

# **TEMPORARY ACCESS AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of October, 2020, by and between

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

and

**CITY OF CORAL SPRINGS**  
(hereinafter referred to as “Grantee”),  
whose principal place of business is  
9500 West Sample Road, Coral Springs, Florida 33065

**WHEREAS**, SBBC owns certain real property located in Broward County, Florida known as James S. Hunt Elementary School, located at 7800 NW 35th Ct, Coral Springs, FL 33065 (the “Property”) and as depicted in **Exhibit A**; and

**WHEREAS**, Grantee wishes to have temporary, non-exclusive access, ingress and egress to an approximately 70’ x 130’ area, located in the Southeast corner of Property, for the purposes of staging and storing materials and heavy equipment for construction activities on a nearby lift station as depicted in the attached and incorporated **Exhibit B**; and

**WHEREAS**, SBBC is willing to permit such access upon the conditions set forth in this Agreement.

**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 hereby agree as follows:

## **ARTICLE 1 - RECITALS**

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on October 20, 2020 and conclude on December 20, 2020.

2.02 **Property Description.** For the purposes of this Agreement, the term “Property” shall refer to that certain real property owned by Grantor, known as James S. Hunt Elementary School Site, and as shown on **Exhibit “A”** hereto and made a part hereof.

2.03 **Right of Entry.** For good and valuable consideration, the receipt of which is hereby acknowledged, SBBC hereby grants to Grantee, its employees, contractors and assigns, temporary, non-exclusive access, ingress and egress over, across and through the Property for any and all purposes deemed by Grantee to be necessary, convenient, or incident to, or in connection with storage of work material for nearby construction project to include replacement of fifty (50) year old existing lift station. City will provide a schedule for proposed access to the School Principal or designee and coordinate with the School Principal or designee for access to the school site. SBBC hereby acknowledges and agrees that the use of backhoes, bulldozers, cranes, other earth moving and related equipment and/or vehicles (collectively, the “Equipment”) may be necessary to accomplish the above described purpose of this Temporary Access Agreement, and SBBC agrees that the right of entry granted herein includes the right of Grantee, its employees, contractors and assigns to bring the Equipment onto the Property. Grantee shall not access the Property for any purposes other than those stated above.

2.04 **No Obstructions of Property.** The Property shall at no time be obstructed by any object that would prohibit access, ingress or egress, or in any manner, interfere with the purposes of this Agreement.

2.05 **Comprehensive General Liability Insurance.** Grantee shall at all times maintain Comprehensive General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and show SBBC as the Certificate Holder. Coverage must be afforded on the form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: Premises and/or Operations; Independent Contractors, products and/or completed operations for contracts.

2.06 **Business Automobile Liability Insurance.** Grantee shall at all times maintain Business Automobile Liability Insurance with minimum limits of Three Hundred Thousand (\$300,000) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include owned vehicles and hired and non-owned vehicles.

2.07 **Workers’ Compensation Insurance.** Grantee shall at all time maintain Workers’ Compensation Insurance to apply for all of its employees in compliance with the "Worker’s Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include Employers’ Liability with a limit of One Hundred Thousand Dollars (\$100,000) per accident.

2.08 **Extensions of Term.** Grantee further agrees to complete its activities for which it requires temporary access to the Property within two (2) months from the date of execution of

this Agreement by both parties. Any extensions of this Agreement shall be granted only with the written consent of Grantor.

2.09 **Ownership of Equipment.** SBBC hereby acknowledges that the Equipment shall remain the property of the Grantee and shall be removed from the Property by Grantee on or before the termination of this Temporary Access Agreement. Any portion of the Property including, without limitation, fences or gates and irrigation equipment or landscaping, which may be damaged as a result of activities conducted by Grantee pursuant to this Agreement, will be promptly returned to substantially the same condition that it was in on the date hereof.

2.10 **Environmentally Hazardous Material.** Grantee hereby acknowledges that SBBC prohibits the storage of Environmentally Hazardous material on Grantor's property at any and all times. Grantee agrees not to store any Environmentally Hazardous materials on SBBC's property and understands that violation of this stipulation will result in SBBC's immediate termination of this Agreement and Grantee will restore and return the property to the same condition that it was in on the date hereof.

2.11 **Background Screening:** Grantee agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of Grantee or its personnel providing any services under the conditions described in the previous sentence. Grantee shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Grantee and its personnel. The parties agree that the failure of Grantee to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. To the extent permitted by law, Grantee agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from Grantee's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes. Nothing herein shall be construed as a waiver by SBBC or Grantee of sovereign immunity or of any rights or limits to liability existing under Section 768.28, Florida Statutes.

2.12 **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
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With a Copy to: Chief of Facilities & Construction  
The School Board of Broward County, Florida  
600 SE 3rd Avenue, 10th Floor  
Ft. Lauderdale, Florida 33301

Director of Facility Planning & Real Estate  
The School Board of Broward County, Florida  
600 SE 3rd Avenue, 8th Floor  
Ft. Lauderdale, Florida 33301

To Grantee: City Manager  
City of Coral Springs  
9500 West Sample Road  
Coral Springs, Florida 33065

With a Copy to: Chad Maraj, Civil Engineer  
Public Works Utilities and Engineering Division  
3800 NW 85<sup>th</sup> Avenue  
Coral Springs, Florida 33065

With a Copy to: Office of the City Attorney  
City of Coral Springs  
9500 West Sample Road  
Coral Springs, Florida 33065

2.13 **Restore.** Grantee covenants and agrees that if any portion of the Property is disturbed, damaged, or destroyed by Grantee at any time, Grantee shall, at its sole expense, and as soon as reasonably possible, restore the disturbed, damaged, or destroyed portion of the Property to its original condition to allow for Grantor's use. The aforementioned damage specifically includes, but is not limited to ground settlement or upheaval, cracking and/or delamination of stucco, cracking and/or upheaval of asphalt and/or concrete paving or sidewalks which has been caused or worsened by construction or demolition activities of Grantee and its contractors. Prior to commencement of Grantee's project, Grantor shall inspect and document the existing condition of Grantor's Property and provide copies of such documentation to Grantee.

2.14 **Indemnification.** Each party agrees to be fully responsible 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. 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.

### **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 Grantee or the Grantee'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 either party during the term hereof upon fifteen (15) days written notice to the other party 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 fifteen (15) days written notice to cure the default. However, in the event said default cannot be cured within said fifteen (15) 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 fifteen (15) 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 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. Grantee shall keep and maintain public records required by SBBC to perform services required under this agreement. Upon request from SBBC's custodian of public records, Grantee 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. Grantee shall ensure that public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the Agreement if Grantee does not transfer the public records to SBBC. Upon completion of the Agreement, Grantee shall transfer, at no cost, to SBBC all public records in possession of Grantee or keep and maintain public records required by SBBC to perform the services required under the Agreement. If Grantee transfer all public records to SBBC upon completion of the Agreement, Grantee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Grantee keeps and maintains public records upon completion of the Agreement, Grantee 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 AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, [RECORDREQUESTS@BROWARDSCHOOLS.COM](mailto:RECORDREQUESTS@BROWARDSCHOOLS.COM), RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

3.08 **Compliance with Laws.** Grantee agrees that this Agreement is contingent upon and subject to Grantee obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules and laws of the State of Florida or the United States or of any political subdivision or agency of either.

3.09 **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.

3.10 **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.

3.11 **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 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 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 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 SBBC.

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

3.15 **Section 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 effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.16 **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.

3.17 **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 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.

3.18 **Amendments.** This Agreement may not be modified or rescinded in any respect, in whole or in part, except solely by the authorization of the Grantor, and then only by written instrument, duly executed, acknowledged, and recorded in the Public Records of Broward County, Florida at Grantee's expense.

3.19 **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.

3.20 **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, epidemics, pandemics, government regulations, and the issuance or extension of existing government orders of the United States, the State of Florida, or local county and municipal governing bodies, 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 Agreement.

3.22 **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.

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

**FOR SBBC**

(Corporate Seal)

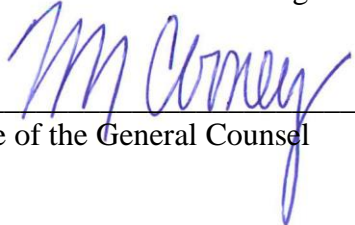
**The School Board of Broward County, Florida**

By: \_\_\_\_\_  
Donna P. Korn, Chair

ATTEST

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

Approved as to Form and Legal Content:

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

**FOR GRANTEE**

(Corporate Seal)

**City of Coral Springs, Florida**

ATTEST:

By: \_\_\_\_\_  
Frank Babinec, City Manager

\_\_\_\_\_  
Debra Thomas, City Clerk  
-or-

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020 by Frank Babinec of the City of Coral Springs, Florida (“Grantee”), on behalf of the Grantee. 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

\_\_\_\_\_  
Printed Name of Notary

\_\_\_\_\_  
Notary’s Commission No.

(SEAL)

# EXHIBIT A



**EXHIBIT B**

