

Office of School Facilities
Raul F. Perez, Chief Facilities Design & Construction Officer

SUBJECT: AUTHORIZATION FOR THE SUPERINTENDENT TO EXECUTE A JOINT USE AGREEMENT WITH NORTH BAY VILLAGE (“VILLAGE”), TO ALLOW THE VILLAGE TO MAKE A NUMBER OF RECREATIONAL IMPROVEMENTS AT TREASURE ISLAND ELEMENTARY SCHOOL, FOR JOINT USE BY THE PARTIES

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Background

North Bay Village (“Village”) recently approached the District with a request to enter into a Joint Use Agreement (“Agreement”) with the School Board to allow the Village to make a number of recreational improvements at Treasure Island Elementary School, located at 7540 East Treasure Drive, North Bay Village, Florida (“School”), for joint use by the parties. The proposed improvements, which include, without limitation, refurbishing the School playfield with synthetic turf, renovating the School hard courts, constructing a splash pad area and a fitness trail, and installing fencing and landscaping (collectively, the “Improvements”), shall be conducted by the Village, at the Village’s sole cost and expense. It should be noted that the Village currently has use of the School basketball courts during non-school hours under an existing Joint Use Agreement between the parties (“Existing JUA”). The Village’s use of the School basketball courts will be included as part of the premises in the new Agreement, and the Existing JUA will be terminated effective with the commencement of the new Agreement. In addition, the parties recently entered into a temporary use agreement with the Village to allow the Village to use the School playfield and parking until the Commencement Date under the new Agreement.

Proposed Joint Use Agreement

The Deputy Superintendent/Chief Operating Officer, School Operations, recommends entering into the new Agreement with the Village to allow the Village to construct the Improvements at the School, for joint use by the parties. Accordingly, it is recommended that the parties enter into the Agreement, under, substantially, the following terms and conditions:

- an initial term of twenty (20) years, with three (3) 5-year extension periods, at the mutual agreement of the parties;

- rent at \$1 per year;
- the parties shall jointly use the School playfield, tennis courts, basketball courts, School parking lot located on the southwest portion of the School, and fitness trail to be constructed by the Village on the perimeter of the School, together with all improvements currently located or to be constructed thereon (collectively, the “Demised Area”) (see Exhibit “A”);
- the Board shall have full control, custody, right and use of the Demised Area during regular school hours on regular school days. In addition, the Board, at its sole option, shall have use of the Demised Area, or portions thereof, after regular school hours as may be required for, but not limited to, practices and home games, intramural sports, summer school, special events and functions, extracurricular activities/athletics and after school programs;
- the Village shall have full control, custody, right and use of the Demised Area on weekdays beginning at 6:00 p.m. and ending at 9:00 p.m., and on weekends and Board Holidays from 8:00 a.m. to 9:00 p.m.;
- the parties, through their respective designees, shall meet prior to the start of each regular school year, or as soon thereafter as possible, to review the schedule for use of the Demised Area for the upcoming school year. Such schedule of use and the exact areas of use may be modified from time to time throughout the school year by mutual agreement of the parties, or their authorized designees;
- in addition to the above, should either party require use of the Demised Area for a special event or function or any other reason during the other party’s period of use, such party shall submit a written request to the other party, with a minimum of ninety-six (96) hours advance notice. Approval of said requests shall not be unreasonably withheld, provided such use does not conflict with the other party’s operations or previous obligations;
- in addition to its own utilization of the Demised Area, the Village shall have the option of contracting with not-for-profit parties to use the Demised Area to provide Village-sponsored recreational services and programs to the general public during the Village’s period of use, subject to approval by the Board or designee. In that event, the Village shall submit a written request to the Board a minimum of 15 calendar days prior to such proposed use, with the name of the not-for-profit party, the proposed programs to be conducted, and the proposed period and areas of use of the Demised Area, for review by the Board or designee. If such request is approved in writing by the Board or designee, the Village shall be responsible for all maintenance, clean-up, risk management, security and supervision of the Demised Area, the same as if the Village were utilizing the Demised Area, and shall require the not-for-profit party to provide liability insurance, naming the Board as an additional insured;

- use of the Demised Area by for-profit parties shall be prohibited, without the express written consent of the Board, which may be withheld or conditioned at the Board's sole discretion, and which will require compliance with all applicable laws, including, without limitation, Board Policy;
- as noted above, the Improvements to be constructed by the Village on the Demised Area shall include, without limitation, refurbishing the School playfield with synthetic turf, renovating the School hard courts, constructing a splash pad area and fitness trail, and installing fencing and landscaping, and shall be completed by the Village in phases;
- all work shall be completed by the Village, at the Village's sole cost and expense, including payment of any costs borne by the Board for jurisdictional plan review, permitting and inspections. The Village shall also prepay to the Board Eight Percent (8%) of the estimated cost of the work for project management related tasks, including serving as the liaison between the Board and the Village for any design and construction activities within the Demised Area;
- as a pre-condition to commencement of the Agreement, the Village shall install new chain link fencing, a minimum of 6 feet in height, within portions of the Demised Area and School as determined by the Board, to assure proper security of the remainder of the School campus. The term of the new Agreement shall not commence until a Certificate of Occupancy or Certificate of Completion is issued by the Board's Building department for the fence work;
- the District's Building Department shall review plans, issue permits and provide final acceptance of all work being constructed within the Demised Area or School;
- the Village shall be responsible for providing all maintenance, repair and upkeep of the Demised Area, at the Village's sole cost and expense, including any improvements now located or to be constructed thereon, with the exception of the School playfield area which shall remain the responsibility of the Board.
- the Village, at the Village's sole cost and expense, shall be responsible for providing all custodial or janitorial services to any improvements now located or to be constructed within the Demised Area, and the Board, at the Board's sole cost and expense, shall be responsible for providing all custodial or janitorial services to any improvements now located or to be constructed within the School playfield area;
- each party shall be responsible for the pick-up and removal of trash and litter from the Demised Area, generated during each party's respective period of use;
- the Village shall be responsible for providing proper supervision and security of the Demised Area at all times during the Village's period of use;

- in the event the Village utilizes or constructs any improvements requiring utility service, as determined by the Board, the Village shall be responsible for installation and payment of any and all such utilities including, but not necessarily limited to electricity, field lighting, parking lot lighting, potable and irrigation water, sewer, storm water, trash and garbage. The Village shall install separate services and/or meters in its name and shall pay for such services at its sole cost and expense;
- the Village shall provide the Board with confirmation of the Village's self-insurance program in a form and substance acceptable to the Board, or, in the alternative, proof of insurance in the types and amounts of coverage required by the Board;
- the Village may not assign or sublet any portion of the Demised Area, without the Board's prior written consent, which may be withheld at the Board's sole discretion;
- the Village and Board shall indemnify and hold the other harmless, to the extent of the limitations included within Florida Statutes, Section 768.28;
- the Board shall have the right to cancel the Agreement, in whole or in part, with one (1) year advance written notice to the Village, if the Board determines that the Demised Area, in whole or in part, is needed for educational or other District purposes, as determined by the Board in its sole discretion, said determination not to be unreasonably enforced. Such cancellation by the Board is subject to a waiver by the Superintendent of the District standard provision prior to execution of the Agreement by the parties;
- the Village shall have the right to cancel the Agreement at any time, without penalty, by giving the Board written notice a minimum of one (1) year prior to the effective date of said cancellation;
- in the event of default by the Board or Village, which default is not cured within the applicable timeframe, the non-defaulting party shall have the right to immediately cancel the Agreement;
- the Village shall surrender the Demised Area to the Board, at the expiration, termination or cancellation of the Agreement in as good condition as existed at the commencement of the Agreement, ordinary wear and tear excepted, including removal of any signage installed by the Village and all personal property and other items belonging to the Village. The Village agrees to remove, at the Board's sole option, any improvements or facilities constructed by the Village within the Demised Area shall be removed and to restore such area the same or better condition as previously existed, at the Village's sole cost and expense;
- in the event of damage or destruction of all or portions of the Demised Area, the

Village may either cancel the Agreement, or repair or replace the damaged facilities, at the Village's expense;

- in the event of any litigation between the parties under the Agreement, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels;
- the Village shall be responsible for the collection and payment of any taxes, fees, operating permits, licenses, or other assessments, if any, including but not limited to sales tax and ad valorem tax, all licenses, permits or other taxes which may be imposed on the Demised Area or the School, as a result of the leasing, use or occupancy of the Demised Area by the Village;
- if there is a requirement for infrastructure improvements or other regulatory compliance due to the Village's lease, use or occupancy of the Demised Area, the Village shall be responsible for fulfilling the applicable requirements, at its sole cost and expense;
- the Village shall comply with all local, County, State, School Board or Federal orders currently in place or that may be implemented related to the COVID-19 pandemic ("Emergency Order") at all times during its period of use of the Demised Area. In addition, the Village shall be solely legally responsible and fully liable for compliance with all maintenance requirements and mitigating measures, under any Emergency Order or Board Policy relating thereto, during the Village's period of use, at the Village's sole cost and expense;
- for purposes of the Agreement, the Superintendent of Schools or his/her designee shall be the party designated by the Board to grant or deny all approvals or waivers required by the Agreement dealing with construction of improvements, changing periods or schedules of use, authorizing use of the Demised Area by a not-for-profit entity, or any routine operational issues; and
- in addition to the above, for purposes of the Agreement, the Superintendent of Schools shall be the party designated by the Board to execute amendments to the Agreement within the authority granted to the Superintendent by the Board in the Agreement, and to grant or deny any approvals required by the Agreement, including without limitation, placing the Village in default, or renewing, extending, canceling or terminating the Agreement.

The proposed Agreement has 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 Agreement in its final form shall be made available for inspection and review by the public prior to the Board meeting.

RECOMMENDED:

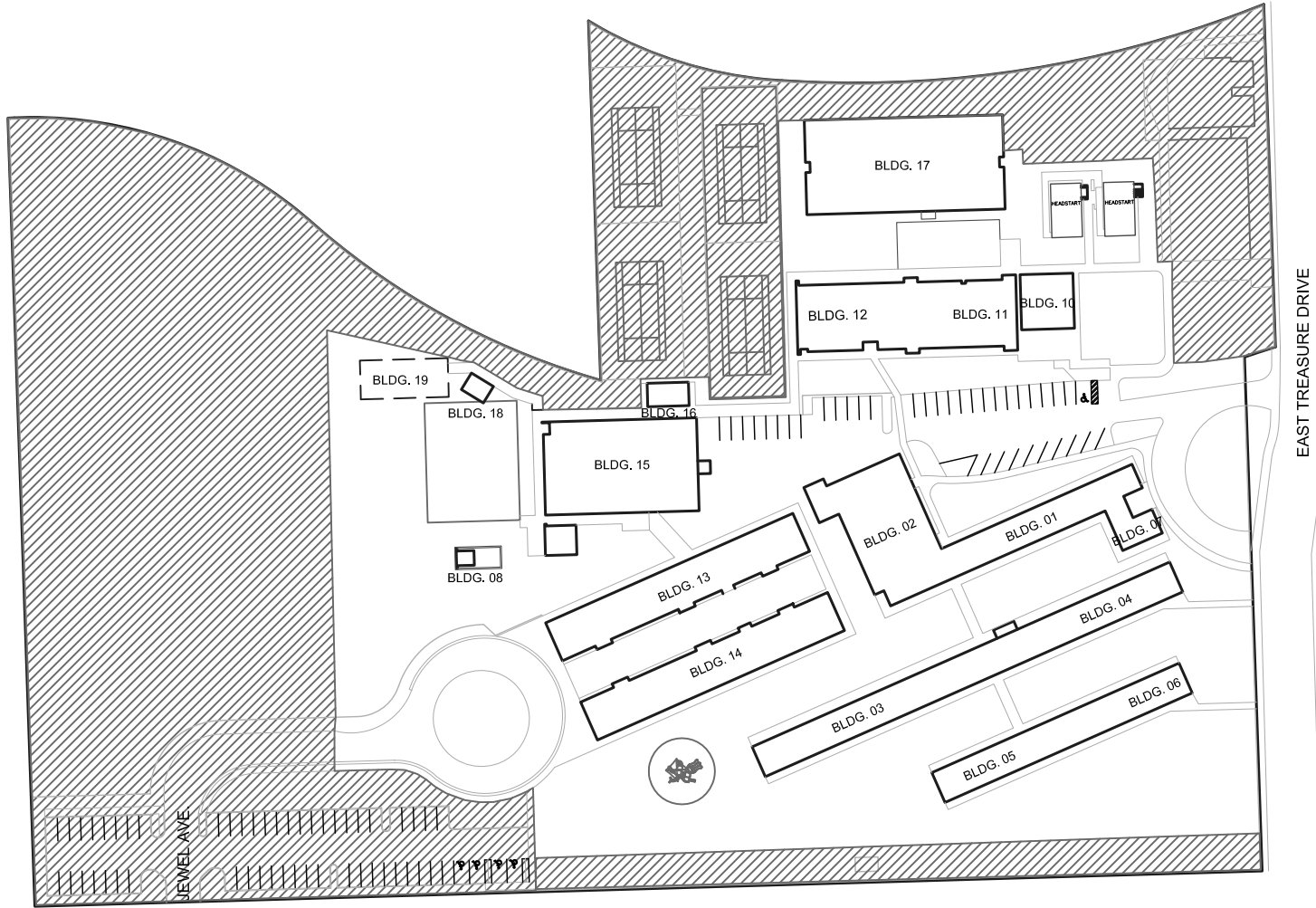
That The School Board of Miami-Dade County, Florida, authorize the Superintendent to:

- 1) execute a Joint Use Agreement (“Agreement”) with North Bay Village (“Village”), to allow the Village to make a number of improvements at Treasure Island Elementary School, located at 7540 East Treasure Drive, North Bay Village, Florida, for joint use by the parties, under, substantially, the terms and conditions noted above;
- 2) execute amendments to the Agreement within the authority granted to the Superintendent by the Board in the Agreement; and
- 3) grant or deny all approvals or waivers required under the Agreement, including, without limitation, authorizing construction of improvements within the Demised Area, renewing, extending, canceling or terminating the Agreement, and placing the Village in default, as may be applicable.


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Exhibit "A"


Treasure Island Elementary School



Legend

 Demised Area

N



Not to scale