

AGREEMENT OF SALE AND PURCHASE

THIS AGREEMENT OF SALE AND PURCHASE ("Agreement") made as of the ____ day of August, 2017, by and between **THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida ("Seller") and the **CITY OF SUNRISE, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida ("Purchaser"), with the joinder and consent of **JOSEPH M. BALOCCO, JR., P.A.** (hereinafter referred to as "Escrow Agent").

WITNESSETH:

WHEREAS, Seller is the owner and holder of the fee simple title to that certain parcel of real property lying, being and situate in Broward County, Florida, legally described on **Exhibit "A"** attached hereto and made a part hereof, together with all easements, rights-of-way, privileges, appurtenances, and removable structures and rights to same, belonging to and inuring to the benefit of said real property; all strips and gores, if any; all right title and interest, if any, of Seller in and to any land lying in the bed of any street, road, avenue, open or proposed, in front of or adjoining said real property to the center line thereof, and all right, title and interest of Seller in and to any awards made or to be made in lieu thereof, and in and to any unpaid awards for damage to said real property by reason of change of grade of any street ("Land"); and

WHEREAS, the Land, together with all of the rights and appurtenances appertaining thereto, are hereinafter collectively referred to as the "Property"; and

WHEREAS, Purchaser desires to purchase the Property from Seller and Seller desires to sell the Property to Purchaser, all for the price and pursuant to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto, each intending to be legally bound, do hereby agree as follows:

1. **Recitation.** The recitations set forth in the preamble of this Agreement are true and correct and are incorporated herein by this reference.

2. **Sale of Property.** Seller shall sell, transfer, assign and convey to Purchaser at the Closing, as hereinafter defined, the Property, and Purchaser shall accept such conveyance, subject to the conditions hereof and upon the representations and warranties herein made.

3. **Purchase Price.**

3.1. The Purchase Price to be paid by Purchaser to Seller for the Property ("Purchase Price") shall be Two Million Nine Hundred Ten Thousand Three Hundred Thirty-Three and no/100 (\$2,910,333.00) Dollars.

3.2. The Purchase Price shall be paid as follows:

(a) Purchaser shall pay and deliver an earnest money deposit in the amount of Two Hundred Ninety-One Thousand, Thirty-Three and 30/100 (\$291,033.30) ("Deposit") in immediately available U.S. Funds to Escrow Agent within ten (10) days of the Effective Date of this Agreement to be held in accordance with the terms of this Agreement. This Agreement is subject to the formal approval by The School Board of Broward County, Florida (the "Board") in a meeting to be held on or before August 8, 2017. In the event the Board shall fail to timely approve this Agreement, the Deposit shall be forthwith returned to the Purchaser. In the event Purchaser notifies the Seller of its intent to proceed, pursuant to the terms of Paragraph 8 of this Agreement, on or prior to the end of the "Inspection Completion Date" (as hereinafter defined), the Deposit shall be non-refundable, except in the event of an uncured Seller default, and provided that the closing conditions referenced in Paragraph 15 hereof have been satisfied and/or waived.

(b) In the event Purchaser notifies the Seller of its intent to proceed, pursuant to the terms of this Agreement on or prior to the "Inspection Completion Date" (as hereinafter defined), then and in that event, Purchaser shall deliver to Escrow Agent on the Inspection Completion Date an additional earnest money deposit in the amount of Zero and no/100 (\$-0-) Dollars ("Additional Deposit"), which Additional Deposit shall be held in escrow by Escrow Agent in accordance with the terms of this Agreement. The Initial Deposit together with the Additional Deposit, if any, paid or to be paid shall collectively hereinafter be referred to as "Deposit".

(c) At Closing, Purchaser shall pay to the Seller the balance of the Purchase Price, of which the Deposit shall be a part thereof, payable in cash, by wire transfer, subject to prorations, adjustments and credits as hereinafter set forth.

4. **Permitted Encumbrances.** At Closing, Seller shall deliver the Land by a Special Warranty Deed conveying good, marketable and insurable title to the Property, free and clear of all liens, claims, easements, limitations, restrictions or encumbrances whatsoever, except for the following "Permitted Encumbrances", to wit:

(a) Ad valorem real estate taxes for the year of Closing and subsequent years not yet due and payable; and

(b) Zoning restrictions and prohibitions imposed by governmental and/or quasi-governmental authority; and

(c) Those matters approved by Purchaser during the Title Review Period.

5. **Title.** Within fifteen (15) days from the Effective Date as hereinafter defined, Seller shall deliver, at Purchaser's cost, an ALTA Form B title insurance commitment ("Commitment") with respect to the Land in the amount of the Purchase Price prepared by Chicago

Title Insurance Company ("Title Company") issued by Escrow Agent, together with legible hard copies of all exceptions contained in the Commitment. Further, Purchaser may obtain, at Purchaser's cost, within thirty (30) days following the date of the execution of this Agreement, an up-to-date survey (with appropriate monuments) on the ground ("Survey") prepared in accordance with the Minimum Technical Standards set forth in rules adopted by the Florida Board of Land Surveyors pursuant to Florida Statutes 472.027 and certified to Purchaser, Seller, Escrow Agent and the Title Company under seal by surveyor licensed by the State of Florida acceptable to Purchaser showing the legal description of the Land and calculation of the acreage of the Land and shall overlay all easements, (temporary or permanent), rights-of-way, improvements, fences, utilities, poles, water areas and all other matters affecting title to the Land as of the effective date of the Commitment. If the Survey shows any encroachments affecting the Land, the same shall be deemed to be a title defect. Purchaser shall have ten (10) business days from receipt of the Commitment (and the Survey if, as and only to the extent timely obtained by Purchaser) (collectively referred to as "Title Evidence") in which to examine same ("Title Review Period"). In the event that Purchaser is not satisfied with the status of title with respect to the Land for any reason (including an objection as to any of the Permitted Encumbrances), Purchaser shall have the right to terminate this Agreement upon delivery of written notice to Seller prior to the end of the Title Review Period, whereupon Escrow Agent shall return to Purchaser the Deposit and the parties shall be released of all further obligations each to the other under this Agreement, except to the extent of the indemnities and obligations stated to survive such termination ("Surviving Obligations"). Additionally, if Purchaser does not elect to terminate this Agreement as provided in the preceding sentence and if title is found to be subject to any matters other than the Permitted Encumbrances, Purchaser shall within said Title Review Period, notify Seller in writing specifying the defects. Seller shall have sixty (60) days from receipt of such notice to exercise its best efforts to cure the defect and if after said sixty (60) day period Seller shall not have cured such defect, and Purchaser does not waive such defect, then the Deposit shall be refunded to Purchaser and this Agreement shall be terminated except for the Surviving Obligations. Seller shall not be obligated to file suit to cure title.

6. **Representations and Warranties.** As a material inducement to Purchaser to execute this Agreement and to close the transaction contemplated hereby and to pay the Purchase Price therefor, Seller covenants, represents and warrants to Purchaser as follows, to wit:

(a) Subject to the Board's approval, the Seller has the full right, power and authority to own, operate and convey the Property, and does not need any further consents, joinders or other authorization from any governmental or private entity, corporation, partnership, firm, individual or other entity to execute, deliver and perform its obligations under this Agreement, and to consummate the transactions contemplated hereby.

(b) At Closing, no work shall have been performed or be in progress and no materials or services shall be furnished with respect to the Property or any portion thereof which could give rise to any mechanic's, materialmen or other liens. At Closing, Seller shall furnish to Purchaser an affidavit in form and substance acceptable to Title Company attesting to the absence

of any such liens or potential liens (if there are no such liens) required by the Title Company to delete the mechanic's lien standard preprinted exception.

(c) Seller is not a party to and the Property is not affected by any service, maintenance, property management or any other contracts or other agreements of any kind ("Service Contracts").

(d) Seller is neither a "foreign person" nor a "foreign corporation" (as those terms are defined in Section 7701 of the Internal Revenue Code of 1986, as amended).

(e) Seller shall have the right to remain in occupancy of the Property, to operate the Seller's related programs, pursuant to a Lease Agreement attached hereto as **Exhibit "B"** and to be approved by ordinance of Purchaser's City Commission and the Board and executed by the parties at closing.

7. **Covenants of Seller.** As a material inducement to Purchaser entering into this Agreement, Seller hereby covenants unto Purchaser the following, to wit:

(a) Within five (5) days from the Effective Date, Seller will furnish, or cause to be furnished, to Purchaser any documents and other information requested by Purchaser with respect to the Property which Seller has in its possession;

(b) If Seller receives any actual notice of the commencement of any legal action or notice from any governmental authority affecting the Property, or the transaction contemplated by this Agreement, Seller agrees to immediately provide written notice of same to Purchaser. Seller shall not seek any change in the existing governmental approvals for the Property without the prior written consent of Purchaser in each instance and as otherwise required hereunder. In the event of any legal action or violation of governmental or quasi-governmental authority which will affect the Property and Seller shall fail to cure such matter giving rise to such legal action or violation within one hundred thirty (130) days from date of notice to Purchaser thereof (whereupon the Closing shall be extended for up to one hundred thirty (130) days without the payment of any extension fees to permit Seller's cure thereof, if applicable), Purchaser shall have the right to terminate this Agreement upon written notice to Seller, whereupon the Deposit shall be immediately returned to Purchaser, and the parties shall be released of all further obligations each to the other hereunder, provided however, Purchaser shall not be released with respect to its indemnities and obligations that expressly survive termination of this Agreement.

8. **Inspections.**

(a) The parties hereto acknowledge that Purchaser, as of the date of the execution of this Agreement, has not yet had an opportunity to review, examine, evaluate or otherwise satisfy itself with respect to the financial or economic viability of the transaction contemplated hereby, the soil condition, environmental condition, or other aspects of the Property.

In that regard, Purchaser shall have a period ("Inspection Period") which shall be Seventy-Five (75) days following the Effective Date in which to conduct such inspections and otherwise examine same. If, prior to 5:00 p.m. e.s.t. on a date ("Inspection Completion Date") which is the end of the Inspection Period, Purchaser determines that the Property is not acceptable in Purchaser's sole and absolute discretion, Purchaser shall give written notice to Seller electing to terminate this Agreement. In the event said notice is not delivered prior to 5:00 p.m. e.s.t. on the Inspection Completion Date, it shall be deemed that Purchaser has elected to proceed in accordance with the terms of this Agreement. Should Purchaser timely elect to terminate this Agreement the Escrow Agent is hereby authorized and directed to return the Deposit to Purchaser and the parties shall be relieved of all further obligations each to the other; provided however, Purchaser shall not be released with respect to obligations and indemnities that expressly survive termination of this Agreement. Purchaser hereby indemnifies and holds Seller forever harmless from and against tort liability, or other legal liability exposures imposed by law suffered or incurred by Seller on account of the negligent acts or omissions of Purchaser, its officers, agents, or employees while acting in the course and scope of his or her employment or function with respect to the inspections, testing of soil conditions, evaluation of environmental conditions, or examination of other aspects of the Property (including, without limitation, reasonable attorney's fees, paralegal's fees and court costs through all trial and appellate levels incurred by Seller through the defense thereof). Nothing herein is intended to serve as a waiver of sovereign immunity, or increases the limits of its liability, for the Seller or Purchaser to which sovereign immunity may be applicable, or nothing herein shall be construed as consent by Purchaser to be sued by third parties in any matter arising out of this Agreement. Any request for an extension of the Inspection Completion Date shall be accompanied by a Fifteen Thousand and no/100 (\$15,000.00) Dollar nonrefundable extension fee which will not be credited to the Purchase Price and which fee shall be returned to the Purchaser in the event that the Seller denies the extension request. Notwithstanding anything contained herein to the contrary, in the event the Purchaser utilizes a consultant to perform any inspections, testing of soil conditions, evaluation of environmental conditions, or examination of other aspects of the property, the Purchaser agrees to require its consultant, to the fullest extent by law, to indemnify and hold-harmless the Seller, its agents, officers, or employees from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees to the extent caused by the negligence, error or omission, recklessness, or intentional wrongful conduct of the consultant or persons employed or utilized by the consultant in performance of this Agreement. This indemnification shall survive the term of this Agreement.

(b) Purchaser, its agents, employees and representatives, shall have access to the Property at all reasonable times subsequent to the Effective Date and prior to the Closing or earlier termination of this Agreement, upon reasonable prior notice to the Seller, with full right to perform the inspections (provided the inspections are non-intrusive, and as otherwise approved by Seller, which approval shall not be unreasonably withheld or delayed). Upon completion of any inspections, Purchaser shall restore any damage to the Property caused, directly or indirectly, by Purchaser's inspections to the condition existing immediately prior to such inspections of the Property. Purchaser shall, at Purchaser's expense, promptly cause: (i) all borings made by or on behalf of Purchaser to be plugged or capped in a safe manner in accordance with applicable law;

(ii) all property, if any, damaged or destroyed by Purchaser, its employees, agents and independent contractors to be repaired, restored and replaced; and (iii) all debris, if any, and all underbrush cut or uprooted, if any, resulting from or in connection with the inspections to be removed from the Land, provided, however, in no event shall such inspections disturb environmentally sensitive lands nor shall Purchaser cut or uproot, or permit or cause any of Purchaser's employees, agents or independent contractors to cut or uproot, any living trees or disturb any wetlands situated on the Land.

(c) All inspections of the Property by Purchaser and all costs and expenses in connection with Purchaser's inspections of the Property shall be at the sole cost of Purchaser, and shall be performed free and clear of all liens, claims and encumbrances and in a manner not to unreasonably interfere with the Seller's ownership, operation and maintenance of the Property. Purchaser shall not permit any liens to be placed against the Property, or any portion thereof, as a result of any actions taken or inactions or omissions by, through or under Purchaser and shall promptly remove any such liens so filed by payment or bonding of same in the manner required by Florida law so that such liens, claims or encumbrances no longer constitute same on any portion of the Property.

(d) Notwithstanding anything contained herein to the contrary, prior to Purchaser's performing any inspections upon the Property, Purchaser shall furnish Seller with a certificate of coverage evidencing that Purchaser maintains self-insurance under a Risk Management Program for General Liability and Automobile Liability with monetary waiver limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such limits that may be set forth by Section 768.28, Florida Statutes. Purchaser, at its sole discretion, additionally maintains Specific Excess General Liability in the amount of \$5,000,000 combined single limit per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28(5), Florida Statutes, or liability imposed pursuant to Federal Law. Unless otherwise prohibited Florida law, or inter-governmental insurance trust underwriting guidelines applicable to Purchaser's Risk Management Program, Purchaser agrees to endorse Seller as an Additional Insured under its General Liability and Automobile Liability. Notwithstanding anything contained herein to the contrary, in the event the Purchaser utilizes a consultant to perform any inspections, testing of soil conditions, evaluation of environmental conditions, or examination of other aspects of the property, the Purchaser agrees to require its consultant to maintain 1) Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence / \$1,000,000 General Aggregate with Seller endorsed as an Additional Insured, 2) Worker's Compensation Insurance & Employers Liability in accordance with Florida Statutes §440, and 3) Professional Liability at a limit of liability not less than \$1,000,000 per Occurrence / \$2,000,000 annual aggregate. Purchaser agrees to require its consultant to provide Seller a Certificate of Insurance to the address in Section 21 Notices.

The provisions of this Paragraph 8 shall prevail over any other section or paragraph of this Agreement in the event of any conflict or ambiguity and shall survive the Closing.

9. **The Closing.** The closing of title hereunder ("Closing") shall take place at the offices of Escrow Agent, 1323 SE Third Avenue, Fort Lauderdale, Florida 33316 ("Closing Location") commencing at such time as may be mutually agreed to by the Parties on the date that is on or before Thirty (30) days from the expiration of the Entitlement Approval Period.

10. **Prorations and Adjustments.** Special assessment liens which have been certified and physically commenced (certified liens) as of the Closing shall be paid in full by Seller (and discharged such that the Property is free of same) at the Closing. Special assessment liens which have been authorized, but where the work has not been commenced and are pending (pending liens) as of the Closing shall be assumed by Purchaser.

Seller represents that it is a tax-exempt entity. The Parties agree to comply with the provisions of Florida Statute 196.295 with respect to payment of real property taxes.

The provisions of this Paragraph 10 shall survive the Closing.

11. **Brokerage.** The Parties hereto each represent to the other that there are no brokers instrumental in the negotiation and/or consummation of this transaction. **The Seller shall not be obligated for the payment of any brokerage commission whatsoever in connection with this Agreement.** Seller and Purchaser hereby indemnify and hold each other harmless from and against any cost, fees, damages, claims and liabilities, including, but not limited to, reasonable attorney's and paralegal's fees arising out of any claim or demand or threats of claim made by any broker or salesmen claiming by reason of its relationship with the offending party or its representatives, employees or agents, whether incurred by settlement and whether or not litigation results in all trial, arbitration and appellate levels. The provisions of this Paragraph shall survive Closing or earlier termination of this Agreement.

12. **Closing Costs.** The costs of recording any corrective instruments shall be paid by Seller. The cost of recording the Special Warranty Deed as well as all documentary stamps owed in connection therewith and the cost of the Title Evidence and the title insurance premium due with respect to the Title Policy to be issued from the Commitment shall be paid by Purchaser.

Except in the event of a default hereunder, the parties shall each bear their own respective attorney's fees.

13. **Documents to be Delivered.**

(a) At the Closing, simultaneously with the payment of the Purchase Price by Purchaser to Seller, Seller shall deliver or cause to be delivered to Escrow Agent on behalf of Purchaser the following, to wit:

(i) The Special Warranty Deed, a copy of which is attached hereto as **Exhibit "C"**, conveying the fee simple title to the Property to Purchaser, subject only to the Permitted Encumbrances.

(ii) A standard No-Lien, Parties in Possession and FIRPTA Affidavit executed by Seller which shall be in recordable form and otherwise satisfactory to the Title Company in order to delete the standard printed exceptions relating to mechanic's liens and parties-in-possession.

(iii) An affidavit requested by the Title Company as may be necessary to insure the gap between the effective date of the Commitment to and through the date of the recordation of the deed.

(b) Purchaser shall deliver to Escrow Agent on behalf of the Seller the Purchase Price adjusted for all appropriate prorated items, credits and adjustments, of which the Deposit shall constitute a part thereof.

(c) At Closing, Seller and Purchaser shall mutually execute and deliver to each other a Closing Statement in customary form.

14. **Assignment.** Purchaser shall not assign this Agreement without first obtaining the prior written consent of Seller, which consent may be granted or withheld in the Seller's sole and absolute discretion.

15. **Closing Conditions.** Purchaser's obligation to close hereunder is conditioned on the following:

(a) There has been no adverse change in the condition of title from the Effective Date of the Title Commitment which would render Seller's title unmarketable.

(b) There has been no environmental event since the expiration of the Inspection Period which would adversely affect the Property.

16. **Default.**

16.1. In the event that Seller has complied with all terms and provisions required to be complied with by Seller hereunder and Seller is ready, willing and able to close but for the default of Purchaser and such default is not cured within ten (10) days after written notice by Seller to Purchaser specifying such default and the action deemed necessary to cure such default, then and upon the occurrence of all of the foregoing events, Escrow Agent shall deliver the Deposit to Seller as full and agreed upon liquidated damages in full settlement of any and all claims against Purchaser for damages or otherwise whereupon, this Agreement shall be null, void and of no further force and effect and neither party shall have any further liability or obligation to the other hereunder.

16.2. If: (i) Seller shall have failed to comply with any material obligations of Seller in this Agreement; or (ii) any of the representations and warranties made by Seller herein

shall be in any material respect inaccurate; or (iii) Seller shall otherwise be in material default of this Agreement, Purchaser shall have the right:

(a) to cancel this Agreement by giving notice to Seller and this Agreement shall be deemed to be terminated as of the date of such notice, in which event the Escrow Agent is hereby authorized and directed to return to Purchaser the Deposit (together with interest earned thereon, if any), whereupon, the parties hereto shall be released of all further obligations each to the other hereunder, save and except for the Surviving Obligations; or

(b) to take title subject to the defect, exception, objection, inaccuracy or failure without diminution of the Purchase Price.

None of the foregoing provisions of this Paragraph 16.2 are intended to nor shall they limit or affect the Purchaser's right to an action for specific performance in the event of a refusal or failure by Seller to convey title to the Property to Purchaser or otherwise comply with the terms and provisions of this Agreement. Purchaser hereby waives any claim for damages against Seller.

16.3. The parties further agree that in the event it becomes necessary for either party to litigate in order to enforce its rights under the terms of this Agreement, then, and in that event, the prevailing party shall be entitled to recover reasonable attorneys' and paralegal fees and the costs of such litigation, through and including all trial and appellate litigation.

The provisions of this Paragraph 16 shall survive Closing.

17. **Condemnation or Eminent Domain.** In the event of any condemnation or eminent domain proceedings for any public or quasi-public purposes at any time prior to Closing resulting in a taking of any part or all of the Property, Seller shall immediately provide written notice thereof to Purchaser and, Purchaser shall have the option: (i) to cancel this Agreement, in which event the Deposit with interest thereon shall be promptly returned to Purchaser, and upon such return, this Agreement shall be terminated and the parties released of any further obligation hereunder; or (ii) to Close the transaction contemplated by this Agreement, in which event the Purchase Price shall not be abated; provided, however, Seller shall cause any condemnation or eminent domain award to be assigned to Purchaser. Purchaser shall notify Seller of its election of (i) or (ii) above within ten (10) business days of Purchaser's receipt of notice of any such condemnation or eminent domain proceedings. Seller agrees that it shall not enter into any settlement of any condemnation proceedings or eminent domain award without the prior written consent of Purchaser.

18. **Entitlement Approval Period.** Purchaser shall have Thirty (30) days from the Inspection Completion Date (the "**Entitlement Approval Period**") within which to obtain non-appealable, final site plan, zoning and land use amendment approvals, as necessary, and permits to construct a City park (the "**Anticipated Use**") in accordance with a site plan and subject only to such stipulations, conditions and requirements as are acceptable to Purchaser in its sole

discretion (the “**Approvals**”). Purchaser shall diligently pursue obtaining the Approvals. Seller shall fully cooperate with Purchaser in connection with Purchaser’s efforts to obtain all such permits and approvals, including, without limitation, executing such applications or such other documents and instruments and attending such meetings with governmental authorities as may be reasonably necessary to allow Purchaser to process Approvals in its name or in the name of the Seller. If Purchaser has proceeded diligently and in good faith towards obtaining the Approvals, Purchaser shall have the right to extend the Entitlement Approval Period for One (1), One (1) month period by delivery of written notice to Seller of its election to so extend on or before the expiration of the Entitlement Approval Period. In the event that Purchaser shall fail to timely obtain the necessary entitlement approvals, and provided Purchaser has exercised good faith efforts to obtain same, Purchaser shall have the option upon written notice to Seller, prior to the expiration of the Entitlement Approval Period (as may be extended hereby), to waive the obtaining of said Approvals or terminate this Agreement, in which event the Two Hundred Ninety-One Thousand Thirty-Three and 30/100 (\$291,033.30) Dollars of the Deposit shall be forthwith returned to the Purchaser. Purchaser’s failure to timely notify Seller of Purchaser’s election shall constitute a waiver of Purchaser obtaining said Approvals and the transaction shall proceed to Closing as otherwise provided herein. Should Purchaser timely elect to terminate the Deposit shall be disbursed as provided herein and neither Party shall have any further obligation to the other with the exception of the Surviving Obligations.

19. **Escrow Agent.** Escrow Agent agrees, by the acceptance of the Deposit, to hold same in escrow and to disburse it in accordance with the terms and conditions of this Agreement; provided, however, that in the event a dispute shall arise between any of the parties to this Agreement as to the proper disbursement of the Deposit, the Escrow Agent may, at its option: (1) take no action and hold all funds until agreement is reached between the disputing parties, or until a judgment has been entered by a court of competent jurisdiction and the appeal period has expired thereon, or if appealed then until the matter has been finally concluded, and then to act in accordance with such final judgment; or (2) institute an action for declaratory judgment, interpleader or otherwise joining all affected parties and thereafter complying with the ultimate judgment of the court with regard to the disbursement of the deposit and disposition of documents, if any. In the event of any suit between Seller and Purchaser wherein the Escrow Agent is made a party by virtue of acting as such escrow agent hereunder, or in the event of any suit wherein Escrow Agent interpleads the subject matter of this escrow, the Escrow Agent shall be entitled to recover all attorneys’ fees and costs incurred, including costs and attorneys’ fees for appellate proceeding, if any, said fees and costs to be charged and assessed as court costs against the losing party or parties, jointly and severally. Further, the parties hereto acknowledge that Escrow Agent shall have the right to represent Seller and itself in connection with the matters contemplated by this Agreement, and in that regard, Purchaser shall not, and is hereby estopped from objecting to such representation.

20. **Contract Administration.** The School Board of Broward County, Florida has delegated authority to the Superintendent of Schools or his/her designee, to take any action necessary to implement and administer this Agreement.

21. **Notices.** All notices of request, demand and other communications hereunder shall be addressed to the parties as follows:

As to Seller: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue -10th floor
Fort Lauderdale, FL 33301

Telephone No: (754) 321-2701
Telecopier No: (754) 321-2600
E-Mail: r.r@browardschools.com

With a copy to: Director of Facility Planning and Real Estate
The School Board of Broward County, Florida
600 Southeast Third Avenue - 8th floor
Fort Lauderdale, FL 33301

Telephone No: (754) 321-2162
Telecopier No: (754) 321-2179
E-Mail: chris.akagbosu@browardschools.com

With a copy to: Office of the General Counsel
The School Board of Broward County, Florida
600 Southeast Third Avenue -11th floor
Fort Lauderdale, FL 33301

With a copy to: Joseph M. Balocco, Sr., Esq.
Joseph M. Balocco, Jr. P.A.
1323 SE Third Avenue
Fort Lauderdale, FL 33316
Telephone No: (954) 764-0005
Telecopier No: (954) 764-1478
E-Mail: jbalocco@baloccolaw.com

As to Purchaser: City Manager
10770 West Oakland Park Blvd.
Sunrise, Florida 33351

Telephone No: (954) 746-3430
Telecopier No: (954) 746-3439
E-Mail: rsalamon@sunrisefl.gov

With a copy to: Nabors, Giblin & Nickerson
Attn: Edward A. Dion, Esq. 110 E. Broward Blvd.,
Suite 1700

Fort Lauderdale, FL 33301
Telephone No: (954) 315-3852
E-Mail: edion@ngnlaw.com

As to Escrow Agent:

Joseph M. Balocco, Jr., P.A.
1323 SE Third Avenue
Fort Lauderdale, FL 33316
Attention: Joseph M. Balocco, Jr., Esq.
Telephone No: (954) 764-0005
Telecopier No: (954) 764-1478
E-Mail: jbaloccojr@balocolaw.com

unless the address is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered when mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by telegraph, telephonic communication reduced to written form (i.e., telecopier) or Federal Express, but shall only be deemed to have been given when received.

22. **Effective Date.** The “Effective Date” shall mean the last day upon which this Agreement becomes fully executed by Seller and the Purchaser and approved by the Board and approval of the Purchaser’s City Commission. All time periods shall be calculated in calendar days unless specifically provided otherwise herein.

23. **Further Assurances.** Each of the parties hereto agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all such further acts, assignments, transfers and assurances as shall reasonably be requested of it in order to carry out this Agreement and give effect thereto. The parties hereto acknowledge that it is to their mutual benefit to have an orderly and efficient transfer of ownership as contemplated hereby. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate each with the other in effecting the terms of this Agreement.

24. **Time is of the Essence.** For purposes herein, the parties agree that time shall be of the essence of this Agreement and the representations and warranties made are all material and of the essence of this Agreement.

25. **Captions and Paragraph Headings.** Captions and Paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

26. **No Waiver.** No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

27. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

28. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.

29. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of Florida and venue with respect to any litigation shall be Broward County, Florida.

30. **Gender.** All terms and words used in this Agreement regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require.

31. **Entire Agreement.** This Agreement contains and sets forth the entire understanding between Seller and Purchaser, and it shall not be changed, modified or amended except by an instrument in writing and executed by the party against whom the enforcement of any such change, modification or amendment is sought. This Agreement shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.³²

Relationship. Nothing contained in this Agreement shall constitute or be construed to be or create a partnership, joint venture or any other relationship between Seller and Purchaser other than the relationship of a purchaser and seller of real and personal property as set forth in this Agreement.

33. **Offer.** Once approved by Purchaser's City Commission pursuant to Section 2-372 of the City of Sunrise, Florida Code of ordinances and executed by Purchaser, this constitutes an offer to purchase the Property upon the terms and conditions set forth herein. **This offer is non-binding on the Seller until such time as it shall be reviewed and approved by the Board. The Board reserves the right to reject or accept same. In the event that the Board shall reject same, Purchaser's Deposit shall be refunded to Purchaser forthwith and neither Party shall have any rights or obligations hereunder.**

34. **Possession.** Subject to the Provisions of Article 39, possession of the Property shall be delivered to Purchaser at the Closing, free and clear of all tenancies, use agreements and possessory rights.

35. **Modification.** This Agreement shall not be modified (and no purported modification thereof shall be effective) unless in writing and signed by the party to be charged.

36. **Joint Preparation.** The preparation of this Agreement has been a joint effort of the parties and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

37. **Recording.** The parties hereby agree that neither party shall record this Agreement or any memorandum of its terms without the prior written consent of the other party.

38. **Radon Gas.** Radon gas is naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who were exposed to it over a time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information concerning radon and radon testing may be obtained from your public health unit.

39. **Post-Closing Occupancy.** Seller shall have the right to remain in occupancy of the Property, to operate the Sellers related programs (excluding the empty portables) as depicted on **EXHIBIT "D"**, for two (2) successive post-closing occupancy periods of six (6) months each (collectively the "Post-Closing Occupancy Period"), free of any property related expense to the Seller, commencing on the date of Closing. The Seller shall notify the Purchaser of its election to remain in possession of the Property for the second (2nd) six (6) month post-closing occupancy period, no later than thirty (30) days prior to the expiration of the initial post-closing occupancy period.

40. **DISCLAIMER.** **THE PROPERTY IS BEING SOLD "AS IS", "WHERE IS" AND "WITH ALL FAULTS" AS OF CLOSING, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT AS IS SPECIFICALLY PROVIDED ELSEWHERE**

BY THIS AGREEMENT. SELLER SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING THE PROPERTY, EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT. PURCHASER ACKNOWLEDGES THAT PURCHASER IS PURCHASING THE PROPERTY BASED SOLELY UPON PURCHASER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY SELLER OR SELLER'S AGENTS OR CONTRACTORS. THE PROVISIONS OF THIS SECTION SHALL SURVIVE TERMINATION OR CLOSING.

41. RELEASE. RELEASE. TO THE EXTENT PERMITTED BY STATE OR FEDERAL LAW, PURCHASER HEREBY RELEASES SELLER , ITS AGENTS, OFFICERS, OR EMPLOYEES (EACH A "SELLER RELATED PARTY") FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES WHICH PURCHASER OR ANY PARTY RELATED TO OR AFFILIATED WITH PURCHASER HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO THE PHYSICAL CONDITION OF THE PROPERTY, ANY PATENT CONSTRUCTION DEFECTS, ANY UNKNOWN ERRORS OR OMISSIONS IN THE DESIGN OR CONSTRUCTION OF THE PROPERTY, AND UNLESS PROHIBITED BY STATE OR FEDERAL LAW, ANY STRICT LIABILITY ARISING OUT OF ENVIRONMENTAL CONDITIONS AT, IN, ON OR UNDER THE PROPERTY. PURCHASER WILL NOT LOOK TO SELLER OR ANY SELLER RELATED PARTY IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF UNLESS OTHERWISE STATED HEREIN. THE PROVISIONS OF THIS SECTION SHALL SURVIVE TERMINATION OR CLOSING.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

WITNESS:

SELLER:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, a body corporate and political subdivision of the State of Florida

By: _____

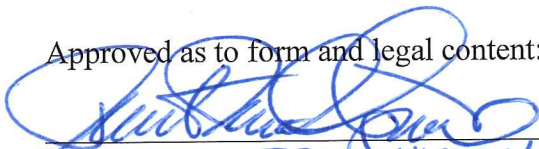
Name: Abby M. Freedman

Title: Chair

ATTEST:

Name: Robert W. Runcie
Title: Superintendent of Schools

Approved as to form and legal content:

 08/30/17
Name: ROBERT PAUL VIEWOUT
School Board Attorney

PURCHASER:

City of Sunrise, Florida
a municipal corporation organized and existing
under the laws of the State of Florida

By: _____
Name: _____
Title: _____

The undersigned joins in this Agreement to acknowledge receipt of a check in the amount of Two Hundred Ninety-One Thousand Thirty-Three and 30/100 (\$291,033.30) Dollars and to agree to hold same (subject to collection), in escrow, pursuant to the terms of Paragraph 19 of this Agreement.

JOSEPH M. BALOCCO, JR., P.A.

By: _____
Joseph M. Balocco, Jr., President

Date: August _____, 2017

INDEX OF EXHIBITS

EXHIBIT "A"	-	LEGAL DESCRIPTION
EXHIBIT "B"	-	LEASE AGREEMENT
EXHIBIT "C"	-	SPECIAL WARRANTY DEED
EXHIBIT "D"	-	SCHEDULE OF RELATED PROGRAMS

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel "A" School Site 2910, according to the Plat thereof, recorded in Plat Book 145, Page 17 of the Public Records of Broward County, Florida, said lands situate, lying and being in Broward County, Florida and containing 10.30 acres, more or less.

EXHIBIT "B"

LEASE AGREEMENT

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into, 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 address is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

THE CITY OF SUNRISE, FLORIDA,

(hereinafter referred to as "City"),
a municipal corporation organized and existing under the laws of the State of Florida,
whose principal address is
10770 West Oakland Park Blvd. Sunrise, Florida 33351

WHEREAS, SBBC and the City have entered into a certain Agreement for Sale and Purchase "Agreement", whereby SBBC would convey that certain property and improvements described on **Exhibit "A"** attached hereto to the City; and

WHEREAS, SBBC currently operates certain programs on those portables located on the Property ("Occupied Portables") as depicted on the attached **Exhibit "B"**; and

WHEREAS, SBBC and the City, in accordance with Article 39 of the Agreement, have agreed that SBBC shall continue to operate its programs in the Occupied Portables for a period of six (6) months from the date of closing of the Agreement with the exclusive option to extend said occupancy for an additional six (6) month period upon the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and in accordance with Article 39 of the Agreement and the sum of Ten Dollars (\$10.00) 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 **Lease Term.** The term of this Lease Agreement shall be effective commencing upon the closing of the conveyance described in the recitals and shall conclude six (6) months thereafter.

2.02 **Leased Premises.** The SBBC shall solely lease 28 Occupied Portables together with all parking, including the rights of access on the Property, as more particularly described in Exhibits "A" and "B" attached hereto and incorporated herein for the Renewal Term(s) (defined below), at the rental terms and upon the other provisions set forth herein.

2.03 **Renewal Option.** The City and SBBC (together, the "Parties") agree that SBBC shall have the exclusive right to extend the term of this Lease Agreement for an additional six (6) months (the "Renewal Term") following the conclusion of the original Lease Term. SBBC shall provide City with written notice exercising SBBC's right to renew (such notice is to be delivered not less than thirty (30) days before commencement of the Renewal Term). SBBC's renewal shall be on the same terms and conditions as set forth in this Lease Agreement.

2.04 **Hours of Operation.** The Leased Premises may be used twenty-four (24) hours a day for seven (7) days per week and for any lawful purpose.

2.05 **Rental.** SBBC shall not be obligated for any rental sum or other remuneration to the City during the term of this Lease Agreement including the Renewal Term.

2.06 **Transfer.** The SBBC shall not assign or sublet the Leased Premises in this Lease Agreement, without consent of the City.

2.07 **Condition of Leased Premises.** SBBC shall accept the Leased Premises as they are at the time of occupancy. Removal or change of location of any appliance of equipment, occasioned by the SBBC's use of said Leased Premises, shall be made by the SBBC at the SBBC's expense.

2.08 **Maintenance Repairs.**

2.08.1 The SBBC shall be responsible for the cost of all maintenance and repair on the Leased Premises, including the Occupied Portables including, but not limited to, the interior and exterior of said structures, as well as the pavement, driveways, lighting, mechanical equipment and landscaping located on or adjacent to the Leased Premises.

2.08.2 The City shall have no obligation to maintain or repair the Leased Premises, the Occupied Portables, sidewalks or paved parking areas on the Leased Premises, and SBBC shall repair damage to such areas regardless of the cause.

2.08.3 SBBC shall be responsible. At its sole cost and expense, for securing the Leased Premises when not in use.

2.09 Utilities. The SBBC will promptly pay for all gas, water, power and electric light rates or charges which may become payable during the term of this Lease Agreement for the gas, water and electricity used by the SBBC on the Leased Premises. SBBC will promptly pay for electricity consumed by SBBC within the Leased Premises and telephone services for the Leased Premises. In no event will the City be liable for any interruption or failure in the supply of any of the Utilities, regardless of cause.

2.10 Insurance.

2.10.1 SBBC acknowledges, without waiving its right of sovereign immunity as provided by Section 768.28, Florida Statutes, that it is self-insured for general and auto liability limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may change and be set forth by the Florida legislature, during the term of this Lease Agreement with respect to tort liability arising out of the Leased Premises.

2.10.2 In the event SBBC maintains School Board Legal Liability, Commercial General Liability, or General Liability under an insurance trust or pool, then SBBC shall maintain a limit of liability not less than \$1,000,000 each occurrence / \$2,000,000 general aggregate, or similar single limit combination. SBBC shall procure and maintain at its own expense, and keep in effect during the full term of this Lease Agreement, a policy or policies of insurance or self-insurance under a Risk Management Program in accordance with Section 768.28, Florida Statutes.

2.10.3 SBBC acknowledges that it is self-insured for Worker's Compensation Insurance with statutory benefits in accordance with Chapter 440, Florida Statutes, including Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

2.10.4 SBBC agrees to maintain Fire Legal Liability damage to Leased Premises with limits of \$500,000 per occurrence/aggregate. SBBC is not permitted to utilize stoves, ovens, microwave ovens, hotplates or any devices, which have the potential to cause a fire on City's Leased Premises. City grants permission for a vendor of SBBC to utilize catering warmers on City's Leased Premises. SBBC agrees it will require its vendor to endorse "City of Sunrise, its officers, agents and employees" as additional insured on SBBC's vendor's Commercial General Liability and provide the City with a Certificate of Insurance evidencing the same. SBBC's Fire Legal Liability will be primary and non-contributory over all other valid and collectible coverage maintained by the City.

2.10.5 All SBBC's self-insurance, insurance and/or liability policies are primary and non-contributory over all other valid and collectable coverage maintained by the City.

2.10.6 No activities under this Lease Agreement shall commence until the SBBC's certificates of insurance or letter evidencing self-insurance or insurance as required herein have been received and reviewed by the City's Risk Manager at the address in Section 2.12 Notice below.

2.11 **Notice.** All notices of request, demand and other communications hereunder shall be addressed to the Parties as follows:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue – 10th Floor
Fort Lauderdale, Florida 33301

Telephone No: (754) 321-2701
Telecopier No: (754) 321-2600
Email: r.r@browardschools.com

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

Telephone No: (754) 321-2162
Telecopier No: (754) 321-2179
Email: chris.akagbosu@browardschools.com

With a Copy to: Office of the General Counsel
The School Board of Broward County, Florida
600 Southeast Third Avenue – 11th Floor
Fort Lauderdale, Florida 33301

With a Copy to: Joseph M. Balocco, Sr., Esq.
Joseph M. Balocco, Jr., P.A.
1323 SE Third Avenue
Fort Lauderdale, FL 33316

Telephone No: (954) 764-0005
Telecopier No: (954)-764-1478
Email: jbalooco@baloccolaw.com

To City: Richard Salamon, City Manager
City of Sunrise
10770 West Oakland Park Boulevard
City of Sunrise, Florida 33351

Telephone No: (954) 746-3430

Telecopier No: (954) 746-3439
Email: rsalamon@sunrisefl.gov

With a Copy to:

City Attorney
City of Sunrise
City Attorney's Office
10770 West Oakland Park Boulevard
Sunrise, Florida 33351
Telephone No.: (954) 746-3300
Telecopier No.: (954) 746-3307
Email: CityAttorney@sunrisefl.gov

As to Escrow Agent: Joseph M. Balocco, Jr., Esq.
Attn: Joseph M. Balocco, Jr., P.A.
1323 SE Third Avenue
Fort Lauderdale, FL 33316

Telephone No: (954) 764-0005
Telecopier No: (954)-764-1478
Email: jbaloccojr@baloccolaw.com

unless the address is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid, and shall be deemed delivered when mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by telegraph, telephonic communication reduced to written form (*i.e.*, telecopier) or Federal Express, but shall only be deemed to have been given when received.

2.12 **Indemnification**. This section shall survive the termination of all performance or obligations under this Lease Agreement and shall be fully binding until such time as any proceeding brought on account of this Lease Agreement is barred by any applicable statute of limitations.

2.12.1 To the extent permitted by law, City and SBBC each agree to indemnify, defend and hold harmless the other, including their officers, agents and employees, from and against any and all tort claims for money damages arising out of or caused, in whole or in part, by the negligent act or omission of an employee of the indemnifying party who is acting in the course and scope of his or her employment function, unless otherwise stated herein. To the extent permitted by law, SBBC additionally agrees to indemnify, defend and hold harmless the City from and against any claims, damages, losses, liabilities or causes of action of any kind or nature arising out of or because of SBBC's use, occupancy, or maintenance of any Leased Premises.

Each party reserves the right to select its own counsel in any such proceeding and all costs and fees associated therewith shall be the responsibility of the indemnitor under this indemnification agreement.

Compliance with the foregoing shall not relieve the indemnitor of any liability or other obligation under this Agreement.

Nothing contained herein is intended nor shall be construed to waive either party's right, immunities, and limits under the common law or Section 768.28, Florida Statutes.

2.13 **Parking.** SBBC shall have access to and use of the parking spaces depicted on the attached **Exhibit "B"**. City shall have no obligation to keep and maintain the parking depicted on the attached **Exhibit "B."**

2.14 **City's Rights.** The City shall have the right to install construction fencing or barriers, segregate the areas to be used by the SBBC during its occupancy, and otherwise engage in the maintenance, demolition, site work, construction, or other activities or uses, on all areas set forth in Exhibit "A" not occupied by the SBBC. The City shall have access to those areas occupied by the SBBC in order to adjust or maintain any portion of the site or the perimeter fencing. Any such work, completed by the City shall be done in such a manner so as to not disrupt or impair SBBC's use of the Leased Premises as provided herein.

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. This section shall survive the termination of all performance or obligations under this Lease Agreement and shall be fully binding until such time as any proceeding brought on account of this Lease 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 Lease Agreement. None of the Parties intend to directly or substantially benefit a third party by this Lease Agreement. The Parties agree that there are no third party beneficiaries to this Lease Agreement and that no third party shall be entitled to assert a claim against any of the Parties based upon this Lease 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 Lease 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 Lease Agreement. SBBC shall not be responsible for social security, withholding taxes, and contributions to unemployment compensation funds or insurance for the City or the City'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 **Disposition of Portables.** City shall be solely responsible for the cost and disposition of the Portables depicted on the attached **Exhibit "B"**, and may dispose of them as it deems necessary, with the exception of the Occupied Portables which are the subject of this Lease Agreement. Upon SBBC vacating the Occupied Portables upon termination of this Lease Agreement, City, at its sole discretion and cost, may proceed to dispose of the Occupied Portables.

3.06 **Default.** The Parties agree that, in the event that either party is in default of its obligations under this Lease 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 Lease 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.

3.07 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended.

(a) City shall keep and maintain public records required by SBBC to perform the services required under this Lease Agreement. Upon request from SBBC's custodian of public records, 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. 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 Lease Agreement's term and following completion of the Lease Agreement if City does not transfer the public records to SBBC. Upon completion of the Lease Agreement, City shall transfer, at no cost, to SBBC all public records in possession of City or keep and maintain public records required by SBBC to perform the services required under the Lease Agreement. If City transfer all public records to SBBC upon completion of the Lease Agreement, City shall destroy any duplicate public records that are exempt or confidential and exempt from public

records disclosure requirements. If City keeps and maintains public records upon completion of the Lease Agreement, 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 systems.

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 THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-2300, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SE 3rd Avenue, 11th Floor Ft. Lauderdale, FL 33301.

(b) The SBBC shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. To the extent that the SBBC and this Lease Agreement are subject to the requirements in Section 119.0701, Florida Statutes, the SBBC shall:

- (1) Keep and maintain public records required by the City to perform the services provided hereunder.
- (2) Upon request from the City's custodian of public records, provide the City with a copy of the 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.
- (3) 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 term of this Lease Agreement and following completion of this Lease Agreement if the SBBC does not transfer the records to the City.
- (4) Upon completion of the Lease Agreement, transfer, at no cost, to the City all public records in the possession of the SBBC or keep and maintain public records required by the City to perform the service. If the SBBC transfers all public records to the City upon completion of the Lease Agreement, the SBBC shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the SBBC keeps and maintains public records upon completion of the Lease Agreement, the SBBC shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

If the SBBC fails to comply with the requirements in this Section 3.08(b), the City may enforce these provisions in accordance with the terms of this Lease Agreement. If the SBBC fails to provide the public records to the City within a reasonable time, it may be

subject to penalties under Section 119.10, Florida Statutes.

IF THE SBBC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SBBC'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE AGREEMENT, THE SBBC SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, FELICIA M. BRAVO, BY TELEPHONE (954/746-3333), E-MAIL (CITYCLERK@SUNRISEFL.GOV), OR MAIL (CITY OF SUNRISE, OFFICE OF THE CITY CLERK, 10770 WEST OAKLAND PARK BOULEVARD, SUNRISE, FLORIDA 33351).

3.08 **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.

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

3.10 **Governing Law and Venue.** This Lease 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 Lease 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.

3.11 **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 Lease 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.

3.12 **Binding Effect.** This Lease 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 Lease 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 Lease Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.14 **Incorporation by Reference.** Exhibits "A" and "B" attached hereto and referenced herein shall be deemed to be incorporated into this Lease Agreement by reference.

3.15 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Lease 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 Lease Agreement, nor in any way affect this Lease Agreement and shall not be construed to create a conflict with the provisions of this Lease Agreement.

3.16 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Lease 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 Lease 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.

3.17 **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 Lease 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.

3.18 **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 Lease Agreement and executed by each party hereto.

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

3.20 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Lease 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.

3.21 **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 Lease Agreement.

3.22 **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 Lease Agreement.

3.23 **Authority.** Each person signing this Lease Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Lease 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 Lease Agreement.

3.24 **Radon Gas Disclosure.** RADON GAS: Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

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

FOR SBBC

(Corporate Seal)

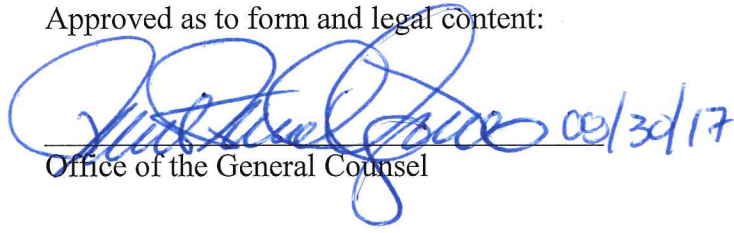
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA, a body corporate
and political subdivision of the State of
Florida

ATTEST:

By: _____
Abby M. Freedman, Chair

Robert W. Runcie
Superintendent of Schools

Approved as to form and legal content:

 09/30/17

Office of the General Counsel

FOR CITY

(Corporate Seal)

CITY OF SUNRISE, FLORIDA, a
municipal corporation organized and
existing under the laws of the State of
Florida

ATTEST:

-or-

By: _____
Name: _____
Title: _____

Witness

Witness

**The Following Notarization is Required for Every Agreement Without Regard to
Whether the City 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
(Insert Name of Person)
_____, on behalf of the corporation/agency.
(Insert 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: _____

Signature – Notary Public

(SEAL)

Printed Name of Notary

Notary's Commission No.

EXHIBIT "A" TO LEASE AGREEMENT

LEGAL DESCRIPTION

Parcel "A" School Site 2910, according to the Plat thereof, recorded in Plat Book 145, Page 17 of the Public Records of Broward County, Florida, said lands situate, lying and being in Broward County, Florida and containing 10.30 acres, more or less.

EXHIBIT "B" TO LEASE AGREEMENT



OCCUPIED PORTABLES

- PORTABLES USED BY COMMUNITY SCHOOL SOUTH
- PORTABLES USED BY OCLC
- PORTABLES USED BY COMMUNITY SCHOOL SOUTH AND OCLC

UNOCCUPIED PORTABLES

PARKING



EXHIBIT "C"

SPECIAL WARRANTY DEED

Prepared by:
JOSEPH M. BALOCCO, SR., ESQ.
JOSEPH M. BALOCCO, JR., P.A.
1323 SE Third Avenue
Fort Lauderdale, FL 33316

SPECIAL WARRANTY DEED

THIS INDENTURE, made this _____ day of _____, 201__, BETWEEN THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, a body corporate and political subdivision of the State of Florida, whose post office address is: 600 SE Third Avenue, Fort Lauderdale, FL 33301, of the County of Broward and State of Florida, Grantor*, and _____, whose post office address is: _____, of the County of _____ and State of _____, Grantee*,

WITNESSETH, that said Grantor, for and in consideration of the sum of TEN and 00/100 (\$10.00) DOLLARS, and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in _____ County, Florida, to-wit:

Legal Description attached hereto as Exhibit "A"
Tax Folio No. _____

SUBJECT TO land use designations, zoning restrictions, prohibitions and other requirements imposed by governmental authority none of which are hereby reimposed; the Permitted Encumbrances attached hereto as Exhibit "B"; and taxes for the year of closing and subsequent years.

The Property shall remain zoned as Community Facilities until the City's outstanding General Obligation Bonds, Series 2015 (Park, Recreation and Leisure Projects) mature. Additionally, Grantee, for itself and its heirs, successors and assigns, covenants and agrees that the Property shall never be used to enroll students in Pre-Kindergarten through Grades 12 educational programs.

In the event that the Grantee, its heirs, successors and assigns, violates the afore covenant, Grantor shall have all remedies available at law or equity, including but not limited to the right to injunctive relief.

and said Grantor will only warrant and forever defend the right and title to the above described

property unto said Grantee against the claims of those persons claiming by, through or under Grantor, but not otherwise.

*"Grantor" and "Grantee" are used for singular or plural, as the context requires.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed, and delivered in our presence:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, a body corporate and political subdivision of the State of Florida

By: _____
Name: _____
Title: Chair

ATTEST:

Approved as to form and legal content:

Name: Robert W. Runcie
Title: Superintendent of Schools

Name: _____
Title: School Board Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this ____ day of _____, 201__ by _____. Chair of The School Board of Broward County, Florida, a body corporate and political subdivision of the State of Florida, who ____ is personally known to me or who ____ has produced _____ for identification.

My Commission Expires: _____ (SEAL)
Notary Public

EXHIBIT "D"

EXHIBIT D

