

PARKING LEASE AGREEMENT

THIS PARKING LEASE AGREEMENT is made and entered into as of this ____ day of _____, 2013, 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

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILY SERVICES
(hereinafter referred to as "DCF"),
with a place of business at]
1400 West Commercial Boulevard, Suite 250E, Fort Lauderdale, Florida 33309

WHEREAS, Broward County intends to commence construction activities at the Broward County Courthouse in Fort Lauderdale, Florida that will impact parking facilities that are currently being utilized by DCF until such time as the construction activities are completed; and

WHEREAS, DCF desires to enter into an agreement with SBBC to lease the use of five (5) parking spaces in SBBC's garage that services the Kathleen C. Wright Administration Complex; and

WHEREAS, SBBC is willing to enable the DCF's limited use of SBBC's aforesaid parking facilities.

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 or extended as permitted herein, the term of this Agreement shall commence on March 6, 2013 (hereafter referred to as "Commencement Date") and conclude on March 5, 2016.

2.02 **DCF Garage Spaces.** SBBC owns the Kathleen C. Wright Administration Complex and its accompanying parking garage (hereinafter referred to as "KCW Parking Garage") located

in the 600 block of Southeast Third Avenue in Fort Lauderdale, Florida. During the term of this Agreement, SBBC shall permit the DCF to use five (5) parking spaces (hereinafter referred to as “**DCF Garage Spaces**”) located on the uppermost (5th) floor of the KCW Parking Garage on Mondays through Fridays from 7:00AM to 7:00PM. SBBC shall mark the DCF Garage Spaces for DCF’s use during the aforesaid hours. SBBC may use the DCF Garage Spaces at any times other than Mondays through Fridays from 7:00AM to 7:00PM. All parking spaces located in the KCW Parking Garage other than DCF Garage Spaces shall be reserved for SBBC’s use and that of SBBC’s invitees and as otherwise stated in other lease agreements between SBBC and other entities.

2.03 **Extension of Term:** DCF and the School Board shall have the option to renew and extend the term of the Lease for two (2) one-year renewal terms. If DCF exercises the first renewal option, the first renewal term will commence on March 6, 2016 and conclude on March 5, 2017. If DCF exercises the second renewal option, the second renewal term will commence on March 6, 2017 and conclude on March 5, 2018. If DCF exercises a renewal option, each renewal term shall be on the same terms and conditions as the initial term except that the monthly rent payable under this Agreement for parking space fees shall increase by three percent (3%) per parking space for each exercised renewal term. DCF must provide SBBC at least thirty (30) days written notice of its intention to exercise each option to extend or renew the Agreement term. The School Board has the option to renew the extension for each additional year and response to DCF in writing within 30 days of receiving DCF written notice of renewal.

2.04 **Rental for DCF Garage Spaces.** During the initial term of the Agreement, DCF shall pay rent to SBBC in the amount of \$135.00 per space per month for the DCF Garage Spaces for a total monthly rent installment of \$675.00 due and payable to SBBC on the first day of each month. Commencing in the second year of the lease term, the amount per space shall increase by three percent (3%) per year. SBBC shall invoice DCF on a monthly basis for the DCF Garage Spaces and such invoices shall be processed and paid by DCF in accordance with Section 215.422, Florida Statutes.

2.05 **Additional DCF Parking.** If any DCF vehicle (including a vehicle displaying a parking permit) makes use of any parking space in the KCW Parking Garage other than the marked DCF Garage Spaces, DCF shall pay SBBC in addition to the amount per space cited in paragraph 2.04 above to the daily parking fee of \$20 per day for each space used by DCF other than the marked DCF Garage Spaces. SBBC shall invoice DCF on a monthly basis for DCF’s use of KCW Parking Garage other than the marked DCF Garage Spaces and such invoices shall be processed and paid by DCF in accordance with Section 215.422, Florida Statutes.

2.06 **KCW Modifications.** DCF shall pay SBBC if deemed necessary by both parties for the cost of any modifications made necessary by SBBC to permit DCF personnel to utilize the elevators to the KCW Parking Garage while preventing unauthorized access to other portions of the Kathleen C. Wright Administration Complex. SBBC shall invoice DCF for the costs of such KCW Modifications and such invoices shall be processed and paid by DCF in accordance with Section 215.422, Florida Statutes. DCF shall also pay SBBC for the cost of removing such KCW Modifications and restoring the premises to its original condition after the end of the term of this Agreement (or any final extension or renewal thereof). SBBC shall invoice DCF for removal of the KCW Modifications and restoration of the premises and such invoices shall be processed and paid by DCF in accordance with Section 215.422, Florida Statutes.

2.07 **Marking of DCF Garage Spaces.** SBBC shall mark the DCF Garage Spaces to indicate exclusive use of those spaces by DCF during Mondays through Fridays from 7:00AM to 7:00PM. DCF shall pay SBBC for the cost of marking the DCF Garage Spaces and for the removal of such markings after the conclusion of the term of this Agreement (or any final extension or renewal thereof). SBBC shall invoice DCF for the marking of DCF Garage Spaces at the start of the initial term and for their removal after the conclusion of the term of the Agreement (or any final extension or renewal thereof) and such invoices shall be processed and paid by DCF in accordance with Section 215.422, Florida Statutes.

2.08 **Garage Parking Permits.** SBBC shall issue a parking permit for each vehicle authorized to park in the designated DCF Garage Spaces. DCF may assign, transfer and reassign the parking permits to its employees, clients and invitees for use in their vehicles as DCF may elect in its sole discretion. Any vehicle parked in the DCF Garage Spaces without displaying the required parking permit will be towed at the direction of SBBC at the expense of the vehicle's owner. SBBC shall invoice DCF for the cost of issuing the parking permits and such invoices shall be processed and paid by DCF in accordance with Section 215.422, Florida Statutes.

2.09 **Security Measures – Towing Zone.** DCF shall pay SBBC for the cost of placing signs in the KCW Parking Garage notifying persons that the garage facility is private parking and that any unauthorized vehicles will be towed at the expense of the vehicle's owner. Only SBBC's designated personnel shall be authorized to place orders for the towing of unauthorized vehicles during the term of the Agreement (or any extension or renewal thereof). SBBC shall invoice DCF for the placement of towing signs in the KCW Parking Garage at the start of the initial term and for their removal after the conclusion of the term of the Agreement (or any final extension or renewal thereof) and such invoices shall be processed and paid by DCF in accordance with Section 215.422, Florida Statutes.

2.10 **Security Measures – DCF Badges.** Any DCF employees using the DCF Garage Spaces must wear DCF identification badges at all times upon entry to the KCW Parking Garage and while on the premises of the Kathleen C. Wright Administrative Complex. Any DCF clients or other invitees authorized by DCF to use the DCF Garage Spaces must be accompanied by a DCF employee at all times upon entry to the KCW Parking Garage and while on the premises of the Kathleen C. Wright Administrative Complex.

2.11 **Maintenance.** SBBC shall maintain the KCW Parking Garage in good working order and repair. However, SBBC shall not be obligated to repair the KCW Parking Garage in the event of any circumstance constituting force majeure described in Section 3.23. In such event either party may elect to terminate this Agreement upon twenty-four (24) hours' notice to the other party. No rental shall be payable by DCF for any periods during which the DCF Garage Spaces were rendered unusable by force majeure.

2.12 **Ad Valorem Tax Exemption.** The parties agree that the submittal of an Ad Valorem Tax Exemption Application to the Broward County Property Appraiser and Return by the Appraiser is not required for DCF to enter into this Agreement and use the DCF Garage Spaces.

2.13 **Liability Insurance.** DCF's general liability policy coverage must be provided before DCF's use of the KCW Parking Garage. The coverage must be in the minimum amounts of \$100,000 per person, \$300,000 per occurrence for bodily injury and must be maintained throughout the lease term.

2.14 **Licenses and Permits.** DCF agrees to obtain at its sole expense any permits, licenses or additional authorizations that may be required by law for DCF's use of the DCF Garage Spaces.

2.15 **Removal of Property.** DCF agrees to remove its property (and that of its employees, clients and invitees making use of the KCW Parking Garage pursuant to Section 2.08) from the KCW Parking Garage within twenty-four (24) hours after the conclusion or termination of DCF's permitted use of such facilities. DCF agrees that any such property remaining within the KCW Parking Garage more than seven (7) 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's site administrator without any recourse by DCF, its employees, clients and invitees. It is agreed that no bailor/bailee relationship shall be construed to exist between SBBC and DCF or DCF's employees, clients and invitees with regard to any property left by such persons at times other than those permitted under this Agreement.

2.16 **Hazardous Materials.** DCF shall not use or store, nor permit to be used or stored, on SBBC property, any illuminating oils, candles, oil lamps, turpentine, benzene, naphtha, or similar substances, explosives of any kind, or any other substance or thing prohibited by any law, ordinance or standard policies of fire insurance issued by insurers operating in Florida.

2.17 **Adult Products and Smoking.** DCF and its employees, clients and invitees shall not bring, keep or possess any adult products, intoxicating beverages, drugs, narcotics or gambling devices upon SBBC property. In accordance with state law and School Board Policy 1120, smoking will not be permitted upon SBBC property under any circumstances.

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

2.19 **DCF's Obligations Subject to an Annual Appropriation.** The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

2.20 **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, Portfolio Management and Services Department
The School Board of Broward County, Florida
600 Southeast Third Avenue – 8th Floor
Fort Lauderdale, Florida 33301

To DCF: Regional Managing Director
State of Florida Department of Children and Family Services
1400 West Commercial Boulevard
Fort Lauderdale, Florida 33309

With a Copy to: Office of General Counsel
Florida Department of Children and Family Services
Southeast Region Office
111 South Sapodilla Avenue, Suite 303
West Palm Beach, Florida 33401

2.21 **Liability.** To the extent permitted by law and without waiving the sovereign immunity of either party or the limits to liability existing under Section 768.28, Florida Statutes, each party agrees to be responsible for its acts of negligence or its agents acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from such negligence.

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 **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 or DCF during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. In the event of such termination, DCF shall pay SBBC for all services rendered through the effective date of termination.

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 DCF 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 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.

3.09 **Public Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

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 Section 1002.22, Florida Statutes, or 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 Section 1002.22, 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.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **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 DCF.

3.17 **Incorporation by Reference.** Exhibits 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 effect 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 **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.

FOR SBBC

(Corporate Seal)

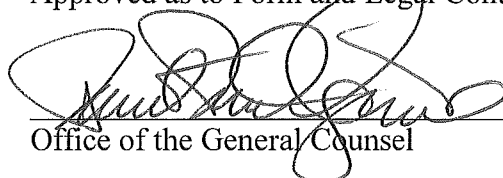
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Laurie Rich Levinson, Chair

Robert W. Runcie, Superintendent of Schools

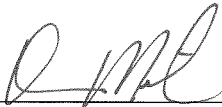
Approved as to Form and Legal Content:



Office of the General Counsel


FOR DCF


STATE OF FLORIDA DEPARTMENT OF
CHILDREN AND FAMILY SERVICES

By 
Dennis Miles
Regional Managing Director

DATE: 1/25/13

Approved as to form and legal content:

, Regional Counsel
Office of the General Counsel, Southeast Region


Office of the General Counsel, Headquarters

1/24/13 Authority received to sign on
General Counsel's behalf 