

**AGREEMENT**  
**High School Regular Season Football Game**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 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

**GWINNETT COUNTY PUBLIC SCHOOLS**  
(hereinafter referred to as "GCPS"),  
whose principal place of business is  
437 Old Peachtree Road NW, Suwanee, GA 30024

**WHEREAS**, GCPS is seeking an agreement with SBBC to host a football game between Grayson High School and Deerfield Beach High on Friday, September 16, 2016; and

**WHEREAS**, the game will be played at Grayson Community Stadium in Loganville, Georgia; and

**WHEREAS**, GCPS and SBBC have agreed to the terms pursuant to which the game will be played; and

**WHEREAS**, the football game presents a tremendous opportunity for both SBBC and GCPS to showcase educational excellence through interscholastic sports and receive national attention and exposure.

**WHEREAS**, the SBBC will share with Grayson High School a team roster including player names and jersey numbers. Prior to the forwarding of the team roster, written parental consent (or consent of student age 18 or over) will be obtained by Deerfield Beach High. In addition, the District's Media Release Form in the Code of Student Conduct permitting/not permitting students (or consent of student age 18 or over) to be photographed, videotaped, and/or interviewed by the media will be obtained by Deerfield Beach High and maintained at the school level.

**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.** SBBC and GCPS (each a “Party” and collectively the “Parties”) agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

## ARTICLE 2 – EVENT CONDITIONS

2.01 **Term of Agreement.** The term of this Agreement shall commence when executed by all parties and shall conclude on November 1, 2016 unless terminated earlier pursuant to Section 3.05.

2.02 **Dates.** The date of the football game between Deerfield Beach High vs. Grayson High School is Friday, September 16, 2016.

2.03 **Kickoff Times.** The exact time of the game will be 7:30 p.m.

2.04 **Venue.** The venue for the game shall be Grayson Community Stadium, Loganville, Georgia.

2.05 **Television Rights.** GCPS will exclusively control all local, regional and national television rights for the game.

2.06 **Internet Rights.** GCPS will retain control of broadcast rights for both radio and live Internet streaming.

2.07 **SBBC Travel.** GCPS will pay Deerfield Beach High \$5,000 dollars for the football team to travel to and from Loganville, Georgia. Deerfield Beach High will travel using a charter bus company approved by SBBC.

2.08 **Game Rules.** The Constitution and the Rules and Regulations of the Georgia High School Association as well as the National Federation of High School Association rules will be followed in all contests.

2.09 **Game Officials.** Officials certified by the Georgia High School Association will be utilized in the football game.

2.10 **Game Expenses.** All game day expenses for this event including but not limited to officials, gate keepers, statisticians, security, police officers, EMT personnel and equipment, field usage and operations shall be borne by GCPS.

2.11 **Event of Emergency.** GCPS will ensure that all safety requirements and precautions are met prior to the commencement of the game. Both parties will ensure that personnel appropriately trained in First Aid will be available within close proximity of the players. Pursuant to O.C.G.A. §20-2-775, in the event of an emergency, an automated external defibrillator will be accessible to trained and certified personnel.

2.12 **Proceeds.** Any and all proceeds and profits made by this event will be solely paid to GCPS.

### 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 or limit in any way the sovereign immunity rights of GCPS under Georgia law. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceedings brought on account of this Agreement is barred by any applicable statute of limitations.

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 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days

notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **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.

3.09 **Public Records.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. 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. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by

or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **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.

3.12 **Governing Law and Venue.** 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.

3.13 **Entirety of 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.

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

3.15 **Assignment.** Neither this Agreement or 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.

3.16 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.17 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, 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 affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.18 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.19 **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.

3.20 **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.

3.21 **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 unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.22 **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.

3.23 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.24 **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.

3.25 **Indemnification.** Each party agrees to be fully responsible for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.26 **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  
Fax: (754) 321-2701

With a Copy to: Director  
Athletics & Student Activities  
600 Southeast Third Avenue, Third Floor  
Fort Lauderdale, Florida 33301  
Fax: (754) 321-2552

To GCPS: J. Alvin Wilbanks  
CEO/Superintendent of Schools  
437 Old Peachtree Road NW  
Suwanee, GA 30024  
Fax: (678) 301-6030

With a Copy Executive Director of Athletics  
437 Old Peachtree Road NW  
Suwanee, GA 30024

3.27 **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.

3.28 **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.

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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

ATTEST:

By \_\_\_\_\_  
Dr. Rosalind Osgood, Chair

\_\_\_\_\_  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

*Kathelyn Jacques-Adams*

Digitally signed by Kathelyn Jacques-Adams  
DN: cn=Kathelyn Jacques-Adams, o=The School  
District of Broward County, Florida, ou=The Office  
of the General Counsel, email=kathelyn.jacques-  
adams@browardschools.com, c=US  
Date: 2016.08.03 10:37:33 -04'00'

Office of the General Counsel

**FOR GCPS**

ATTEST:

*Alvin Wilbanks 4-5-16*  
Alvin Wilbanks Date  
CEO/Superintendent of Schools

Subscribed before me  
This 5 day of APRIL, 2016

*Gerold S. Cole*  
Notary Public, Gwinnett County, GA  
My Commission Expires July 8, 2018

\_\_\_\_\_  
Affix Notarial Seal

\_\_\_\_\_  
Commission Expiration Date