

FIRE ACADEMY PROGRAM AGREEMENT

BETWEEN

THE CITY OF MIRAMAR, FLORIDA

AND

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

This Fire Academy Program Agreement (the "Agreement") is entered into this ____ day of _____, 2017, between the City of Miramar, Florida (the "City"), a Florida municipal corporation, and The School Board of Broward County, Florida (the "SBBC"), a body corporate and political subdivision of the State of Florida (individually referred to as a "Party", and collectively referred to as the "Parties").

RECITALS

WHEREAS, the SBBC conducts educational programs in the field of fire science for the purpose of preparing individuals to meet the requirements for certification as a firefighter; and

WHEREAS, the City desires to continue to encourage participation by its residents in the field of fire science and to prepare student residents with an interest in firefighting to advance and succeed in said industry; and

WHEREAS, the City has determined that Everglades High School is well suited for the provision of an introductory course in firefighting.

NOW, THEREFORE, in consideration of the mutual covenants and promises 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 **Term of Agreement**. The term of this Agreement shall be for the period commencing upon execution by both parties and concluding on June 30, 2020, unless otherwise terminated by either Party pursuant to the terms of this Agreement.

2.02 **Instruction and Curriculum.** The SBBC shall be responsible, at its sole expense, for provision of classroom instruction, the selection of students, establishment of curricula, maintenance of student records, evaluation of programs, and all educational experiences through the employment of certified instructors in compliance with the guidelines established by the Florida Department of Education and within SBBC Policies and Procedures. All faculty provided by the SBBC shall be duly licensed, certified and otherwise qualified to provide instruction through the Fire Academy Program, and must maintain Firefighter I approval/accreditation status based on Bureau of Fire Standards and Training.

2.03 **Educational Plan and Course Materials.** The SBBC faculty shall prepare an educational plan and curriculum in conjunction with City staff prior to the commencement of the Program. Upon request, the SBBC shall provide the City with copies of current course outlines, course objectives, curriculum, philosophy and a list of faculty and their qualifications.

2.04 **Student Orientation.** The City shall provide an orientation session for participating students of the Fire Rescue Department and the use of City premises. In order to participate in the orientation session or to otherwise visit City premises, including but not limited to the Fire Rescue Department, participating students and SBBC faculty will be required by the City to execute a Hold Harmless Agreement substantially complying with the form attached hereto as **Exhibit A**, which is hereby incorporated by reference. The City reserves the right to deny acceptance or terminate continued participation in the Program to any student or SBBC faculty that refuses to execute the Hold Harmless Agreement.

2.05 **Student Evaluation.** Upon the request of the SBBC, the City shall assist in the evaluation of student performance. However, the SBBC shall be responsible for guidance, direction and supervision of students participating in the Program. Fire Instructors from the City are the "teacher of record" for SBBC students they instruct pursuant to this agreement. SBBC shall provide fire rescue instructors from the City with access to the Pinnacle database, which contains the following types of personally identifiable student information: student name, student identification number, grade level, birth date, gender, home address, home phone number, student email address, parent/guardian name and parent/guardian email address. Pursuant to the Family Educational Rights and Privacy Act (FERPA), the fire rescue instructor shall only access information pertaining to those students in his/her class, and such access shall be limited to the purpose of student evaluation and related matters (for example, contacting student's parent/guardian to discuss the evaluation). The information may not be used or re-disclosed for any other purpose.

2.06 **Number of Assigned Students.** The Parties agree that the determination of the number of students to be permitted to participate in the Program shall be at the discretion of the City, based on a variety of factors including but not limited to staff and space availability.

2.07 **Program Uniforms**. The Parties shall agree, prior to the commencement of the Program, upon the nature of the uniform that is to be worn by participating students. Students participating in the Program shall be required to wear the uniform of the Program and approved nametag while on the City's premises.

2.08 **Students are Not City Employees**. The SBBC, its faculty, and its students shall in no event become or be deemed to be employees, servants, agents, or volunteers of the City. Students shall be considered employees, servants, agents or volunteers of the SBBC.

2.09 **Compensation**. Compensation paid by the Everglades High School to the City will occur twice a year at the end of each school semester. Students and faculty shall pay for their own meals while participating in the Program.

2.10 **Discontinued Student Placement**. The SBBC reserves the right to refuse or discontinue the placement of students if the City does not meet the professional educational requirements and standards of the SBBC. The City reserves the right to discontinue the availability of its facilities and services to any student who does not continuously meet the requirements, qualifications, and standards of the City as determined by the City in collaboration with SBBC personnel. The City reserves the right to immediately remove from its premises, and to prohibit from future participation, any student who behaves unprofessionally or poses an immediate threat or danger to his or her fellow students or SBBC faculty and/or personnel.

2.11 **Infectious Diseases and Student Immunizations**. The SBBC shall advise students of the risk of infectious diseases and that the City is not responsible for exposure to infectious diseases. The SBBC shall verify that students have received immunizations for Measles, Mumps, Rubella (MMR), Diphtheria and Tetanus (DT), and have received annual screening for Tuberculosis. The SBBC shall be responsible for compliance by participating students and faculty with the applicable regulations issued by OSHA and for the provision to participating students and faculty of: (1) information and training about the hazards associated with blood and other potentially infectious materials; (2) information and training about the protective measures to be taken to minimize the risk of occupational exposure to blood borne pathogens; (3) training in the appropriate actions to take in an emergency involving exposure to blood and other potentially infectious materials; and (4) information as to the reasons the employee should participate in hepatitis B vaccination and post-exposure evaluation and follow-up.

2.12 **Personal Property**. The City shall not be responsible for the personal property belonging to the SBBC, SBBC faculty or students participating in the Program.

2.13 **Participant's Medical Care**. The SBBC and/or the students participating in the Program shall be responsible for arranging for the student's medical care and/or treatment, if necessary, including transportation in the event of illness or injury while

participating in the Program provided at the City's premises. In no event shall the City be financially or otherwise responsible for said medical care or treatment.

2.14 **Emergency Health Care Services.** The City shall provide immediate emergency health care services to faculty and students participating in the Program in the event of accidental injury or illness while on the City's premises. At the time of providing such services, the City and emergency health care facility shall accept assignment of the affected individual's personal or Broward County Schools Student Basic Accident insurance policy. The City shall not be responsible for costs involved in the provision of such services, the follow-up care, or hospitalization.

2.15 **Professional Liability Insurance Coverage.** The SBBC shall provide the City proof of professional liability insurance coverage with minimum limits of \$1,000,000/\$3,000,000 for each student and faculty member. Students shall be required to be covered by their own health or accident insurance.

2.16 **City Insurance.** The City maintains a self-insurance fund for the benefits of its employees, servants, and agents. Nothing contained within this Agreement shall constitute a waiver of sovereign immunity by the City if the City possesses sovereign immunity. Self-insurance and/or insurance requirements shall not relieve or limit the liability of either party, except to the extent provided by Section 768.28 Florida Statute.

2.17 **Notice.** If either of the Parties desires 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. The Parties presently designate the following as the respective places for giving notice:

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

With a Copy to: Director
Career, Technical, Adult and Community Education
The School Board of Broward County, Florida
1701 Northwest 23rd Avenue
Fort Lauderdale, Florida 33311

And a Copy to: Curriculum Supervisor
Health Science Education
1701 Northwest 23rd Avenue
Fort Lauderdale, Florida 33311

To the City: City Manager
City of Miramar
2300 Civic Center Place
Miramar, Florida 33025

With a Copy to: Fire Chief
City of Miramar
14801 Southwest 27th Street
Miramar, Florida 33027

And a Copy to: City Attorney
Weiss Serota Helfman Cole & Bierman, P.L.
200 East Broward Boulevard, Suite 1900
Fort Lauderdale, Florida 33301

2.18 **Indemnification.** Each Party agrees to be fully responsible 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. 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.

2.19 **Consent for Participation and Disclosures of Student Information.** SBBC will obtain and maintain written consent from the parent/ guardian or student age 18 or over for the student to participate in the Fire Academy Program and for SBBC to disclose and/or provide access to student personally identifiable information to Fire Academy instructor from the City. Information shall include student name, student identification number, grade level, birth date, gender, home address, home phone number, student email address, parent/guardian name and parent/guardian email address

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing in this Agreement 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. 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.

3.02 **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. Neither Party intends 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 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 nor 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 retirement, leave benefits, or any other benefits of either Party's employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. Neither Party shall 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 **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 For Convenience.** This Agreement may be terminated without cause by either Party during the term hereof upon thirty (30) days' written notice to the other Party of its desire to terminate this Agreement.

3.06 **Termination For Cause.** 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 thirty (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 for a period of thirty (30) days 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 the SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If the SBBC does not allocate funds for the payment of services or

products to be provided under this Agreement, this Agreement may be terminated by the SBBC at the end of the period for which funds have been allocated. The SBBC shall notify the City at the earliest possible time before such termination. No penalty shall accrue to the SBBC in the event this provision is exercised, and the 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 other Party of any funds erroneously received from the other Party upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to the requesting Party.

3.09 **Public 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. Each Party shall comply with The Florida Public Records Act as follows:

- i. Keep and maintain public records in the Party's possession or control in connection with the Party's performance under this Agreement.
- ii. Upon request by the other Party's records custodian, provide the requesting Party with a copy of requested records or allow the 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.
- iii. 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 this Agreement, and following completion of this Agreement until the records are transferred to the City.
- iv. Upon completion of this Agreement or in the event of termination of this Agreement by either party, any and all public records relating to this Agreement in the possession of either Party shall be delivered by the Party to the other Party, at no cost to the Parties, within seven (7) days. All records stored electronically by either Party shall be delivered to the other Party in a format that is compatible with the Party's information technology systems. Once the public records have been delivered to Parties upon completion or termination of this Agreement, the Parties shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.

- v. The Parties' failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement.

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, the Parties shall fully comply with the requirements of Section 1002.22, Florida Statutes, or any other state or federal law or regulation regarding the confidentiality of student information and records. Each Party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless the other Party and its officers and employees for any violation of this section, including, without limitation, defending the other Party and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon the other Party, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon the other Party 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 Section 1002.22, Florida Statutes. 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.

3.11 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 Place of Performance. All obligations of each of the Parties 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.

3.13 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 exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 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.

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

3.16 **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.

3.17 **Incorporation by Reference.** All exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **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.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse, 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.

3.25 **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.

3.26 **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.

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(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:

Office of the General Counsel

THE CITY

ATTEST:

[Signature]
City Clerk

By: [Signature]
Kathleen Woods-Richardson
City Manager
Dated: 5/31/17

Approved as to legal form and
Sufficiency for the use of and reliance
by the City of Miramar only:

[Signature] ECG
City Attorney
Weiss Serota Helfman
Cole and Bierman, P.L.

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the Agency 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 31st day
of May, 2017 by Kathleen Woods Richardson
[NAME OF PERSON] of City of Miramar [NAME OF
CORPORATION OR AGENCY], on behalf of the corporation/agency. He/She is
personally known to me or produced _____ [TYPE
OF IDENTIFICATION] as identification and did/did not first take an oath.

My Commission Expires: 8/15/2018

[Signature]
Signature - Notary Public

NARVA N. BARRETT-FORBES
Printed Name of Notary

FF 132589
Notary's Commission No.

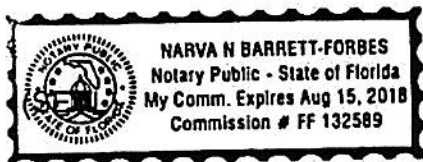


EXHIBIT A

**CITY OF MIRAMAR
FIRE RESCUE DEPARTMENT
HOLD HARMLESS AGREEMENT**

IN CONSIDERATION of the permission I have been granted to accompany one or more agents of the Fire Rescue Department of the City of Miramar in the course of his or her duty, I, the undersigned, do by these presents release the City of Miramar and its Fire Rescue agents, public officials, servants and employees of the City of Miramar from any and all liability, claims, demands, actions and causes of action resulting from any and all damage to me or my property, injuries, illnesses, or my death, arising out of or relating to any happening or occurrence while I am accompanying any agent of Miramar Fire Rescue on duty, or incidental thereto, and for the same consideration, I promise to release and forever hold each of them harmless from any such liability, claims, demands, illnesses, actions or causes of action.

The terms of this Agreement shall be in full force and effect on the date hereof and on any other occasion hereafter when I accompany City of Miramar agents or employees.

I have read and understand the conditions of this program as stated above, and hereby voluntarily assume all risks of loss, damage, injury or illnesses to me or my property, including death, which may be sustained while a passenger of the City vehicle or incidental to my accompanying one or more City of Miramar Fire Rescue agents or employees while on duty.

This Release and Agreement shall be binding upon me and my heirs, executors, administrators, personal representatives and assigns, and shall inure to the benefit of the said City, agents, public officials and any person herein designated, and their heirs, executors, administrators, personal representatives, assigns and successors in office.

Dated this _____ day of _____ 20_____.

Print Name

Signature

PARENT/GUARDIAN CONSENT

I am the parent or legal guardian of _____, a minor, and hereby approve and consent to the terms mentioned above. I affirm that I have the legal right to issue such consent.

Print Name

Signature

Date