



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

LL-5.

MEETING DATE	2017-11-07 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	LL. OFFICE OF PORTFOLIO SERVICES
DEPARTMENT	Facility Planning and Real Estate

Special Order Request	<input type="radio"/> Yes <input checked="" type="radio"/> No
Time	
Open Agenda	<input checked="" type="radio"/> Yes <input type="radio"/> No

TITLE:
 Parking Lease Agreement between The School Board of Broward County, Florida and MCA Promenade Owner LLC

REQUESTED ACTION:
 Approve the Parking Lease Agreement between The School Board of Broward County, Florida (SBBC) and MCA Promenade Owner LLC for a specific parking lot located on the grounds of Monarch High School.

SUMMARY EXPLANATION AND BACKGROUND:
 In need of additional parking, MCA Promenade Owner LLC, contacted District staff in hopes of leasing parking spaces at the adjacent District school facility known as Monarch High School.
 See Supporting Docs for continuation of Summary Explanation and Background.
 This Agreement has been reviewed and approved as for form and legal content by the Office of the General Counsel and has been executed by MCA Promenade Owner LLC.

SCHOOL BOARD GOALS:
 Goal 1: High Quality Instruction Goal 2: Continuous Improvement Goal 3: Effective Communication

FINANCIAL IMPACT:
 There is a positive financial impact to the District in the amount of \$25,591.50 for the initial term of this Agreement.

EXHIBITS: (List)
 (1) Continuation of Summary Explanation and Background (2) Executive Summary (3) Parking Lease Agreement (4) Analysis Matrix

BOARD ACTION:
APPROVED
 (For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Chris O. Akagbosu	Phone: 754-321-2162
Name:	Phone:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title

Leslie M. Brown - Chief Portfolio Services Officer

Signature
 Leslie M. Brown
 10/24/2017, 11:49:05 AM

Approved In Open Board Meeting On: NOV 07 2017
 By: *Abby M. Freedman*
 School Board Chair

Continuation of Summary Explanation and Background

On December 20, 2016, SBBC entered into a Parking Lease Agreement with MCA Promenade Owner LLC, the owner of a commercial/retail shopping plaza called the "Promenade at Coconut Creek", located at 4441 Lyons Road, Coconut Creek, Florida 33073.

The current Agreement is set to expire on December 22, 2017, and MCA Promenade has expressed interest in entering into a new Agreement with SBBC to continue leasing parking space at Monarch High School.

If approved by SBBC, the term of this Agreement would be for three (3) months and provide MCA Promenade Owner LLC the option to extend for three (3) additional three (3) month periods, subject to terms and conditions identified in the Parking Lease Agreement. The Agreement also requires MCA Promenade Owner LLC to pay a monthly rental fee in the amount of \$8,530.50 or a three (3) month lump sum payment in the amount of \$25,591.50.

EXECUTIVE SUMMARY

Parking Lease Agreement between The School Board of Broward County, Florida and MCA Promenade Owner LLC

Due to the new development and construction of Cooper's Hawk, a new high-end restaurant and winery located in the Promenade at Coconut Creek, the owner, MCA Promenade Owner LLC was seeking additional parking for its customers and employees during peak days and hours. Furthermore, MCA Promenade Owner LLC, advised that the new restaurant will accommodate up to 300 people and produce its own wine on site.

In preparation of the grand opening for Cooper's Hawk, representatives from MCA Promenade Owner LLC contacted the City of Coconut Creek (City) to request assistance in identifying additional parking for its valet customers and employees. Having no other parking options, the City contacted District staff on behalf of the owners of the Promenade at Coconut Creek to discuss parking arrangements at Monarch High School for overflow parking. District staff from the Facility Planning and Real Estate Department met with the school principal to discuss the school's ability to accommodate the parking needs of the adjacent development, as well as needs of Monarch High School.

If approved by the School Board, the initial term of this Agreement would be for three (3) months, starting December 23, 2017 and concluding on March 22, 2018. This Agreement will provide MCA Promenade Owner LLC the option to extend the Agreement for three (3) additional three (3) month periods, which extensions are subject to: MCA Promenade Owner LLC not being in default of its obligations under said Agreement; and MCA Promenade Owner LLC providing written notice to SBBC one (1) month prior to the expiration of this Agreement. MCA Promenade Owner LLC will be granted access to Parking Lot 1, see **Exhibit B**, on Thursdays, Fridays, Saturdays and Sundays from 3:30 P.M. to 3:30 A.M. for the term of this Agreement, or any extension thereof.

This Agreement requires MCA Promenade Owner LLC to pay a rental rate of \$8,530.50 per month which equates to \$25,591.50 over the three (3) month term of this Agreement. The rental amount due is discounted by fifty percent (50%) of the average cost per space of (\$120.96) as analyzed through the Analysis Matrix Study, see enclosed attachment. The above discount rate was applied, due to Promenade at Coconut Creek utilizing Parking Lot 1 for approximately half of the week.

The school principal has been involved in pertinent process (including meetings with MCA Promenade Owner LLC) regarding continued lease of Parking Lot 1. It should be noted, the first agreement was a success and the principal concurs that MCA Promenade Owner LLC met all the requirements of the agreement, which included: keeping Parking Lot 1 clean, sanitary, free from trash and debris, and making sure Parking Lot 1 was locked after each use. The school principal is in complete support of this Agreement moving forward.

PARKING LEASE AGREEMENT

THIS PARKING LEASE AGREEMENT is made and entered into as of this 7th day of November, 2016, by and between

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

and

MCA PROMENADE OWNER LLC
(hereinafter referred to as "LESSEE"),
with an address at
c/o Hill Partners, Inc., 2201 South Boulevard, Suite 400, Charlotte, NC 28203

WHEREAS, the SBBC is the owner of the property located at 5050 Wiles Road Coconut Creek, Florida 33073, also known as "Monarch High School" described in **Exhibit A** attached hereto; and

WHEREAS, the LESSEE is the owner of the property located at 4441 Lyons Road, Coconut Creek, Florida 33073 and operates a commercial/retail shopping plaza, thereon known as "Promenade at Coconut Creek"; and

WHEREAS, the LESSEE has requested permission from the SBBC for the Promenade at Coconut Creek valet, customers and employees to use Monarch High School parking lot for overflow parking; and

WHEREAS, the SBBC has agreed to grant the Promenade at Coconut Creek valet, customers and employees short-term parking access to a specific parking lot located on the grounds of Monarch High School described in **Exhibit B** attached hereto.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as 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.** Unless terminated earlier pursuant to Section 3.05 of this Agreement and/or otherwise extended by provision set forth in this Agreement, the term of this Agreement shall be for three (3) months, commencing on December 23, 2017 and concluding on March 22, 2018.

2.02 **Monarch High School Parking Lot.** During the term of this Agreement, SBBC shall permit the LESSEE to use the school's designated parking lot (hereinafter referred to as "Parking Lot 1" located at the most Northeastern section of the school's property for the purpose of overflow parking for the Promenade at Coconut Creek valet, customers and employees. LESSEE shall have access to Parking Lot-1 on Thursdays, Fridays, Saturdays and Sundays from 3:30PM to 3:30AM for the term of this Agreement. The SBBC shall retain the rights to utilize all parking spaces located at Monarch High School except for Parking Lot 1 on the days and times cited for and as otherwise stated in other agreements between SBBC and other entities. The SBBC shall use reasonable efforts to ensure that all student cars are removed from the Parking Lot 1 prior to 3:30PM each day.

2.03 **Option to Extend:** The SBBC and LESSEE (together, the "Parties") agree that LESSEE shall have the right to extend this Agreement for three (3) additional three (3) month periods, subject to the following conditions: (i) LESSEE shall not be in default of its obligations under this Parking Lease Agreement, and (ii) LESSEE shall provide written notice to the SBBC one (1) month prior to the expiration of this Agreement requesting an additional three (3) months of use of SBBC Parking Lot 1. It shall be at the Superintendent or his designee's sole discretion to extend and/or deny any extension request made by the LESSEE as part of this Agreement, without any recourse by LESSEE, its employees, clients and customers. If LESSEE requests an extension and the Superintendent or his designee grants such requested extension, the first extension will commence on March 23, 2018 and conclude on June 22, 2018; the second extension will commence on June 23, 2018 and conclude on September 22, 2018; and the third extension will commence on September 23, 2018 and conclude on December 30, 2018. If the LESSEE is allowed to extend, each extension shall be based on the same terms and conditions as defined in this Agreement.

2.04 **Rental Fee for Parking Lot 1.** The LESSEE shall pay a **three (3) month rental fee in the amount of \$25,591.50 (or \$8,530.50 per month)** to the SBBC for the initial term described in Section 2.01 and for each Option to Extend period described in Section 2.03 above. If the LESSEE chooses to make monthly payments, the monthly rental fee shall be due on the first day of each month and shall be submitted to the Principal of Monarch High School, or designee for the term of this Agreement. In the event any monthly rental payment is not received within five (5) business days after it is due, SBBC shall be entitled, in addition to any other remedy that may be available, to an administrative fee and late charge of five percent (5%) of the amount of the payment due. However, if LESSEE chooses to pay the three (3) month lump sum payment, such payment must be made on the first day of each Option to Extend period, see Section 2.03 Option to Extend above. In the event this three (3) month rental payment is not received within five (5) business days after it is due, SBBC shall be entitled, in addition to any other remedy that may be available, to an administrative fee and late

charge of five percent (5%) of the amount of the payment due. If payment due is not received as stated herein, the SBBC may take steps to terminate this Agreement consistent with provisions of Section 3.05.

2.05 **Parking Lot 1 Modifications.** The LESSEE shall be responsible for opening and closing the gate during the hours and days specified in this Agreement. Parking Lot 1 shall be made available to SBBC and SBBC students, employees and guests all other hours and days not specified in this agreement.

2.06 **Maintenance.** The LESSEE shall keep Parking Lot 1 clean, sanitary and free from trash and debris during the days and hours of operation stated in Section 2.02, and SBBC shall keep Parking Lot 1 clean, sanitary and free from trash and debris during the times other than the hours of operation stated in Section 2.02. Lessee shall lock the gate of Parking Lot 1 at 3:30 a.m. on the days referenced in Section 2.02. Upon failure of the LESSEE to comply with the provisions of this section, SBBC shall give written notice to the LESSEE of such failure to comply, by mail to the address set forth in section 2.14 below. If within a period of 24 hours of such email, the LESSEE has not commenced to complete the cleaning of said Parking Lot 1, SBBC shall have the right to enter Parking Lot 1, to clean, remove trash and debris from the area and charge the LESSEE the cost incurred by SBBC for such services (based on SBBC's Policy 1341 fee schedule). Billing for trash and debris removal shall be on a per-cleaning basis and LESSEE shall pay such bill within fifteen (15) days after receipt of said bill.

2.07 **Improvements.** The location of any and all improvements placed on Parking Lot 1, shall first be approved in writing by SBBC, it being intended that SBBC shall have absolute control over the location of any improvements to Parking Lot 1.

(a) The authority to grant the above-referenced approval regarding this Agreement is hereby delegated by the SBBC to the SBBC's Chief Facilities Officer and Chief Building Official. Subject to the provisions of the foregoing paragraph, the parties further agree that the LESSEE will prepare and submit plans to the SBBC's Chief Facilities Officer and Chief Building Official for review and approval. Any plans must meet State of Florida Building Code Requirements, Florida Fire Protection Code, and State Requirements for Educational facilities as applicable, and any other requirements imposed by applicable law. The SBBC's Chief Facilities Officer and Chief Building Official shall have thirty (30) days from the date of receipt to review and comment on the plans. All design documents shall be approved by the SBBC's Chief Facilities Officer and Chief Building Official prior to submission to the Department of Education, if applicable. The LESSEE agrees to obtain all necessary permits and approvals and to contract with a Contractor for the construction of the improvements.

(b) The LESSEE shall be solely responsible for all contractual obligations to the contractor hired to construct the improvements.

(c) The LESSEE shall ensure the contractor correct any defective or faulty work or materials that appear after the completion of the improvements within the warranty period of such work performed.

(d) During the term of this Agreement, the LESSEE will be responsible for maintenance and repair of fence improvements placed on Parking Lot 1 by the LESSEE, excluding damage caused by the SBBC or its employees, agents, or students, for which SBBC shall be responsible.

(e) Any improvements made to Parking Lot 1 without the prior written approval of SBBC as to location shall immediately be removed or relocated within ninety (90) days of written demand by SBBC, unless the parties agree that the improvements should remain whereby this Agreement will be amended, in writing, to reflect the use and responsibility of the improvements.

2.08 **Insurance Requirements.** LESSEE shall maintain the following insurance requirements throughout the term of this Agreement:

- (a) **General Liability Insurance:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- (b) **Automobile Liability Insurance:** LESSEE shall maintain Automobile Liability Insurance covering all Owned, Non-Owned and Hired vehicles in an amount of not less than One Million Dollars (\$1,000,000) per occurrence Combined Single Limit for Bodily Injury and Property Damage.
- (c) During the term of this Agreement, if a foul ball injures a person(s) or damages personal property(ies), or a vehicle(s) located in Parking Lot 1, during the hours, listed in Paragraph 2.02, LESSEE shall notify the person or vehicle owner that he/she shall contact Joe Tanneberger at 704-551-3762 or by email at jtanneberger@hillpartnersince.com to fully address any and all restitution. LESSEE shall provide any and all restitution for all persons, personal property and vehicles in Parking Lot 1 that are damaged during the hours, listed in Paragraph 2.02, that Lessee has access. LESSEE agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of injury or damages from a foul ball in Parking Lot 1, during the hours, listed in Paragraph 2.02, that Lessee has access.
- (d) **Acceptability of Insurance Carriers.** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated at least A- VI by AM Best or Aa3 by Moody's Investor Service.
- (e) **Verification of Coverage.** Proof of Insurance must be furnished within 15 days of execution of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Works to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit Awardee time to remedy any deficiencies. Please verify your account information and provide contact details for your company's Insurance Agent via the link provided in the email upon award.
- (f) **Required Conditions.** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:

1. The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.
 2. All liability policies are primary of all other valid and collectable coverage maintained by the School Board of Broward County, Florida.
 3. Certificate Holder: The School Board of Broward County, Florida, c/o EXIGIS Risk Management Services, P. O. Box 4668-ECM, New York, New York 10163-4668
- (g) Cancellation of Insurance. Vendors are prohibited from providing services under this contract with SBBC without the minimum required insurance coverage and must notify SBBC within two business days if required insurance is cancelled.

The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverages or endorsements, herein-throughout the term of this agreement.

2.09 **Licenses and Permits.** LESSEE shall obtain at its sole expense any permits, licenses or additional authorizations that may be required by law or ordinance for LESSEE's use of Parking Lot 1.

2.10 **Removal of Property.** LESSEE shall remove its property (and that of its valet, customers and employees making use of Parking Lot 1 pursuant to Section 3.05) from the SBBC property within ten (10) business days after the conclusion or termination of LESSEE's permitted use of Parking Lot 1. LESSEE agrees that any such property remaining on SBBC property more than ten (10) business days beyond the termination of this Agreement (or any final extension or renewal thereof) shall be considered abandoned and may be disposed of at the sole discretion of SBBC without any recourse by LESSEE, its employees, clients and customers. It is agreed that no bailor/bailee relationship shall be construed to exist between SBBC and LESSEE or LESSEE's employees, clients, valet and customers with regard to any property left by such persons at times other than those permitted under this Agreement.

2.11 **Hazardous Materials.** LESSEE shall not cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept or used in or about Parking Lot 1 by LESSEE, its agents, principals, employees, contractors, consultants, valet or customers without the prior written consent by the SBBC, which consent may be withheld for any reason whatsoever or for no reason at all. If LESSEE breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material upon Parking Lot 1 caused or permitted by LESSEE (or the aforesaid others) results in (a) any contamination of Parking Lot 1, the surrounding area(s), the soil or surface or ground water or (b) loss or damage to person(s) or property, or if contamination of Parking Lot 1 or the surrounding area(s) by Hazardous Material otherwise occurs for which LESSEE admits that it is legally, actually or factually liable or responsible to SBBC (or any party claiming, by through or under SBBC) for damages, losses, costs or expenses resulting therefrom, then LESSEE admits that it shall be solely responsible for all costs, expenses and amounts required to remediate, clean up and correct such matter and LESSEE admits that it shall further fully and completely indemnify, defend and hold harmless SBBC (or any party claiming by, through or under SBBC) from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses [including, but not limited to and without

limitation: (i) diminution in the value of Parking Lot 1 and/or the land on which Parking Lot 1 is located and/or any adjoining area(s) which SBBC owns or in which it holds a property interest; (ii) damages for the loss or restriction on use of rentable or usable space of any amenity of Parking Lot 1 or the land on which Parking Lot 1 is located; (iii) damages arising from any adverse impact on marketing of space; and (iv) any sums paid in settlement of claims, reasonable attorneys and paralegals' fees, (whether incurred in court, out of court, on appeal or in bankruptcy or administrative proceedings) consultants fees and expert fees] which arise during or after the term of this Lease Agreement or any extension/renewal thereof, as a consequence of such contamination. This indemnification of SBBC by LESSEE includes, without limitation, costs incurred in connection with any investigation or site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under Parking Lot 1.

- (a) Without limiting the foregoing, if the presence of any Hazardous Material on, under or about Parking Lot 1 or the surrounding area(s) caused or permitted by LESSEE (or the aforesaid others) results in (a) any contamination of Parking Lot 1, the surrounding area(s), the soil or surface or ground water or (b) loss or damage to person(s) or property, then LESSEE shall immediately notify SBBC of any contamination, claim of contamination, loss or damage and, after consultation and approval by SBBC, take all actions at LESSEE's sole expense as are necessary or appropriate to return Parking Lot 1, the surrounding area(s) and the soil or surface or ground water to the condition existing prior to the introduction of any such Hazardous Material thereto, such that the contaminated areas are brought into full compliance with all applicable statutory regulations and standards. The foregoing obligations and responsibilities of LESSEE shall survive the expiration or earlier termination of this Lease Agreement.
- (b) As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law. "Hazardous Material" includes any and all material or substances which are defined as "hazardous waste", "extremely hazardous waste" or a "hazardous substance" pursuant to local, state or federal governmental law. "Hazardous substance" includes, but is not restricted to, asbestos, polychlorobiphenyls ("PCB's"), petroleum, any and all material or substances which are classified as "biohazardous" or "biological waste" (as such terms are defined by Florida Administrative Code ("F.A.C.") Chapter 17-712, as amended from time to time), and extremely "hazardous waste" or "hazardous substance" pursuant to federal, state or local governmental law.
- (c) SBBC and its agents shall have the right, but not the duty, to inspect Parking Lot 1 at any time to determine whether LESSEE is complying with the terms of this Lease Agreement. If LESSEE is not in compliance with this Lease Agreement, SBBC shall have the right to immediately enter upon Parking Lot 1 to remedy at LESSEE's expense any contamination caused by LESSEE's failure to comply, notwithstanding any other provision of this Lease Agreement. SBBC shall use its best efforts to minimize

interference with LESSEE's operations, but shall not be liable for any interference caused thereby.

- (d) Any non-compliance by LESSEE with its duties, responsibilities and obligations under this Section shall constitute a default of this Lease Agreement, and no notice of any nature from SBBC to LESSEE is required-if such non-compliance is not cured within ten (10) days after written notice thereof from SBBC to LESSEE; provided, however, that if such non-compliance is susceptible of cure but such cure cannot be accomplished with reasonable diligence within said period of time, and if LESSEE commences to cure such non-compliance promptly after receipt of notice thereof from SBBC, and thereafter prosecutes the curing of such non-compliance with reasonable diligence, such period of time shall be extended for such period of time as may be necessary to cure such non-compliance with reasonable diligence, but not to exceed an additional sixty (60) days.

2.12 **Adult Products and Smoking.** LESSEE, its employees, valet, customers and other invitees shall not bring, keep or possess any adult products, intoxicating beverages, drugs, narcotics or gambling devices upon Parking Lot 1 during the hours LESSEE is responsible for the same under this Agreement. In accordance with state law and SBBC Policy 1120, LESSEE shall not permit any smoking on SBBC property under any circumstances.

2.13 **Removal of Persons.** SBBC reserves the right, through its representatives, to eject any objectionable person or persons from SBBC property including, without limitation, from Parking Lot 1. In the event of the exercise of such authority, LESSEE hereby waives any right and all claims for damages against SBBC or any of its representatives or agents.

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

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

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

To LESSEE: MCA Promenade Owner LLC
c/o Hill Partners, Inc.
2201 South Boulevard
Suite 400
Charlotte, NC 28203

Attn: Joe Tanneberger
e-mail: JTanneberger@hillpartnersinc.com

With a Copy to: Legal Counsel
AEW Capital Management, L.P.
2 Sea port Lane
Boston, Massachusetts 02210-2021

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

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

(b) By LESSEE: LESSEE agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by LESSEE, its agents, servants or employees; the equipment of LESSEE, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of LESSEE or the negligence of LESSEE's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by LESSEE, SBBC or otherwise.

2.16 **Absence of Option.** SBBC has delivered a copy of this Agreement to LESSEE for LESSEE's review only and the delivery hereof does not constitute an offer to LESSEE or an option to lease or a reservation of or option for Parking Lot 1, and this Agreement shall become effective only when a copy executed by both SBBC and LESSEE is delivered to and accepted by SBBC.

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 Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that nothing in this Agreement shall create or confer any rights or obligations in or upon any third person or entity under this Agreement. There shall be no substantial benefit to a third party as a result of this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no

third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

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

3.04 **Non-Discrimination/Equal Opportunity Provision.** The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Lease Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

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

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation by SBBC.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify LESSEE at the earliest possible time before such termination.

No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

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

3.09 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. LESSEE 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, the LESSEE shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. The LESSEE 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 the LESSEE does not transfer the public records to SBBC. Upon completion of the Lease Agreement, the LESSEE shall transfer, at no cost, to SBBC all public records in possession of the LESSEE or keep and maintain public records required by SBBC to perform the services required under the Lease Agreement. If the LESSEE transfers all public records to SBBC upon completion of the Lease Agreement, the LESSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LESSEE keeps and maintains public records upon completion of the Agreement, the LESSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology system.

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

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal,

state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

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

3.13 **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 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 or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from LESSEE.

3.17 **Incorporation by Reference.** Exhibit A and B 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.

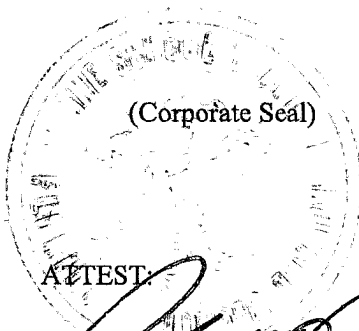
3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations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

3.25 **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.

[THIS SPACE WAS INTENTIONALLY LEFT BLANK]



(Corporate Seal)

ATTEST

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

FOR SBBC

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By *Abby M. Freedman*
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

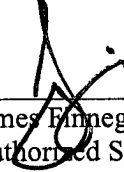
Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams,
Esq. - kathelyn.jacques-
adams@gbrowardschools.com
Reason: MCA Promenade Owner LLC
Date: 2017.10.19 16:19:59 -04'00'

Office of the General Counsel

FOR LESSEE

MCA Promenade Owner LLC

By 
James Finnegan
Authorized Signature

DATE: 10-18-17

Approved as to form and legal content:

Office of the General Counsel, Southeast Region

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

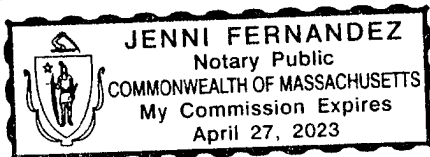
STATE OF MASSACHUSETTS

COUNTY OF SUFFOLK

The foregoing instrument was acknowledged before me this 18th day of OCTOBER, 2017 by JAMES J. FINNEGAN of MCA PROMENADE OWNER LLC, on behalf of the corporation/agency.
Name of Person
Name of Corporation or Agency

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

My Commission Expires:



(SEAL)

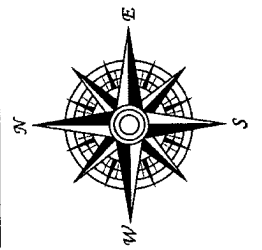

Signature - Notary Public

Printed Name of Notary

Notary's Commission No

AERIAL PHOTOGRAPH OF MONARCH HIGH SCHOOL

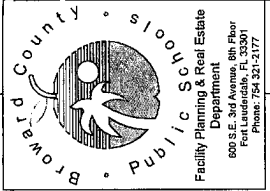
EXHIBIT A



LEGEND

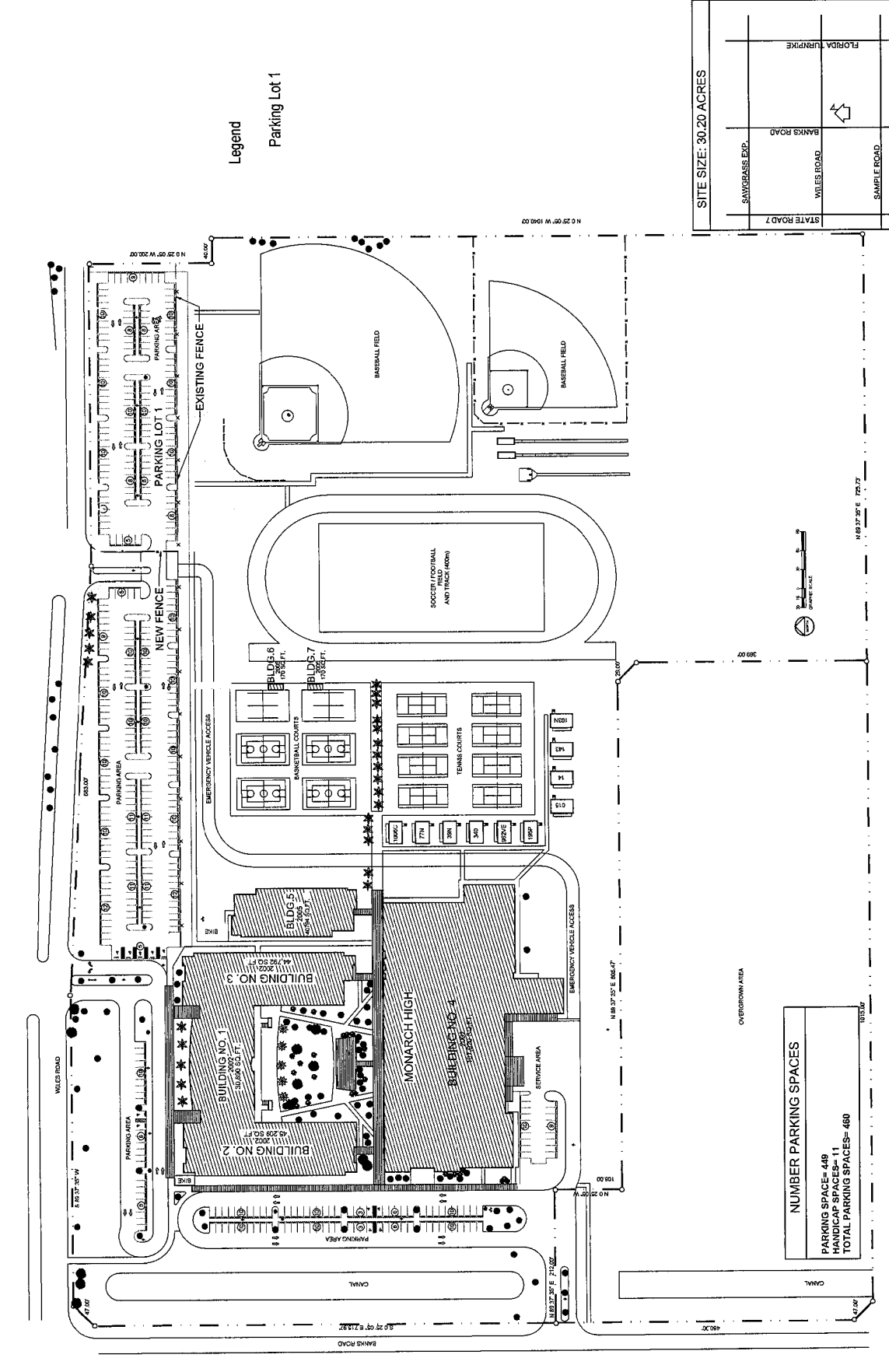


- Monarch High School
- Promenade at Coconut Creek
- Parking Lot 1



DISTRICT NUMBER- MSID	3541
STATE NUMBER	285
PARCEL	0253
FACILITY	

MONARCH HIGH SCHOOL	
6050 WILES ROAD	
COCONUT CREEK FL, 33073	
CAD FILE NAME:	FH3541SP1
ORIGINAL ISSUE DATE	NOVEMBER 09-2007
SITE PLAN	



Legend
 Parking Lot 1

STATE ROAD 7	
SAWGRASS EXP.	
WILES ROAD	
BANKS ROAD	
FLORIDA TURNPIKE	

SITE SIZE: 30.20 ACRES

LOCATION PLAN
 N.T.S.

NUMBER PARKING SPACES
 PARKING SPACES= 448
 HANDICAP SPACES= 11
 TOTAL PARKING SPACES= 460

SITE PLAN

Analysis Matrix

Lease Agreement Between The School Board of Broward County, Florida and MCA Promenade Owner LLC Comparable Rental Sites

Site Location	Building Type/Class	Monthly Base Rent	Rental Terms	Comments
1 Monarch High School (Parking Lot) 5050 Wiles Road Coconut Creek, Florida 33073	Parking Lot	\$120.96	Monthly	Three month agreement for 141 parking spaces
2 City Place One Parking, Inc 700 S Rosemary Avenue West Palm Beach, Florida 33401	Garage	\$95.00	Monthly	Monthly Rate applicable for non-tenant and residents
Deerfield Beach Place 123 NE 20th Avenue Deerfield Beach, Florida 33441	Garage	\$175.00	Monthly	Standard Monthly Rate
3 City of Fort Lauderdale GOV Garage 150 SW 2 Street Fort Lauderdale, Florida 33301	Garage	\$150.00	Monthly	Standard Monthly Rate
4 Van Buren Garage 251 S 20th Avenue Hollywood, Florida	Garage	\$84.80	Monthly	Standard Monthly Rate
5 Ampco System Parking 1601 Biscayne Boulevard Miami, Florida 33132	Garage	\$100.00	Monthly	Monthly parking permit includes a \$15.00 processing fee. Monthly fees increase Jan 2017 to \$125.00
** Average		\$120.96		

** The average dollar amounts are derived from properties 2 through 6.

NOTE 1: Amounts may vary due to dollar amount being rounded to the nearest decimal.