

**INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
AND THE CITY OF PLANTATION REGARDING BUSINESS PARTNERSHIP RECOGNITION BANNERS**

THIS AGREEMENT, made and entered into this _____ day of _____

2019, by and between:

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

And

THE CITY OF PLANTATION, FLORIDA
(hereinafter referred to as "City")
a municipal corporation of the State of Florida
whose address is
400 NW 73rd Avenue, Plantation, Florida 33317

WHEREAS, it is the intent of the Local Government Comprehensive Planning and Land Development Regulation Act, §163.161, et seq., Florida Statutes 2016, to encourage and ensure cooperation between and among local governmental entities to provide for the coordination of development activities of units of local government; and permits the parties, as public agencies to enter into Interlocal Agreements with each other; and

WHEREAS, the SBBC has advised the City that athletic sponsors and other business partners provide a vital role in the sponsorship of key programs in Broward County Public Schools (BCPS) located within the City's municipal boundaries; and

WHEREAS, the SBBC and City have reached different conclusions regarding the applicability and enforceability of the City's sign regulations upon property owned by SBBC (referenced as "SBBC Property") located within the City's municipal boundaries, and the SBBC and City have elected to resolve these different conclusions by entering into this mutually agreed upon Interlocal Agreement to set forth parameters for signage made of fabric, plastic, or other material which is installed on fencing located on SBBC Property where the sign face (message) is visible from rights of way within the City's municipal boundaries (herein "banners"); and

WHEREAS, the SBBC and City also acknowledge the aesthetic and public safety concerns of the City in connection with banner signs and for the need to ensure that there is a minimum impact on traffic safety and that the health, safety, and welfare of the public is protected.

NOW, THEREFORE, IN CONSIDERATION of the covenants contained herein the parties 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 **Purpose.** To memorialize the standards and guidelines for the placement of banner signs at SBBC Property located within the City’s municipal boundaries.

2.02 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Interlocal Agreement (“Agreement”), the term of this Agreement shall be for a period of time commencing the date the City executes same and ending on September 7, 2023, provided the SBBC authorizes the execution of this Agreement on or before November 8, 2019.

2.03 **City’s municipal boundaries.** At SBBC Property located within the City’s municipal boundaries, banners may face outward and be visible from adjoining streets. All banners shall comply with the requirements of this Agreement as to number, material, size, color, and text as stated herein.

2.04 **Banner Material, Number, Size and Placement.**

2.04.01. Each SBBC Property shall be entitled to place on its exterior fence:

(a) Up to ten (10) banners measuring three (3) feet high by five (5) feet wide (15 square feet each) during the entire calendar year.

(b) In addition to the banners referenced in (a) above, each SBBC Property shall also be entitled to place on their exterior fence, up to five (5) banners measuring four (4) feet high by eight (8) feet wide (32 square feet each) during the entire calendar year.

2.04.02 The top row of banners shall be aligned with the top rail of the fence. Multiple banners may immediately abut each other horizontally or vertically, or be evenly-spaced along the exterior fencing horizontally or vertically. Banners immediately abutting each other shall not be utilized to create a longer message. Evenly-spaced banners shall be placed consistently apart horizontally and/or vertically. Nothing shall be affixed or attached to the banners (except for grommets). Banners shall have grommets in all four corners, and shall be affixed to minimize flapping or other movement. All banners shall be made of industry standard material. All banners shall be maintained in good condition and properly affixed to the fence. Torn, faded or defaced banners must be replaced within thirty (30) days after receipt of Written Notice from City. Neither the SBBC nor SBBC Properties shall be required to obtain permits from the City or pay any permit or inspection fees to the City for any Banner Signs which are displayed in accordance with this Interlocal Agreement.

2.05 **Banner Color and Text.** Font or symbol style, color, and size, as well as other message content, color, size, and style (including, but not limited to , names of sponsors, logos, physical or internet addresses, or phone numbers, or some or all of the foregoing), shall be approved by each individual SBBC Property, and shall not be reviewed or approved by the City. Different lines of text may be different sizes; however, when feasible, the schools shall keep the text on the banners consistent.

2.06 **Reserved.**

2.07 **OBLIGATIONS OF THE PARTIES**

2.07.01 **Compliance.** Provided the SBBC Property, located within the City's municipal boundaries are displaying banners that are in compliance with this Agreement, code enforcement or other action shall not be initiated by the City regarding the display of banners on the school campuses. If the City believes that a SBBC Property school or schools are not in compliance with the provisions of this Agreement, the parties shall follow the process set forth in Section 2.08.1 below.

2.07.02 **Communication of Guidelines.** The SBBC shall communicate the requirements set forth in this Agreement to the principals at each SBBC Property located within the municipal boundaries of the City.

2.08 **MISCELLANEOUS.**

2.08.01 **Dispute.** If the parties to this Agreement are unable to resolve any issue contained and covered in this Agreement, such dispute will be resolved in the following manner:

- (a) First, the disputing parties will meet through the City's Mayor or Chief Administrative Officer, and the SBBC Superintendent of Schools or designee, and shall make a good faith effort to resolve the dispute.
- (b) If the disputing parties are still unable to resolve the dispute, the disputing parties agree to further attempt to resolve the dispute in accordance with governmental conflict resolution procedures specified in Chapter 164 or 186, Florida Statutes or such other processes deemed mutually agreeable and appropriate by the parties involved, including, but not limited to, voluntary mediation.

- (c) If the conflict resolution proceedings set forth in Chapter 164 or 186, Florida Statutes fails to resolve the conflict, the City and the SBBC may avail themselves of any remedy, legal or equitable, available to them. Notwithstanding the foregoing sentence, under no circumstances shall damages be a remedy under this Agreement, excepting only cases where the alleged default, alleged breach, or dispute concerns this Agreement's indemnity provisions.

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

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

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

To City: City Mayor
City of Plantation
400 NW 73rd Avenue
Plantation, FL 33317

With a Copy to: Chief Administrative Officer
City of Plantation
400 NW 73rd Avenue
Plantation, FL 33317

2.10 **Reserved.**

2.10 **Indemnification.** Each party agrees to be fully responsible to the other party 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 suffered by the other party resulting from said negligence. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account

of this Agreement is barred by any applicable statute of limitations. Nothing contained herein is intended nor shall be construed to waive any party's rights, defenses, avoidances, immunities, or limits to liability under common law, or Section 768.28, Florida Statutes (as may be amended), or as may be otherwise available at law.

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 it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

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

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

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the City of its desire to terminate

this Agreement. This Agreement may be canceled with or without cause by the City during the term hereof upon thirty (30) days written notice to the SBBC of its desire to terminate this Agreement.

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 written 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. Notwithstanding the foregoing, under no circumstances shall damages be a remedy under this Agreement, excepting only cases where the alleged default, alleged breach, or dispute concerns this Agreement's indemnity provisions.

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

3.08 **Public Records.** To ensure provisions in Chapter, Florida Statutes, City and SBBC shall keep and maintain public records required to perform the services required under this Agreement. Upon request from either party's custodian of public records, City and SBCC shall provide the other party 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 and SBBC shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the Agreement. Upon completion of the Agreement, City and SBBC shall transfer, at no cost, all records required by either party to perform the services required under the Agreement or retain records created by virtue of entering into this agreement in compliance with State of Florida Records Retention guidelines. All records stored electronically must be provided to the other party, upon request from the

custodian of public records, in a format that is compatible with both parties' information technology systems.

3.10 **Compliance with Laws.** Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations which apply to such party in performing its duties, responsibilities and obligations pursuant to this Agreement, excepting only the application of the City's sign code as applied to banners on SBBC Property which is the subject of this Agreement.

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

3.12 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.13 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

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

3.15 **Assignment.** Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.16 **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.

3.17 **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.

3.18 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.19 **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.

3.20 **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.

3.21 **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. In the event any of the licensed facilities, or any part thereof, shall be destroyed by fire or any other cause, or if any other casualty or any unforeseen occurrence shall render the fulfillment of this Agreement by either party impossible, then and thereupon, this Agreement shall be modified to exclude the use of the damaged licensed facility until such time as the owning party, at its discretion, returns the facility to an operable condition.

3.22 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to maintain and allow inspection and audit of records and property, and other obligations which expressly apply after the termination of this Agreement, shall survive the termination of this Agreement.

3.23 **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.

3.24 **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 each executed this Agreement for reciprocal use of facilities on the dates indicated below.

FOR SBBC

(CORPORATE SEAL)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By: _____

Heather P. Brinkworth, Chair

Date: _____

Robert W. Runcie, Superintendent of Schools

Approved as to form and legal content:



Office of the General Counsel

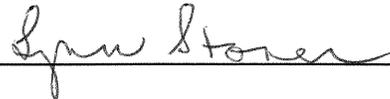
FOR CITY

ATTEST:

THE CITY OF PLANTATION, FLORIDA, a
municipal corporation of the State of Florida



City Clerk

By: 

Lynn Stoner, City Mayor

Date: 8/16/19

Endorsed as to Form & Legality for the
Use and Reliance of the City of Plantation
Florida, only.



Kerry Ezro, City Attorney