breach or any other default or breach of this Agreement.

16. Assignment

Belle of the Ball, Inc. may not sublease or assign this Agreement or any part hereof or rights hereunder.

17. Entire Agreement

This Agreement contains the final and entire agreement between the parties hereto with respect to the matters set forth herein and contains all of the terms and conditions agreed upon with respect thereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto; it being the intent of the parties that neither shall be bound by any term, condition, or representation not herein written.

18. Governing Law

This Agreement shall be governed by the laws of the State of Florida without giving effect to any rules of conflicts of law. Venue of any disputes relating to this Agreement shall be in Pinellas County, Florida.

19. Notices

Any and all notices, demands, consents, approvals or other communication which is required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if transmitted by written notice, to the following addresses:

Address for Notices to Belle of the Ball, Inc:

Belle of the Ball Project

Attn.: Susan Schwartz, Executive Director
1810 Cross Creek Way E
Dunedin, FL 34698

Address for Notices to School Board:

Pinellas County Schools

Attn.: Deputy Superintendent
301 Fourth Street S.W.
Largo, FL 33770
with a copy to:

Pinellas County Schools
Real Estate Department
11111 South Belcher Road
Largo, FL 33773-5204

or to such other address as a party may have specified in writing to the other party using the procedures contained in this paragraph. Notices sent (i) via hand delivery shall be deemed delivered when received; (ii) via overnight delivery by a nationally recognized overnight delivery service shall be deemed delivered on the next business day after deposit with such service; and (iii) via certified mail shall be deemed delivered on the date of receipt.

20. Headings

The headings used in this Agreement are for convenience only and are not intended to imply or restrict application.

21. Time of the Essence

Time is of the essence with regard to all dates and times set forth in the Agreement if the final date of any period set forth herein falls on a Saturday, Sunday or legal holiday under the laws of the State of Florida or the United States of America, the final date of such period shall be extended to the next day that is not a Saturday, Sunday or legal holiday. The term "days" as used herein shall in all cases mean calendar days.

22. Construction

The parties do hereby acknowledge and agree that this Agreement has been reviewed and negotiated by each party and that the Agreement shall be construed as if both parties were equally responsible for drafting the provisions hereof, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have hereto placed their hands and seals on the date first above written.

**THE SCHOOL BOARD OF PINELLAS
COUNTY, FLORIDA**

By: _____

Print Name: _____

Attest: _____

Superintendent

**BELLE OF THE BALL, INC., a Florida Nonprofit
Corporation**

By: Joseph S. Martesic

Print Name: Joseph S. Martesic

Attest: Swan Alley

President

Approved as to Form:

Heather J. Wallace

School Board Attorney

EXHIBIT "A"

Legal Description of Property and location of "Premises"

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CONT 17AC

"Premises" also known as the Old Curtis Fundamental School Media Center

