

AGENDA REQUEST FORM
The School Board of Broward County, Florida

Meeting Date 6/19/2007	Open Agenda <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Certain Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Agenda Item Number J-5
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TITLE: Renewal of Annual Swimming Pool Lease with The City of Plantation for use by Plantation High and South Plantation High School Swim Teams

REQUESTED ACTION:
Approve the renewal of the annual lease agreement with the City of Plantation for use of the municipal swimming pool by Plantation High School and South Plantation High School.

SUMMARY EXPLANATION AND BACKGROUND:
The City of Plantation municipal pool will be utilized by the Plantation High School and South Plantation High School swim, water polo and dive teams for practice sessions, meets and other aquatic activities. The pool will be used from August 1, 2007, through August 31, 2008.
The City of Plantation has executed this agreement first.
The School Board Attorney has approved this lease as to form.

SCHOOL BOARD GOALS:

☐ Goal One: All students will achieve at their highest potential.
☐ Goal Two: All schools will have equitable resources.
☒ Goal Three: All operations of the school system will demonstrate best practices while supporting student achievement.
☐ Goal Four: All stakeholders will work together to build a better school system.

FINANCIAL IMPACT:
The financial impact to the School District is approximately \$5,600. The source of funds is the Athletics Department budget.

EXHIBITS: (List)
1. Lease Agreement

BOARD ACTION <div style="text-align: center; font-weight: bold; font-size: 1.2em;">APPROVED</div> <small>(For Official School Board Records' Office Only)</small>	SOURCE OF ADDITIONAL INFORMATION Damian Huttenhoff 754-321-2550 Jonathan M. Peservich 754-321-8355 Name: <i>R</i> Phone: <i>St. Akers</i>
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THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

DIVISION OF FACILITIES AND CONSTRUCTION MANAGEMENT
MICHAEL GARRETSON, DEPUTY SUPERINTENDENT

Approved in Open Board Meeting on: JUN 19 2007

By: *Beverly A. Kelly* School Board Chair

LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this 19th day of June, 2007, by and between the CITY OF PLANTATION, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "CITY" and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, hereinafter referred to as "SBBC."

WITNESSETH:

WHEREAS the CITY has swimming pool facilities known as Plantation Aquatic Complex located at Central Park; and

WHEREAS Plantation and South Plantation High Schools are in need of swimming pool diving well facilities for practice sessions for their Swimming and Dive Teams and Water Polo Teams;

WHEREAS, the SBBC and the CITY desire to enter into an agreement to make available the swimming pool at specific times for swimming and diving team and water polo team practices and swim meets for Plantation and South Plantation High Schools.

NOW THEREFORE, be it agreed by and between the parties for good and valuable consideration as well as the mutual covenants between the parties as follows:

I. **USE OF AQUATIC COMPLEX FACILITIES**

- A. Beginning no earlier than August 1, 2007, to continue up to and including August 31, 2008.
- B. Use of said swimming pool facilities during the period prescribed shall be limited as follows:
 1. **Swim Practices:** Plantation High School's swimming and diving practices shall be from August 1, 2007, until November 23, 2007, Monday through Friday from 3:00 p.m. until 5:00 p.m. South Plantation High School's swimming and diving practices shall be from August 1, 2007, until November 23, 2007, Monday through Friday from 3:00 p.m. until 5:00 p.m.
 2. **Swim Meets:** Plantation and South Plantation High Schools' swimming meets shall be scheduled weekdays only at Plantation Aquatic Complex (7:00 p.m. – 9:30 p.m.).
 3. **Water Polo Practices:** Plantation and South Plantation water polo practices shall be from January 1, 2008, until May 31, 2008, Monday through Friday from 3:00 p.m. until 5:00 p.m.
 4. **Water Polo Meets:** Plantation and South Plantation High Schools' water polo meets shall be scheduled weekdays only at Plantation Aquatic Complex (7:00 p.m. – 9:30 p.m.).
- C. The SBBC shall provide the City with a schedule for all practices and meets prior to commencement of the season. The SBBC shall advise the City of all changes in these schedules as soon as changes are made. In the event of conflicts in events or scheduling, City events shall take precedence over the SBBC practices or meets and

City shall have the right to reschedule said SBBC practices or meets at a mutually agreed upon time and location.

- D. The CITY shall permit Plantation and South Plantation High School Swimming and Diving Teams and Water Polo Teams the use of its equipment including, but not limited to: one (1) meter and three (3) meter spring boards, lane lines, starting blocks, backstroke flags, kick boards, pull buoys, and pace clocks. Elective use of the scoreboard timing system may be arranged by written request at least two (2) weeks in advance. The fee for elective use is \$300.00 at dual, tri and quad meets, which includes use of touch pads and buttons, and covers installation and removal of equipment and a system operator. Use of the scoreboard at meets without touch pads (buttons only) incurs no additional fee.

II. **OPERATION AND RESPONSIBILITY:** The responsibility of maintaining control of said pool should be as follows:

- A. The responsibility to enforce health and safety regulations as specified by the County Health Department shall be borne by the City.
- B. All pool rules and safety requirements, promulgated by the CITY, shall be obeyed by the SBBC, its instructors, coaches, agents, and students.
- C. At all times the SBBC is authorized to use said pool by this lease, the SBBC, at no expense to the CITY, shall provide an authorized instructor/coach who shall be in charge and supervise said SBBC students.

III. **UTILIZATION OF POOL FACILITIES:**

The leased premises shall consist of eight (8) twenty five (25) yard swimming lanes, short course, or four (4) fifty (50) meter lanes for the exclusive use of each high school swimming team, three (3) twenty five (25) yard swimming lanes and one-half (1/2) of the diving well for water polo team use (exclusive to the public and exclusive of each team) as needed. Each high school diving team shall share the northeast quarter of the diving well and shall be allowed to use the one (1) meter diving boards located in such quarter of the diving well (divers are not permitted to use diving platforms, or 3 meter diving boards); this shared use of the diving well portion described shall be exclusive of the public. The leased premises also includes non-exclusive use of the pool and diving well, deck, non-exclusive use of grandstands (bleachers) for swimming and diving practices and meets (although an admission price to persons who are not actual competitors in swimming and diving meets may be charged and retained by the CITY OF PLANTATION), and non-exclusive use of the shower facilities (non-exclusive as to each team and as to the public).

IV. **COST OF OPERATIONS:**

The cost of operating said pool during the term of this agreement shall be the sole responsibility of the CITY.

V. CONSIDERATION

- A. As consideration for the use of the swimming pool facilities by Plantation and South Plantation High Schools, SBBC will lease the leased premises for a total rental of \$5,600.00, payable as follows: \$2,800.00 by September 7, 2007 and \$2,800.00 by October 5, 2007. Should the total rent due by SBBC not be received by the CITY OF PLANTATION's Parks and Recreation Director within thirty (30) days of the date such payment is due, SCHOOL BOARD OF BROWARD COUNTY will be considered to have repudiated this Lease Agreement. It is specifically recognized that both parties of this Agreement are governmental entities and, thus, in order to facilitate an easily administered business relationship, such relationship will be primarily administered between the various team coaches of Plantation High School and South Plantation High School and the Director of Parks and Recreation.
- B. SBBC further agrees to maintain One Million Dollars (\$1,000,000) of General Liability Insurance throughout the term of this Agreement. Said insurance will name CITY as an Additional Insured for any and all liability arising from the negligence of SBBC's employees or agents as their interest may appear. SBBC shall remain solely liable for any and all injuries or claims associated with the SBBC's use of said swimming facilities.
- C. As further consideration, the parties agree to reimburse the prevailing party of attorneys' fees and court costs, which may be incurred as a result of necessary legal action in the enforcement or defense of the terms and provisions of the Agreement, at trial and appellate levels.

VI. NOTICE

When any of the parties desire to give notice to the other, such notice must be in writing, sent by US 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 the paragraph. For the present, the parties designate the following as the respective places for giving notice:

To SBBC:	Superintendents of Schools The School Board of Broward County, Florida 600 Southeast Third Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Executive Director Facility Management, Planning & Site Acquisition The School Board of Broward County, Florida 600 Southeast Third Avenue Fort Lauderdale, Florida 33301
To CITY:	James S. Romano, CPRP Director, Parks & Recreation City of Plantation 9151 NW 2 Street Plantation, FL 33324

VII. 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.

VIII. INDEMNIFICATION:

Each party agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of this Lease Agreement and agrees to be liable for any damages resulting from said negligence. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable. 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. Notwithstanding the foregoing, SBBC agrees to relieve CITY from any and all liability whatsoever arising out of any injuries or accidents that may occur as a result of the negligence of the SBBC in failing to supply proper supervision of the premises while so used by the SBBC.

IX. NON-DISCRIMINATION PROVISION:

The parties shall not discriminate against any employee or participant in this program because of race, age, religion, color, gender, national origin, marital status, disability, or sexual orientation.

X. TERMINATION:

This Agreement may be canceled by either party during the term thereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement.

XI. INDEPENDENT CONTRACTOR STATUS:

The SBBC, its officers, directors, members, employees, volunteers, assistants, agents successors, assigns, coaches and officials shall be an independent contractor and at no time shall be considered an employee, agent or representative of the CITY. The SBBC, its officers, directors, members, employees, volunteers, assistants, agents, successors, assigns, coaches and officials agree at no time to represent or cause to be represented that they are employees, agents or representatives of the CITY.

XII. EXCESS FUNDS:

Any party receiving funds paid by SBBC under this agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

XIII. LEASE AGREEMENT TO REMAIN IN EFFECT:

All terms and conditions of the Lease Agreement and any Exhibits thereto which are not inconsistent herewith remain in full force and effect.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto.

For the City of Plantation

(Corporate Seal)

Venessa Raclauskas
Witness

Eleana Bowen
Witness

Approved as to form:

By: [Signature]
City Attorney

CITY OF PLANTATION
By: [Signature]
Mayor

For the SBBC

(Corporate Seal)

**THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA**

ATTEST:

[Signature]
James F. Notter
Interim Superintendent of Schools

By: [Signature]
Beverly A. Gallagher, Chair

Date: 6/19/2007

Approved as to form:

[Signature]
Edward J. Marko, School Board Attorney

ADDENDUM

ATTACHED HERETO AS EXHIBIT 'A', TO SUPERSEDE ALL CONFLICTING ARTICLES OF THE LEASE IN REFERENCE BETWEEN THE CITY OF PLANTATION AND THE SCHOOL BAORD OF BROWARD COUNTY, FLORIDA

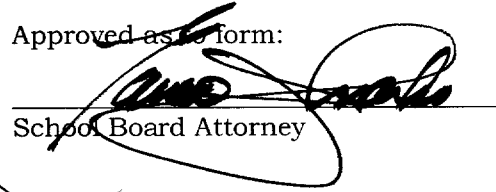
Insurance: SCHOOL BAORD ("Lessee") shall maintain in full force and effect during the Term public liability and property damage insurance with respect to injury, death or damage occurring at the Premise or arising out of Lessee's use of the Premises or otherwise arising out of any act or occurrence at the Premises or Center. Said insurance shall be in an amount of at least One Million Dollars (\$1,000,000) combined single limit per occurrence. The policies for the foregoing insurance shall name the CITY OF PLANTATION as additional insured. SBBC shall remain solely liable for any and all injuries or claims associated with SBBC's use of said swimming facilities. At least one week prior to the first day of the Term, Lessee shall furnish a certificate of insurance evidencing that such insurance is in effect. Lessee hereby waives all subrogation rights of its insurance carriers in favor of Owner and Manager and their partners, beneficiaries, trustees, officers, directors, employees and agents and such other parties as Owner may have designated as additional insured.

Indemnification: Each party agrees to be fully responsible for its acts of negligence, or its employees or agent's acts of negligence when acting within the scope of this Agreement and agrees to be liable for any damages resulting from said negligence. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable. 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. Notwithstanding the foregoing, SBBC agrees to relieve CITY from any and all liability whatsoever arising out of any injuries or accidents that may occur as a result of negligence of the SBBC in failing to supply proper supervision of the premises while so used by SBBC.

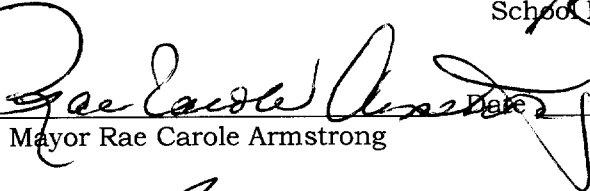
Assignment: Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive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

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 unless otherwise stated herein.

Approved as to form:


School Board Attorney

Agreed and
Accepted By:


Mayor Rae Carole Armstrong

Approved as to terms and content:


Director of Parks and Recreation

Approved as to form:


City Attorney