



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Special Order Request

☐ Yes

☒ No

Time

Open Agenda

☐ Yes

☒ No

ITEM No.:

L-2.

MEETING DATE

Feb 9 2016 10:15AM - Regular School Board Meeting

AGENDA ITEM

CONSENT ITEMS

CATEGORY

L. OFFICE OF PORTFOLIO SERVICES

DEPARTMENT

Facility Planning and Real Estate

TITLE:

Second Amendment to Agreement between The School Board of Broward County, Florida and Broward Education Foundation, Inc.

REQUESTED ACTION:

Approve Second Amendment to Agreement between The School Board of Broward County, Florida (SBBC) and Broward Education Foundation, Inc. (BEF) terminating the Agreement regarding BEF's use of leased space located at 2300 West Copans Road, Bay #5, Pompano Beach, Florida 33069.

SUMMARY EXPLANATION AND BACKGROUND:

In 2010, the SBBC entered into Agreement with COPANS 2011, LLC to lease a store front for the Broward Education Foundation, Inc. "Tools for Schools Broward" Program. The leased location provides warehouse and retail/showroom space for teachers to select donated school supplies and products, and is conveniently located and highly visible on a commercial street along Copans Road. See Supporting Docs for continuation of Summary Explanation and Background.

This Agreement has been reviewed and approved as to form and legal content by the Office of the General.

SCHOOL BOARD GOALS:

☐ Goal 1: High Quality Instruction ☒ Goal 2: Continuous Improvement ☐ Goal 3: Effective Communication

FINANCIAL IMPACT:

There is no financial impact to the District regarding termination of this Agreement.

EXHIBITS: (List)

(1) Summary Explanation and Background (2) Executive Summary (3) Second Amendment to Agreement (4) First Amendment to Agreement (5) Existing Agreement Between The SBBC and BEF

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Chris O. Akagbosu

Phone: 754-321-2162

Name:

Phone:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title

Leslie M. Brown - Chief Portfolio Services Officer

Approved In Open
Board Meeting On:

FEB 09 2016

Signature

Leslie M. Brown

Monday, February 01, 2016 3:55:11 PM

By:

School Board Chair

SUMMARY EXPLANATION AND BACKGROUND: continuation

On April 21, 2015, the SBBC renewed the lease for one year with the lease commencing on August 1, 2015 and expiring on July 31, 2016. On June 9, 2015, the SBBC approved the First Amendment to the Agreement with BEF which allowed BEF to continue to provide their needed services at their current location, which said Agreement is slated to expire on July 31, 2016.

As a component of the Lease Agreement renewal, and consistent with the SBBC directive, school district staff informed the BEF to make plans to seek an alternative location for the BEF Program, since the SBBC would not renew the lease upon its expiration. As a result, on January 15, 2016, BEF purchased from COPANS 2011, LLC the warehouse and retail/showroom space the SBBC is currently leasing at the facility.

This Second Amendment to Agreement is to terminate the existing Agreement, between the SBBC and BEF effective February 9, 2016. This agreement will be executed by BEF after School Board approval.

EXECUTIVE SUMMARY

Second Amendment to Agreement between the School Board of Broward County, Florida, and Broward Education Foundation, Inc.

Tools for Schools Broward is a program of the Broward Education Foundation, Inc. (BEF) that focuses on providing disadvantaged children from Title I Schools with new school supplies. The program has been in existence since 2000. Tools for Schools Broward is a collaborative effort involving the Kids in Need Foundation, the Broward County School District and local businesses. Many of the children served by this program lack the basic school supplies that most children take for granted; others have supplies because their teachers have spent their own money to purchase the supplies for them.

In 2010, the SBBC entered into Agreement with COPANS 2011, LLC to lease a store front for the Broward Education Foundation "Tools for Schools Broward" Program. The leased location provides warehouse and retail/showroom space for teachers to select donated school supplies and products, and is conveniently located and highly visible on a commercial street along Copans Road. On April 21, 2015, the SBBC renewed the lease for one year with the lease commencing on August 1, 2015 and expiring on July 31, 2016. On June 9, 2015, the SBBC approved the First Amendment to the Agreement with BEF which allowed BEF to continue to provide their needed services at their current location, which said Agreement is slated to expire on July 31, 2016.

As a component of the Lease Agreement renewal and consistent with the SBBC directive, school district staff informed the BEF to make plans to seek an alternative location for the BEF Program, since the SBBC would not renew the lease at 2300 W. Copans Road Bay #5 Pompano Beach, FL 33069. However, upon exploring various options including SBBC owned facilities, the BEF Board of Directors in early December 2015 voted to purchase the space currently leased by the SBBC for BEF "Tools for Schools Broward" Program.

To determine the status of BEF's efforts to purchase the leased space, Facility Planning & Real Estate (FP&RE) Department staff on January 7, 2016, contacted the BEF staff; at which time the BEF staff informed the FP&RE staff that it had reached consensus with COPANS 2011, LLC to close on the sale on January 15, 2016. Given this late notice from the BEF staff, the February 9, 2016 regular school board meeting was the only next logical meeting where a board item could be scheduled to enable the SBBC to formally terminate the agreement with BEF.

As a result of BEF's purchase of the leased facility on January 15, 2016, from COPANS 2011, LLC, this Second Amendment will terminate the Agreement with BEF effective February 9, 2016.

SECOND AMENDMENT TO AGREEMENT

THIS SECOND AMENDMENT TO AGREEMENT is made and entered into as of this 9th day of February, 2016, by and between:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

THE BROWARD EDUCATION FOUNDATION, INC.

(hereinafter referred to as "BEF"),
a Florida not for profit corporation whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

WHEREAS, BEF is a district school board direct-support organization under Section 1001.453, Florida Statutes; and

WHEREAS, BEF has, as part of its mission, adopted the initiative of helping all children come to school ready to learn; and

WHEREAS, a lack of school supplies can become a barrier to student achievement; and

WHEREAS, the BEF has operated a free school supply program called Tools for Schools Broward (hereinafter "Program") to provide teachers with access to school supplies and other educational resources that they can provide to their students; and

WHEREAS, SBBC and BEF entered into an Agreement on August 3, 2010 ("BEF Agreement") whereby SBBC agreed to lease a facility located at 2300 W. Copans Road, Bay #5, Pompano Beach, FL 33069 ("Supply Center Site") from Lessor Copans 2011, LLC at which BEF would conduct the Program; and

WHEREAS, SBBC and Copans 2011, LLC approved a one year Lease Agreement on May 9, 2015 ("Lease Agreement") to continue BEF's use of 2300 W. Copans Road, Bay #5, Pompano Beach, FL 33069 ("Supply Center Site") for the conduct of BEF's Program through an expiration date of July 31, 2016; and

WHEREAS, on June 9, 2015, the SBBC approved a First Amendment to the BEF Agreement which allowed BEF to continue to provide their needed services at the Supply Center Site through the July 31, 2016 expiration date of Lease Agreement; and

WHEREAS, school district staff informed the BEF that SBBC would not further renew the Lease Agreement and that BEF should make plans for a site to conduct the Program after the expiration of the Lease Agreement; and

WHEREAS, the BEF acquired the Supply Center Site from Copans 2011, LLC on January 15, 2016 in order to continue its use of that property for the Program after the expiration of the Lease Agreement; and

WHEREAS, SBBC and the BEF mutually desire to terminate the BEF Agreement due to the BEF's acquisition of the Supply Center Site and to proceed under the terms of the Lease Agreement assigned to BEF by Copans 2011, LLC; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

2.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Effective Date.** This Second Amendment to Agreement shall become effective on February 9, 2016.

2.02 **Amendments.** The BEF Agreement shall be amended to provide for its termination effective on February 9, 2016:

2.03 **Order of Precedence Among Agreement Documents.** In the event of a conflict between the provisions of the BEF Agreement and the provisions contained herein, the provisions of the following documents shall take precedence in this order:

- (a) This Second Amendment to Agreement
- (b) First Amendment to Agreement
- (c) The BEF Agreement

2.04 **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.

2.05 **Authority.** Each person signing this Second Amendment to Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Second Amendment to Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Second Amendment to Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Second Amendment to Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:



Robert W. Runcie
Superintendent of Schools

By

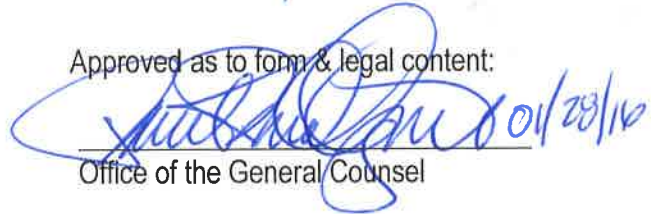


Dr. Rosalind Osgood, Chair,

Date:

2/9/14

Approved as to form & legal content:



Office of the General Counsel

FOR BEF

(Corporate Seal)

BROWARD EDUCATION FOUNDATION, INC

ATTEST:

By _____
Christina Fischer, Chair

Date: _____

Witness

Witness

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of
_____, 20__ by _____ of Broward
Name of Person
Education Foundation on behalf of the corporation. He/She is personally known to me or
produced _____ as identification and did/did not first take an
oath. Type of Identification

My Commission Expires:

Signature – Notary Public

(SEAL)

Printed Name of Notary

Notary's Commission No.

S:/v/allwork-use/contracts/review/1516year/160126bef2amend



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Special Order Request
☐ Yes ☒ No

Time

ITEM No.:

L-5.

MEETING DATE

Jun 9 2015 10:15AM - Regular School Board Meeting

AGENDA ITEM

CONSENT ITEMS

CATEGORY

L. OFFICE OF PORTFOLIO SERVICES

DEPARTMENT

Facility Planning and Real Estate

TITLE:

First Amendment to Agreement Between The School Board of Broward County, Florida and Broward Education Foundation, Inc.

Open Agenda

☐ Yes

☒ No

REQUESTED ACTION:

Approve First Amendment to Agreement Between The School Board of Broward County, Florida (SBBC) and Broward Education Foundation, Inc. (BEF) for the continued use of space located at 2300 West Copans Road, Bay #5, Pompano Beach, Florida 33069 in which to operate the "Tools for Schools Broward" Program.

SUMMARY EXPLANATION AND BACKGROUND:

In 2010, the SBBC entered into Agreement with COPANS 2011, LLC to lease a store front for the Broward Education Foundation, Inc. "Tools for Schools Broward" Program. The leased location provides warehouse and retail/showroom space for teachers to select donated school supplies and products, and is conveniently located and highly visible on a commercial street along Copans Road. On April 21, 2015, the SBBC renewed the lease for one year with the lease commencing on August 1, 2015 and expiring on July 31, 2016.

See Supporting Docs for continuation of Summary Explanation and Background.

This Agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel. BEF has signed and approved the Agreement and upon approval by the SBBC, the Agreement will become effective July 1, 2015.

SCHOOL BOARD GOALS:

☐ Goal 1: High Quality Instruction ☒ Goal 2: Continuous Improvement ☐ Goal 3: Effective Communication

FINANCIAL IMPACT:

There is no financial impact to the District for this Agreement. The financial impact to the District for leasing the current facility was provided in the renewal the Board approved on April 21, 2015.

EXHIBITS: (List)

(1) Summary Explanation and Background (2) Executive Summary (3) First Amendment to Agreement (4) Existing Agreement Between The SBBC and BEF

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Chris O. Akagbosu

Phone: 754-321-2162

Name: J. Paul Carland, II

Phone: 754-321-2050

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title

Leslie M. Brown - Chief Portfolio Services Officer

Signature

Leslie M. Brown

Monday, May 18, 2015 3:01:53 PM

Approved In Open
Board Meeting On:

By:

JUN 09 2015

Donna Kohn

School Board Chair

FIRST AMENDMENT TO AGREEMENT

THIS FIRST AMENDMENT TO AGREEMENT is **made** and entered into as of this 9 day of June, 2015, by and between:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

THE BROWARD EDUCATION FOUNDATION, INC.

(hereinafter referred to as "BEF"),
A Florida not for profit corporation whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

WHEREAS, BEF is a district school board direct-support organization under Section 1001.453, Florida Statutes; and

WHEREAS, BEF has, as part of its mission, adopted the initiative of helping all children come to school ready to learn; and

WHEREAS, a lack of school supplies can become a barrier to student achievement; and

WHEREAS, the BEF has operated a free school supply program called Tools for Schools Broward (hereinafter "Program") to provide teachers with access to school supplies and other educational resources that they can provide to their students; and

WHEREAS, on April 21, 2015, the SBBC approved the Lease Agreement renewal for BEF to continue leasing the warehouse and retail/showroom space located at 2300 W Copans Road Bay #5 Pompano Beach, FL 33069; and

WHEREAS, the SBBC and BEF desire to amend Agreement to allow BEF to continue to provide their needed services at their current location; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree 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 – SPECIAL CONDITIONS

2.01 Effective Date. This amendment shall become effective on July 1, 2015.

2.02 **Amendments.** The following portions of the Agreement shall be amended to provide as follows:

Section 2.01 of the Agreement is amended as follows:

Term of Agreement. Unless terminated sooner under Section 3.04 of Agreement, the term of this First Amendment to Agreement shall commence on July 1, 2015 and conclude on July 31, 2016.

Section 3.17 of the Agreement is amended as follows:

Notice. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, Facility Planning and Real Estate
The School Board of Broward County, Florida
600 Southeast Third Avenue – 8th Floor
Fort Lauderdale, Florida 33301

To BEF: Thomas P. Severino, President/CEO
Broward Education Foundation, Inc.
600 Southeast Third Avenue
Fort Lauderdale, Florida

2.03 **Order of Precedence Among Agreement Documents.** In the event of a 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 Agreement
(b) The Agreement

2.04 **Other Provisions, as Amended, Remain in Force.** Except as expressly provided herein, all other portions of the Agreement remain in full force and effect. This First Amendment to Agreement is hereby made a part of the Agreement.

2.05 **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.

2.06 **Authority.** Each person signing this First Amendment to Agreement on behalf of either party individually warrants that he or she has full legal power to execute this First Amendment to Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this First Amendment to Agreement.

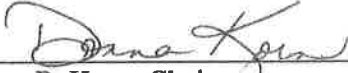
IN WITNESS WHEREOF, the parties hereto have made and executed this First Amendment to Agreement on the date first above written.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK


FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
Donna P. Korn, Chair,

ATTEST:


Robert W. Runcie
Superintendent of Schools

Approved as to form & legal content:

 05/11/15
Office of the General Counsel

FOR BEF

(Corporate Seal)

BROWARD EDUCATION FOUNDATION, INC

ATTEST:

By Raymond Monteleone

Raymond Monteleone, Chair

Sypwell
Witness

[Signature]
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 11th day of May, 20 15 by Raymond Monteleone of _____, on behalf of the corporation/agency.

Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath. _____ Type of Identification

My Commission Expires:

Patricia Loomis
Signature - Notary Public

PATRICIA D. LOOMIS
Printed Name of Notary

(SEAL)



Patricia D. Loomis
COMMISSION # FF101750
EXPIRES: Mar. 28, 2018
WWW.AARONNOTARY.COM

FF101750
Notary's Commission No.

AGENDA REQUEST FORM
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Meeting Date 08/03/10	<table style="width: 100%;"><tr><td style="width: 50%; text-align: center;">Open Agenda Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></td><td style="width: 50%; text-align: center;">Time Certain Request Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></td></tr></table>	Open Agenda Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Time Certain Request Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Agenda Item Number H-1												
Open Agenda Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Time Certain Request Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>															
TITLE: Agreement Between The School Board of Broward County, Florida and Broward Education Foundation, Inc.																
REQUESTED ACTION: Approve the Agreement between The School Board of Broward County, Florida and Broward Education Foundation, Inc. for use of a facility in which to operate the Kids in Need Resource Center.																
SUMMARY EXPLANATION AND BACKGROUND: Broward Education Foundation (BEF) is a district school board direct-support organization and is authorized to use district property and facilities under Section 1001.453, Florida Statutes. The BEF wishes to use a facility leased by The School Board of Broward County, Florida as the site of its Kids in Need Resource Center ("Center") to make donated school supplies and products available at no cost to SBBC's schools and teachers. The proposed agreement sets forth the terms under which the BEF may use the leased facility for the Center. The Lease Agreement between The School Board and the Landlord of the property (BRI 1181 Copans, LLC.) is brought forth as Agenda Item H-2 for The School Board's consideration. This agreement has been reviewed and approved as to form and legal content by the School Board Attorney.																
SCHOOL BOARD GOALS: <table style="width: 100%;"><tr><td><input checked="" type="checkbox"/> •Goal One:</td><td>Raise achievement of all students to ensure graduation from high school and readiness for post-secondary education.</td></tr><tr><td><input type="checkbox"/> •Goal Two:</td><td>Improve the health and wellness of students and personnel.</td></tr><tr><td><input checked="" type="checkbox"/> •Goal Three:</td><td>Provide a safe and secure physical and technological environment for all students and employees.</td></tr><tr><td><input type="checkbox"/> •Goal Four:</td><td>Promote innovation which focuses on best practices and quality efforts that improve our best-in-class position.</td></tr><tr><td><input type="checkbox"/> •Goal Five:</td><td>Recruit, develop, retain, and recognize high performing and diverse faculty and personnel.</td></tr><tr><td><input checked="" type="checkbox"/> •Goal Six:</td><td>Build strong partnerships with family, business, community and government at the classroom, school, area, and district level.</td></tr><tr><td><input type="checkbox"/> •Goal Seven:</td><td>Ensure district's leadership as an environmental steward through innovative ecology and energy conservation programs.</td></tr></table>			<input checked="" type="checkbox"/> •Goal One:	Raise achievement of all students to ensure graduation from high school and readiness for post-secondary education.	<input type="checkbox"/> •Goal Two:	Improve the health and wellness of students and personnel.	<input checked="" type="checkbox"/> •Goal Three:	Provide a safe and secure physical and technological environment for all students and employees.	<input type="checkbox"/> •Goal Four:	Promote innovation which focuses on best practices and quality efforts that improve our best-in-class position.	<input type="checkbox"/> •Goal Five:	Recruit, develop, retain, and recognize high performing and diverse faculty and personnel.	<input checked="" type="checkbox"/> •Goal Six:	Build strong partnerships with family, business, community and government at the classroom, school, area, and district level.	<input type="checkbox"/> •Goal Seven:	Ensure district's leadership as an environmental steward through innovative ecology and energy conservation programs.
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FINANCIAL IMPACT: There is no financial impact to the District for this Agreement. The financial impact to the District for leasing the facility is provided for in Agenda Item H-2.																
EXHIBITS: (List) Agreement between The School Board of Broward County, Florida and Broward Education Foundation, Inc.																
BOARD ACTION: <div style="text-align: center;">APPROVED</div> <small>(For Official School Board Records' Office Only)</small>		SOURCE OF ADDITIONAL INFORMATION: <div style="display: flex; justify-content: space-between;"><div>Edward J. Marko, Esq. <small>Name</small></div><div>754-321-2050 <small>Phone</small></div></div>														

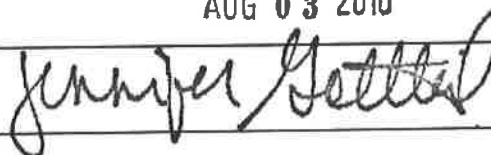
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Edward J. Marko, General Counsel
Office of The School Board Attorney

Approved in Open Board Meeting
on:

By:

AUG 03 2010



School Board Chair

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.04 of this Agreement, the term of this Agreement shall commence on the date of approval by both parties and conclude on June 30, 2015.

2.02 **Property Leased by SBBC.** SBBC will lease a facility located at 2300 W. Copans Road, Bay #5, Pompano Beach, FL 33069 (hereinafter referred to as “Property”). As lessee, SBBC is responsible for the annual leasing costs of the Property, related utility/operating costs and property insurance on the Property and shall pay for same.

2.03 **BEF Use of Leased Property.** Pursuant to Section 1001.453(2), Florida Statutes, SBBC will permit BEF to use the Property during the lease term to operate the Center for teachers employed by the school district; provided, however, that SBBC and BEF acknowledge that BEF is required by its major donor of school supplies to strive to ensure that a minimum of 70% of participating students (whether participating directly or indirectly through their teachers) using the Center’s supplies are eligible to participate in the free and/or reduced lunch program and BEF may take all actions necessary to comply with that requirement.

2.04 **Maintenance of Property.** BEF agrees to maintain the interior space of the Property in good working order. Any repairs to the interior space of the Property that are not covered by the Property’s lessor are the responsibility of BEF. Any requests by BEF for repairs or improvements to be made to the interior space of the Property by SBBC shall be solely within SBBC’s discretion and will be dependent upon availability of staff and funds. SBBC agrees to maintain all light fixtures, install fire extinguishers according to code, recharge discharged extinguishers and certify annually fire extinguishers for the Property during the lease term.

2.05 **Donated School Supplies and Products.** BEF will actively solicit contributions of school supplies and other products from donors and store such donated school supplies and products within the warehouse portion of the Property for the purpose of making such school supplies and products available to SBBC’s schools and teachers, subject to the conditions set forth above. Non-school district employees and the general public are not permitted to obtain school supplies and products in the center. BEF acknowledges that charter school employees are not school district employees.

2.06 **Staffing of the Center.** BEF will staff the Center sufficiently with employees paid by BEF and/or volunteers so that the Center is open to school district teachers for a minimum of three (3) hours per day for at least four (4) days per week.

2.07 **Termination of Lease by SBBC.** It shall be solely within SBBC’s discretion whether to discontinue, terminate or renew the lease of the Property and SBBC may take such

actions upon such notice as SBBC deems appropriate. SBBC shall notify BEF of its intention to discontinue, terminate or renew its lease of the Property at least six (6) months prior to such discontinuation, termination or renewal; provided, however, that SBBC shall not renew the Lease for BEF's benefit unless it has obtained BEF's prior written request to renew the lease. Provided further, however, that SBBC shall be required to provide thirty (30) days notice to BEF in the event SBBC terminates the lease due to a material breach by the lessor.

2.08 **Discontinuation of Center.** In the event that BEF determines that it wishes to discontinue its operation of the Center, it will notify SBBC at least seven (7) months prior to the end of the current year of the lease of the Property to enable SBBC to take any actions necessary to exercise its right to terminate the lease at the end of the lease year.

2.09 **Insurance.** If requested to do so by SBBC's Risk Management Department, BEF will purchase insurance to cover damage to its property and/or indemnification for acts of negligence occurring upon the Property during its period of use by BEF.

2.10 **Background Screening:** BEF agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance BEF or its personnel providing any services under the conditions described in the previous sentence. BEF shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to BEF and its personnel. The Parties agree that the failure of BEF to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. BEF agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in BEF's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

~~2.05~~ 2.11 **Indemnification.**

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By BEF: BEF agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or

any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by BEF, its agents, servants or employees; the equipment of BEF, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of BEF or the negligence of BEF agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by BEF, SBBC or otherwise.

C. Notwithstanding anything to the contrary herein, to the maximum extent permitted by law and without affecting the coverage provided by insurance required to be maintained hereunder, if any, each party hereto (as such, the "Insured Party") waives any right to recover against the other party ("Covered Party") on account of any and all claims the Insured Party may have against such Covered Party with respect to any matter required under this Agreement to be insured through Insured Party's insurance.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Non-Discrimination.** 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, disability or sexual orientation.

3.04 **Termination.** Except as otherwise provided in Section 2.07, This Agreement may be canceled with or without cause by SBBC during the term hereof upon six (6) months' prior written notice to BEF of its desire to terminate this Agreement.

3.05 **Records.** 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 that law.

3.06 **Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or

understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.07 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.08 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.09 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

3.10 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.11 **Governing Law.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.12 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.13 **Assignment.** Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.14 **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, 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.

3.15 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.16 **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 or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.17 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, Partnerships
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

To BEF: Jorene Jameson, Executive Director
Broward Education Foundation, Inc.
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

3.18 **Captions.** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

3.20 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section

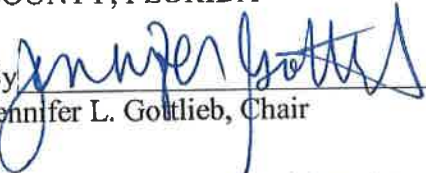
55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

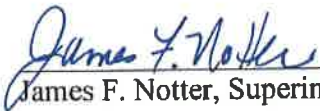
FOR SBBC

(Corporate Seal)

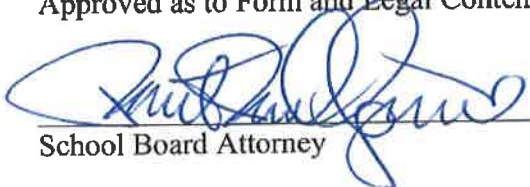
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
Jennifer L. Gottlieb, Chair

ATTEST:


James F. Notter, Superintendent of
Schools

Approved as to Form and Legal Content:

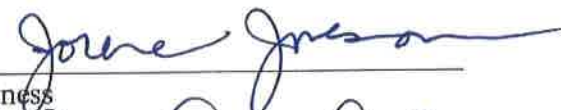
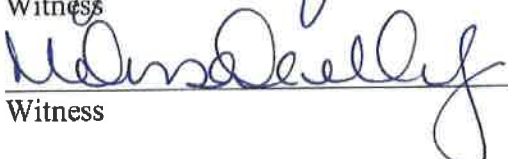

School Board Attorney

FOR BEF

(Corporate Seal)

**BROWARD EDUCATION FOUNDATION,
INC.**

By 
Raymond Monteleone, Chair
Board of Directors


Witness

Witness

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 15th day of
JULY, 2010 by Raymond MONTELEONE of
Name of Person

Broward Education Foundation, Inc. on behalf of the corporation/agency. He/She is personally
known to me or produced _____ as identification and did/did
not first take an oath. Type of Identification

My Commission Expires:


Signature - Notary Public

(SEAL) NOTARY PUBLIC-STATE OF FLORIDA
 Patricia D. Loomis
Commission # DD976217
Expires: MAR. 28, 2014
BONDED THRU ATLANTIC BONDING CO., INC.

PATRICIA D. LOOMIS
Printed Name of Notary

DD976217
Notary's Commission No.