

Office of School Facilities  
Jaime G. Torrens, Chief Facilities Officer

**SUBJECT: AUTHORIZE THE SUPERINTENDENT TO:**

- 1) EXECUTE AN AMENDMENT TO THE EXISTING LEASE AGREEMENT BETWEEN THE SCHOOL BOARD AND THE LBA CHILDREN & FAMILIES FOUNDATION, INC. ("LBA"), TO EXTEND THE TERM OF THE LEASE FOR ONE MONTH FOR THE OPERATION OF A DISTRICT-MANAGED CHARTER SCHOOL, LOCATED AT 13835 N.W. 97 AVENUE, HIALEAH, FLORIDA 33018; AND
- 2) EXECUTE A NEW LEASE AGREEMENT WITH LBA, TO ALLOW FOR ITS RELOCATION TO A PORTION OF THE FORMER WESTVIEW MIDDLE SCHOOL CAMPUS, LOCATED AT 1901 N.W. 127 STREET, MIAMI, FLORIDA 33167, FOR THE CONTINUED OPERATION OF A DISTRICT-MANAGED CHARTER SCHOOL; AND
- 3) GRANT OR DENY ALL APPROVALS REQUIRED UNDER BOTH LEASE AGREEMENTS REFERENCED ABOVE, INCLUDING INCREASING OR DECREASING THE AREA OCCUPIED BY LBA, AND RENEWING, EXTENDING, CANCELING OR TERMINATING THE LEASE AGREEMENTS, AND PLACING LBA IN DEFAULT, AS APPLICABLE

**COMMITTEE: FACILITIES AND CONSTRUCTION**

**LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

Background

Since August 2012, the LBA Children & Families Foundation, Inc. ("LBA") has occupied a portion of the Board-owned facility located at 13835 N.W. 97 Avenue, Hialeah, Florida 33018 ("Board-owned facility") to operate a District-managed charter school. LBA uses approximately 15,236 square feet of space, as well as non-exclusive use of portions of the parking lots and playfield, pursuant to an existing lease agreement ("Existing Lease Agreement") between the parties. The District provides administrative and operational

services to LBA through a Management Agreement. The current term of the Existing Lease Agreement expires on June 30, 2016.

The Board-owned facility is currently being retrofitted and expanded into a K-8 center as part of the Board's GOB program, which will require that LBA vacate the premises no later than June 30, 2016. In order to allow LBA to continue operations with no disruption to the educational environment while continuing its search for acquisition of a permanent site, the District and LBA identified a portion of the Board-owned former Westview Middle School, located at 1901 N.W. 127 Street, Miami ("New Location"), as an interim suitable location for use by LBA under a new lease agreement ("New Lease Agreement"). LBA's use of the New Location will be for a maximum two-year period, with no further extensions without further Board action. An agenda item is being presented to the Board at the June 22, 2016 meeting, to renew the LBA charter contract.

#### Proposed Amendment to Existing Agreement

The Deputy Superintendent/Chief Operating Officer, School Operations, and the Office of School Facilities recommend the following:

- to facilitate its relocation to the New Location, amend the Existing Lease Agreement to extend the term for the one month period of July 1, 2016 – July 31, 2016 under the same terms and conditions, including reimbursement to the Board for its prorata share of operating expenses for the month of July;
- concurrently enter into the New Lease Agreement with LBA at the former Westview Middle School (the "School") for the period of July 1, 2016 – June 30, 2017, under substantially the following terms and conditions:
  - LBA shall have use of approximately 14,885 square feet of classroom and ancillary space within the School, as well as non-exclusive use of the playfield area and the south parking lot (collectively the "Demised Premises") (see Exhibit "A");
  - LBA shall have non-exclusive use of the School's drop-off area on a daily basis from 6:30 a.m. to 7:30 a.m. and from 2:30 p.m. to 3:30 p.m., for parent and bus drop off and pick up;
  - an initial lease term of one (1) year, with the ability to extend for one (1) additional one-year period, at the mutual agreement of the parties. LBA acknowledges and agrees that no further extensions will be available beyond June 30, 2018, without further Board action;
  - in the event LBA seeks to expand or decrease the Demised Premises subsequent to occupancy, LBA shall notify the Board in writing at least ninety (90) days prior to the proposed effective date of such adjustment,

which approval may be granted by the Superintendent at his sole discretion, and the amount of Operating Expenses and all appropriate exhibits to the New Lease Agreement shall be adjusted prospectively, accordingly;

- LBA may request certain interior improvements to the Demised Premises. If approved, all work shall be performed in compliance with all applicable laws, rules and regulations, including, without limitation, the Florida Building Code, the Americans with Disabilities Act, the Jessica Lunsford Act, the State Requirements for Educational Facilities, and the Miami-Dade County Public Schools criteria and standards, as the same may be amended from time to time, and at the sole cost and expense of LBA;
- the District's Building Department shall review and approve any required construction documents, issue any required construction permits and provide final acceptance of any work at the Demised Premises;
- LBA shall accept the Demised Premises, including, but not limited to, classroom space, grounds, and parking lots, in its "as is, where is" condition as of the commencement date of the New Lease Agreement, with no representations or warranties by the Board as to the physical condition or usability of the Demised Premises for any specific use or purpose;
- if, while in its period of use under this New Lease Agreement, there is a requirement for infrastructure improvements or other regulatory compliance due to the lease, use or occupancy of the Demised Premises by LBA, LBA shall be responsible for fulfilling the applicable requirements, at its sole cost and expense;
- LBA shall surrender the Demised Premises to the Board, at the expiration, termination or cancellation of the New Lease Agreement in as good condition as existed on the commencement date of the New Lease Agreement, ordinary wear and tear excepted, including removal of all personal property and other items belonging to LBA. Any improvements constructed by LBA shall be removed and the area restored to the same or better condition as previously existed, unless the Board, at its sole option, chooses to keep the improvements;
- rent at \$1 per year, with LBA to reimburse the Board for its prorata share of the School's operating expenses borne by the District, including, but not limited to, routine building and grounds maintenance, custodial/janitorial services, trash pick-up, utilities and property insurance ("Operating Expenses"). This amount will be reconciled at the end of each year, and a new amount established for the following year and each year thereafter, as required, based on actual costs incurred by the Board. The difference,

if any, between the amount collected and the actual incurred costs shall be reimbursed or credited to the applicable party;

- the amount of Operating Expenses for the initial lease term is estimated at \$52,497.36 annually. This amount covers LBA's proportionate share of Operating Expenses based on LBA's 100% use of classroom and ancillary space, and 50% use of the dining facility;
- in the event LBA wishes to use the Demised Premises on days when the School would otherwise be closed (e.g. Saturdays, Holidays), LBA shall provide the School administrator with a written request, listing the days LBA would like use of the Demised Premises, for review and approval. LBA shall reimburse the Board for operating costs borne by the District to keep the School open on such days, including utilities and custodial/janitorial staff and services;
- either party shall have the right to cancel the New Lease Agreement, without cause or penalty, by giving the other party at least ninety (90) days prior written notice, provided the effective date of such cancellation by the Board does not fall during the regular school year, as defined by the Board's Elementary and Secondary School Calendar;
- in the event of default by LBA, which default is not cured within the prescribed timeframe, the Board shall have the right to immediately cancel the New Lease Agreement and occupy the Demised Premises;
- in the event of default by the Board, which default is not cured within the prescribed timeframe, LBA shall have the right to immediately cancel the New Lease Agreement;
- LBA shall provide proper supervision and security in its use of the Demised Premises. In that regard, a member of LBA's staff shall be stationed outside LBA's entranceway to Building 01, from 7:30 a.m. to 3:30 p.m. on school days;
- LBA may, if and as agreed to by the School administrator, use Board-owned furniture, fixtures and equipment located within the Demised Premises as of the commencement date of the New Lease Agreement, subject to an inventory to be conducted jointly by the School administrator and LBA, which inventory shall become an exhibit to the New Lease Agreement. Prior to the commencement of any option period, the inventory must be updated based on a joint assessment by the School administrator and LBA. LBA shall replace or provide compensation to the Board for any damaged or missing items at the then current cost;
- the Board shall retain the exclusive right at all times to be the sole

authorizer and recipient of revenue generators, such as but not limited to third party advertising, the installation of wireless telecommunications facilities and other similar endeavors, in compliance with Board Policies, provided however, that such endeavors shall not interfere with LBA's rights to peaceful enjoyment under this New Lease Agreement;

- the Board shall retain the right to provide before and after school care services within the School, in space not used by LBA, at the Board's sole option;
- LBA shall be allowed to erect identification signage, subject to Board approval and in conformance with laws and regulations governing public schools, with said signage to include "a Miami-Dade County Public Schools Managed Charter";
- in the event of damage or destruction of all or portions of the Demised Premises, other than damage or destruction caused by LBA, the Board may, at its sole option, either cancel the New Lease Agreement, or repair or replace the damaged facilities, at the Board's expense;
- damage or destruction of all or portions of the Demised Premises caused by LBA, shall be repaired by LBA at its sole cost and expense. In the alternative, and if agreed to by the parties, the Board shall repair the damaged or destroyed facilities or items, and LBA shall reimburse the Board for the cost of same;
- LBA shall acknowledge and accept the authority of the Board to request and authorize audits, inspections, and reviews, including, but not limited to, the authority to access LBA's records, its legal representatives' and contractors' records and the obligation of LBA to retain and make those records available upon request;
- LBA shall provide the Board with evidence of insurance in the types and amounts of coverage as required by the Board, including but not limited to Commercial General Liability Insurance, Automobile Liability Insurance, Workers' Compensation Insurance and Property Coverage (covering its contents), or as may be amended from time to time, and naming the Board as an additional insured on the Commercial General Liability Insurance;
- LBA shall indemnify and hold the Board harmless from all liability which may arise as a result of LBA's negligence, actions or failure to act under the terms of the New Lease Agreement;
- the Board shall indemnify and hold LBA harmless, subject to the monetary limitations contained in Florida Statute, Section 768.28, from all liability

which may arise as a result of the Board's negligence, actions or failure to act under the terms of the New Lease Agreement;

- LBA shall not use, handle, generate, manufacture, produce, store, discharge, treat, remove, transport or dispose of Hazardous Substances at, in, upon, under, to or from the Demised Premises;
- LBA shall comply with all applicable laws, rules, regulations, ordinances and codes of all governmental authorities, including, without limitation, Board Policies, the Americans with Disabilities Act and the Jessica Lunsford Act;
- LBA may not assign or sublet any portion of the Demised Premises;
- the New Lease Agreement shall be deemed inferior and subordinate to any existing or future financing or conveyance by the Board of the School site or any portions thereof;
- the New Lease Agreement shall be construed and enforced according to the laws of the State of Florida and the venue for any disputes shall be Miami-Dade County, Florida;
- in the event of any litigation between the parties under the New Lease Agreement, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels;
- LBA shall be responsible for the payment of any taxes, fees or other assessments, including but not limited to sales tax, imposed on the School site due as a result of the occupancy and use of the Demised Premises by LBA;
- for purposes of the New Lease Agreement, the Superintendent of Schools or his/her designee shall be the party designated by the Board to review and approve matters related to any construction by LBA at the School, and reviewing and approving LBA's request to use the Demised Premises on days when the School would otherwise be closed; and
- in addition to the above, for purposes of the New Lease Agreement, the Superintendent of Schools shall be the party designated by the Board to grant or deny any approvals required by the New Lease Agreement, including without limitation, increasing or decreasing the area of the Demised Premises, amending any of its exhibits, renewing, extending, canceling or terminating the New Lease Agreement, and placing LBA in default.

The proposed Amendment to the Existing Lease Agreement and proposed New Lease Agreement have been reviewed by the School Board Attorney's Office and the Office of Risk and Benefits Management for legal sufficiency and risk management issues, respectively, and found to be in compliance. A copy of the proposed Amendment to the Existing Lease Agreement and proposed New Lease Agreement, have been placed on file with the Citizen's Information Center and the Recording Secretary to the Board.

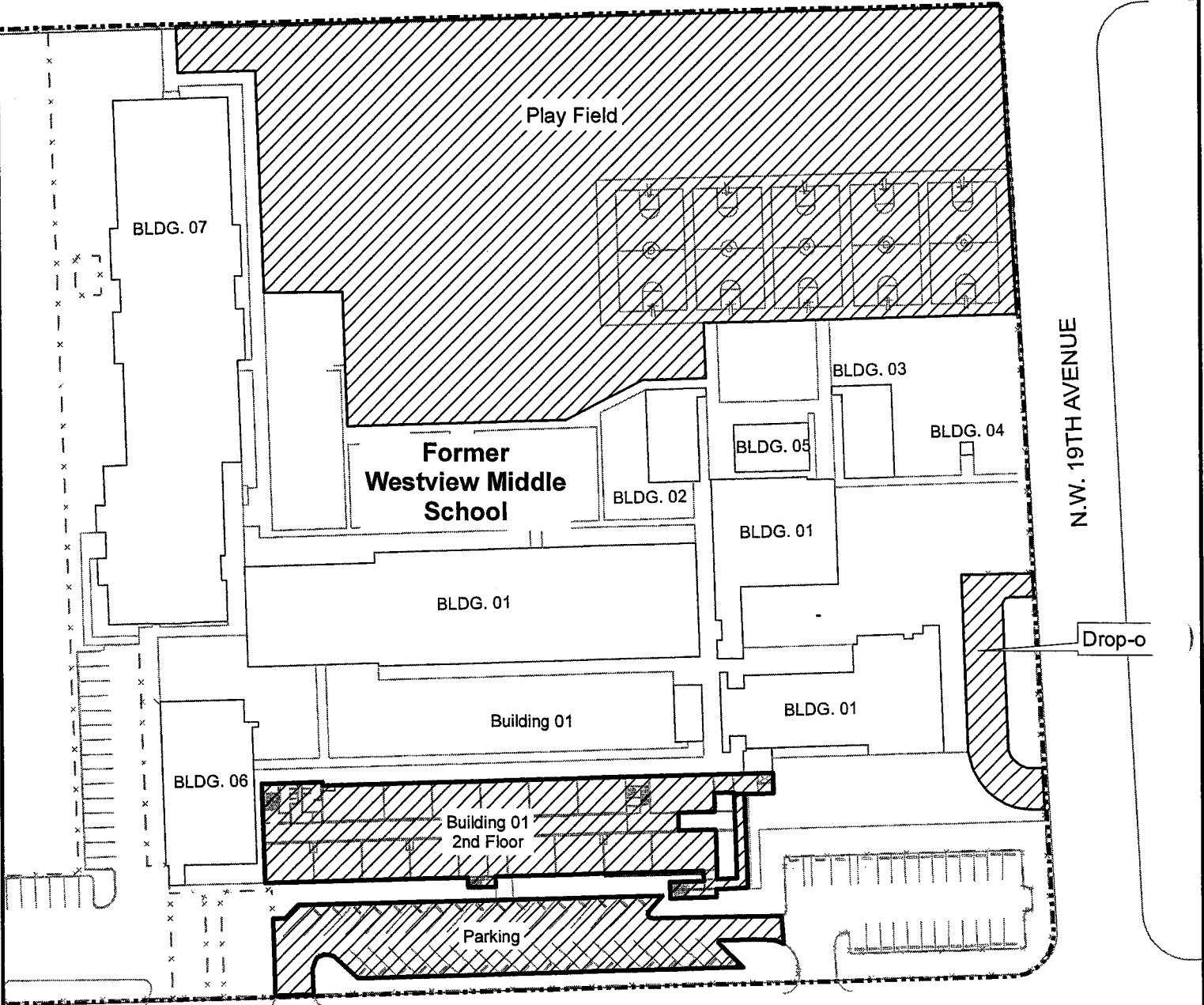
**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, authorize the Superintendent to:

- 1) execute an amendment to the Existing Lease Agreement between the School Board and the LBA Children & Families Foundation, Inc. ("LBA"), to extend the term of the lease for one month for the operation of a District-managed charter school, located at 13835 N.W. 97 Avenue, Hialeah, Florida 33018, under, substantially, the terms and conditions noted above; and
- 2) execute a New Lease Agreement with LBA, to allow for its relocation to a portion of the former Westview Middle School campus, located at 1901 N.W. 127 Street, Miami, Florida 33167, for the continued operation of a District-managed charter school under, substantially, the terms and conditions noted above; and
- 3) grant or deny all approvals required under both Lease Agreements referenced above, including increasing or decreasing the area occupied by LBA, and renewing, extending, canceling or terminating the Lease Agreements, and placing LBA in default, as applicable.

IB:ib

# Exhibit "A"


N.W. 129TH STREET



N.W. 19TH AVENUE

N.W. 127TH STREET

**Legend**

 Demised Premises

