

## **PARKING SERVICE AGREEMENT**

THIS PARKING AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017, 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

**CITY OF FORT LAUDERDALE**

(hereinafter referred to as "CITY"),

a municipal corporation of the state of Florida,

whose principal place of business is

100 N Andrews Ave, Fort Lauderdale, FL 33301

**WHEREAS**, pursuant to Motion adopted at its meeting, the City Commission of the CITY of Fort Lauderdale, Florida authorized the proper CITY officials to enter into this Agreement; and

**WHEREAS**, SBBC is the owner of that certain parking lot located at the Kathleen C. Wright Administrative Complex, 600 SE 3rd Avenue, Fort Lauderdale, Florida, 33301, hereinafter referred to as "Site" and more particularly described in the attached **Exhibit A**; and

**WHEREAS**, SBBC purchased two (2) Global Metro MKS Parking Meters (hereinafter "Parking Meters") from the CITY in which the SBBC will pay the CITY to maintain the Parking Meters on the Site from which SBBC would collect and retain the monthly revenues derived from the Parking Meters and from which the CITY would retain any parking citations revenues; and,

**WHEREAS**, the CITY agrees to permit SBBC to retain the revenues derived from the Parking Meters at the Site; and

**WHEREAS**, SBBC agrees to pay the CITY, in addition to the CITY maintenance fee a data collection fee, which fee is to be paid to Global Metro MKS, the CITY selected vendor via its Request For Proposal (RFP) No. 524 10918, for parking data collected from the Parking Meters; and

**WHEREAS**, such arrangements will be beneficial to both parties by providing additional revenue derived from the Parking Meters to be located at the Site; and

**WHEREAS**, this arrangement with the CITY will benefit SBBC due to its purchase of newer, cost effective and more efficient Parking Meters.

**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 hereto agree as follow:

## 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 **Term of Agreement.** Unless otherwise terminated as provided herein, the term of this Agreement shall be for a period of five (5) years commencing on the date of approval by the last party.

2.02 **Parking Meters Location.** The two (2) Global Metro MKS Parking Meters are located in the surface parking lot adjacent to the Kathleen C. Wright Administrative Complex, 600 SE 3<sup>rd</sup> Avenue, Fort Lauderdale, FL 33301. A more precise location of the two (2) Parking Meters is further described in **Exhibit A** of this Agreement.

2.03 **Collection and Parking Meter Revenue.** SBBC shall collect and retain all revenue from the Parking Meters at the Site, and at a minimum, document and itemize the method of payment/amount (i.e. cash, credit/debit card) paid by the patrons. SBBC shall keep in its possession the only keys to the revenue compartment of the two (2) Parking Meters.

2.04 **Revenues from Parking Citations.** In lieu of the CITY charging SBBC monthly fees to monitor and enforce parking requirements on the Site, SBBC agrees to allow the CITY to retain any citation revenues derived by the CITY from said Parking Meters.

2.05 **Parking Meter Maintenance.** SBBC hereby grants the CITY the right to maintain and repair the two (2) Parking Meters located at the Site. SBBC also grants the CITY the right to install upon the Site signs and any other property or items which the CITY may deem appropriate to enforce and/or perform its obligations under this Agreement. The CITY shall at all times maintain the two (2) Parking Meters in a working condition during the term of this Agreement subject only to ordinary wear and tear. At least twice a year, the CITY shall conduct preventative maintenance on both Parking Meters, which maintenance shall be documented and delivered to SBBC within 7 business days after the work has been performed.

2.06 **Maintenance Fee.** SBBC shall pay the CITY a fee of **\$45.00 per month or \$540.00 annually** to maintain the two (2) Parking Meters at the Site. Such payment by SBBC shall be made no later than thirty (30) calendar days upon receipt of a billed invoice from the CITY outlining all such costs.

2.07 **Data Collection Fee.** SBBC agrees to pay the CITY, in addition to the Maintenance Fee, a Data Collection Fee in the amount of **\$1,080.00 annually**, which fee shall be paid by the CITY to Global Metro MKS for data collected from the two (2) Parking Meters. Such payment shall be made to the CITY no later than thirty (30) days after the date of this Agreement. Upon receipt of payment, the CITY shall deliver payment to Global Metro MKS within seven (7) business days.

2.08 **Parking Meter Enforcement.** The CITY shall enforce the Parking Meters at the Site at, a minimum of two (2) times a day, seven (7) days a week to ensure that patrons pay the parking fees due and, as necessary, to enforce payment of the parking fees by issuing citations to violators. Such enforcement shall include the physical patrol of the one-hundred twenty (120) parking spaces located at the Site by the CITY's parking enforcement officer, unless otherwise instructed by SBBC in writing

not to enforce during certain days or hours. The CITY shall provide monthly documentation to SBBC which confirms that the CITY is enforcing the Site at a minimum of two (2) times a day, seven (7) days a week as well as provide monthly documentation to SBBC depicting the days, the number of citations issued, and the amount per citation issued during the reporting month, and the total revenue derived during the month from citations.

2.09 **Visitor Parking at Site.** SBBC reserves the right to allow SBBC's visitors and/or affiliates to park at the Site when the visitor and/or affiliate display on their dashboard a document/permit issued by SBBC. The CITY agrees that any visitors and/or affiliates utilizing such document/permit will not be issued a parking citation by the CITY provided the visitor and/or affiliate properly display such document/permit on their dashboard.

2.10 **SBBC Reserved Parking Spaces.** Twelve (12) designated parking spaces are reserved for SBBC's exclusive use on the Site. Therefore, no citation shall be issued for any vehicles parked in the designated parking spaces with document/permit issued by SBBC and displayed on the vehicle dashboard. For the specific location of the twelve (12) designated parking spaces, see **Exhibit A** of this Agreement.

2.11 **Personal Property.** It is hereby agreed by and between the CITY and SBBC that upon the termination of this Agreement, the CITY shall have the right to remove from the Site all of CITY's personal property then located upon the Site, including, but not limited to, signs and any other property owned by the CITY within ten (10) days of termination. The CITY agrees that the cost of removing such items shall be borne by the CITY. If CITY fails to remove all personal property within the time frame allotted, the CITY hereby forfeits all rights to personal property to SBBC. It is also agreed to by both parties that the two (2) Parking Meters located at the Site is the personal property of SBBC.

2.12 **SBBC Warranties.** SBBC warrants and represents to the CITY that it is the owner of the Site and further represents and warrants that the Site is presently used as a parking area.

2.13 **Site Ingress and Egress.** SBBC agrees that the CITY shall have the right of ingress and egress to the Site for any and all purposes required by the CITY to perform the services as stated in this Agreement. The maintenance, repair, and enforcement of ordinances applicable to such metered parking shall be accomplished by the CITY as part of the costs stated in this Agreement.

2.14 **Liability.** 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.

- (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 employees' 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 CITY: the CITY agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, 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.

2.15 **Right to Audit CITY Records by SBBC.** The CITY shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds under this Agreement. All of the CITY's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments, and/or claims submitted by the CITY or any of the CITY's payees pursuant to this Agreement. The CITY's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. The CITY's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement. SBBC has the right to perform cash counts during the servicing of Parking Meters and to reconcile credit cards to bank records.

2.16 **The CITY's Records Defined.** For the purposes of this Agreement, the term "the CITY's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate expenditure, reconcile or refute any charges and/or expenditures related to this Agreement.

2.17 **Duration of Right to Audit.** For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to the CITY's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to the CITY pursuant to this Agreement.

2.18 **Notice of Audit.** SBBC's agent or its authorized representative shall provide the CITY with reasonable advance notice [not to exceed two (2) weeks] of any intended audit, inspection, examination, evaluation and or reproduction.

2.19 **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to the CITY's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

2.20 **Failure to Permit Inspection.** Failure by the CITY to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any CITY's claims for payment by SBBC.

2.21 **Notices.** All notices required by law and by this Agreement to be given by one party to the other shall be in writing, and the same shall only be deemed given if as follows:

- i. By certified mail, return receipt requested, to the following addresses:

The CITY: CITY of Fort Lauderdale  
CITY Manager  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301

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

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

2.22 **Absence of Option.** SBBC has delivered a copy of this Agreement to CITY for CITY's review only and the delivery hereof does not constitute an offer to CITY or an option to lease or a reservation of or option for the Site, and this Agreement shall become effective only when a copy executed by both SBBC and CITY is delivered to and approved by SBBC.

### **ARTICLE 3 – GENERAL CONDITIONS**

3.01 **Claims and Sovereign Immunity.** The CITY is a self-insured entity, and therefore, any and all claims arising as a result of the CITY's use of the Site shall be processed through the CITY's Risk Management Office. Each party agrees to be fully responsible for its acts of negligence or its agents' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. However, nothing contained herein shall constitute a waiver by the CITY or SBBC of their sovereign immunity protection or of any rights and limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance 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.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that nothing in this Agreement shall create or confer any rights or obligations in or upon any third person or entity under this Agreement. There shall be no substantial benefit to a third party as a result of 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, and contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Non-Discrimination/Equal Opportunity Provision.** 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.

3.05 **Termination.** This Agreement may be terminated with or without cause at any time by either party upon sixty (60) days written notice. In the event of termination, the CITY shall within sixty (60) days of termination invoice SBBC for maintenance costs through the effective date of termination. The CITY shall also remove personal property from the site within sixty (60) days of termination. If CITY fails to remove all personal property within sixty (60) days of termination the CITY hereby forfeit all rights of personal property to SBBC.

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 by SBBC.** 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 CITY 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 the other party under this Agreement agrees to promptly notify the paying party of any funds erroneously received therefrom upon the discovery of such erroneous payment or overpayment. The receiving party shall thereafter promptly refund the amount of such excess funds to the other party.

3.09 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. CITY shall keep and maintain public records required by SBBC to perform the services required under this Agreement. Upon request from SBBC's custodian of public records, the CITY shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. The CITY shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the Agreement if the CITY does not transfer the public records to SBBC. Upon completion of the Agreement, the CITY shall transfer, at no cost, to

SBBC all public records in possession of the CITY or keep and maintain public records required by SBBC to perform the services required under the Agreement. If the CITY transfers all public records to SBBC upon completion of the Agreement, the CITY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CITY keeps and maintains public records upon completion of the Agreement, the CITY shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology system.

**IF A PARTY TO THIS LEASE AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE LEASE AGREEMENT, CONTACT REQUEL L. BELL AT 754-321-1900 OR EMAIL [requel.bell@browardschools.com](mailto:requel.bell@browardschools.com), 600 SE 3rd Avenue, 11th Floor Ft. Lauderdale, FL 33301.**

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

3.11 **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.

3.12 **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 CITY.

3.16 **Incorporation by Reference.** **Exhibit A** 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 express 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 **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.



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

[THIS SPACE WAS INTENTIONALLY LEFT BLANK]

**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY,  
FLORIDA

ATTEST:

By \_\_\_\_\_  
Abby M. Freedman, Chair

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

Approved as to Form and Legal Content:

*Kathelyn Jacques-Adams*

Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: City of Fort Lauderdale  
Date: 2017.06.01 11:26:55 -04'00'

\_\_\_\_\_  
Office of the General Counsel

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

ATTEST:

City of Fort Lauderdale

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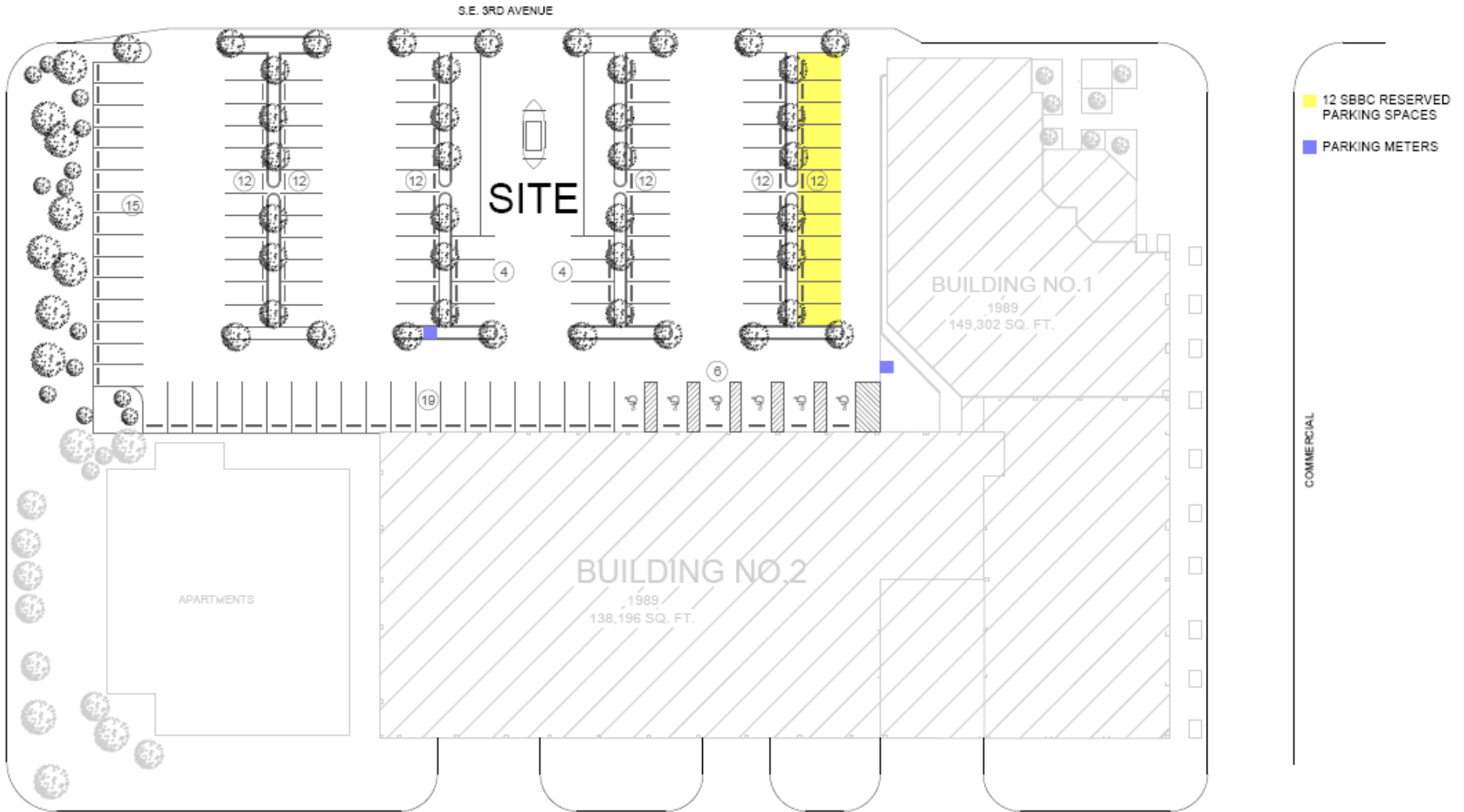
\_\_\_\_\_  
Jeffrey A. Modarelli, City Clerk

\_\_\_\_\_  
John P. "Jack" Seiler, Mayor

\_\_\_\_\_  
Lee R. Feldman, City Manager

Approved as to form:  
Cynthia A. Everett, City Attorney

By: \_\_\_\_\_  
Candace Duff  
Assistant City Attorney



RESIDENTIAL

