

CITY OF NORTH PORT, FLORIDA  
and  
SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA  
(SUNCOAST TECHNICAL COLLEGE SOUTH CAMPUS)  
WATER AND WASTEWATER SYSTEM  
INTERLOCAL AGREEMENT

THIS AGREEMENT made and entered into this 6 day of September, 2016, by and between the School Board of Sarasota County, Florida, hereinafter referred to as the "School Board," and the City of North Port, Florida, an incorporated municipality located within the State of Florida, hereinafter referred to as the "City."

**RECITALS**

1. The School Board owns or controls lands located in North Port, Florida, the boundary description and property identification(s) of which is set forth in Exhibit "A-1" and a map of which is attached as Exhibit "A-2," both of which are incorporated herein ("Property").
2. The School Board has commenced or is about to commence development of the Property, by erecting thereon, educational improvements including improvements contemplated under this Agreement.
3. The School Board is desirous of prompting the construction and/or maintenance of central water and wastewater facilities so users of the improvement constructed will receive adequate water and wastewater services.
4. The City is willing to provide, in accordance with the provisions and stipulations hereinafter set out, and in accordance with all applicable laws, central water and wastewater facilities, and to have extended such facilities by way of water and wastewater mains, and to thereafter operate such facilities so the users of the improvement constructed on the Property will receive adequate water and wastewater services from the City.
5. The City is also willing to provide reclaimed water service, if applicable and economically feasible and subject to City regulation.

ACCORDINGLY, for and in consideration of the Recitals, the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the parties, the School Board and the City hereby covenant and agree as follows:

SECTION 1. RECITALS. The above Recitals are true and correct, and are a material part of this Agreement.

SECTION 2. DEFINITIONS. The definitions set forth in the chapter entitled "Public Utilities" found in the North Port City Code shall apply in this Agreement unless otherwise specified below.

The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

- (1) “Service”: The readiness and ability on the part of the City to furnish water and wastewater services to each lot.
- (2) “Point of Delivery or Collection”: The point where the pipes of utility are connected with the pipes of the customer. Unless otherwise indicated, the point of delivery shall be the point on the customer’s lot line.
- (3) “Contribution-in-Aid-of-Construction”: The sum of money, and/or property, represented by the value of the water distribution and wastewater collection systems constructed by the School Board, which the School Board covenants and agrees to pay and/or transfer to the City as a contribution-in-aid-of-construction, to induce the City to continuously provide water and wastewater services to the Property.

SECTION 3. EASEMENT AND RIGHT OF ACCESS. The School Board hereby grants at no cost to the City the exclusive right or privilege to construct, own, maintain, and operate the water and wastewater facilities in, under, over and across the present and future streets, roads, easements, reserved utility sites and public places as provided and dedicated to public use in the record plats, or as provided for in agreements, dedications or grants made otherwise and independent of said record plats. The School Board acknowledges that the City will possess the right of ingress and egress to carry out these utility functions through the recording of the final plat. The foregoing grants shall be for such period of time, as the City requires such rights, privileges or easements in the ownership, maintenance, operation or expansion of the water and wastewater facilities. The City covenants that it will use due diligence in ascertaining all easement locations; however, should the City install any of its facilities outside a dedicated easement area, the School Board and its successors and assigns, covenant and agree that the City will not be required to move or relocate any facilities lying outside a dedicated easement area so long as the facilities do not interfere with the then proposed use of the area in which the facilities have been installed. The City hereby agrees that all easement grants will be utilized in accordance with the established and generally accepted practices of the water and wastewater industry with respect to the installation of all its water and wastewater facilities in any of the easement areas; and the School Board in granting easements herein, or pursuant to the terms of this instrument, shall have the rights to grant exclusive or non-exclusive rights, privileges and easements to other entities to provide the Property any utility services other than water and wastewater services. The School Board shall obtain, at its own expense, upon direction by the City, any and all easements necessary which easements shall be in favor of the City. The School Board agrees to dedicate to the City, an easement, as to be determined by the City, so as to allow the City to enter the Property and make such alterations, repairs, or other work, as City shall deem necessary to achieve efficient service in the water and sewer systems. Any easement shall be dedicated to the City and recorded in the Public Records of Sarasota County, Florida within ten (10) days prior to acceptance of the asset by the City.

SECTION 4. PROVISION OF SERVICE, PAYMENT OF RATES. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by the School Board, the City covenants and agrees that it will allow the connection of the water distribution and wastewater collection facilities installed by the School Board to the central water and wastewater facilities of the City in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules and regulations of the Department of Health and the Florida

Department of Environmental Protection (“FDEP”). The City agrees that once it provides water and wastewater services to the Property and the School Board or others have connected customer installations to its system, that thereafter, the City will continuously provide in return for payment of all applicable rates, fees, and charges and in accordance with the other provisions of this Agreement, and of applicable laws, including rules and regulations and rate schedules, water and wastewater services to the Property in a manner to conform with all requirements of all governmental agencies having jurisdiction over the water distribution and wastewater collection operations of the City.

SECTION 5. DESIGN, REVIEW, CONSTRUCTION, INSPECTION AND CONVEYANCE OF FACILITIES.

- 5.1 So that the City may provide water and wastewater facilities, and to continuously provide customers located on the Property with water and wastewater services, the School Board hereby covenants and agrees to pay for the construction and to transfer ownership and control to the City as a contribution-in-aid-of-construction, the on-site and off-site water distribution and wastewater collection systems referred to herein.
- 5.2 The School Board shall provide the City with engineering plans and specifications of the type and in the form as prescribed by the City, showing the on-site and off-site water distribution, irrigation distribution (if applicable) and wastewater collection systems proposed to be installed to provide service to the subject Property. The City’s Utility Engineer will advise the School Board’s engineer of any sizing requirements as mandated by the City’s system policies and utility standards for the preparation of plans and specifications of facilities within the Property. If applicable, such detailed plans may be limited to a phase of the Property, and subsequent phases may be furnished from time to time. However, each such phase, if applicable, shall conform to a master plan for the development of the Property and such master plan shall be submitted to the City concurrent with or prior to submission of plans for the first phase. All such plans and specifications shall be submitted to the City and no construction shall commence until the City has approved such plans and specifications in writing. The complete plans and specifications, as to be approved by the City’s Utilities Director or designee, for connection to the City’s system shall be prepared by the School Board’s Professional Engineer, who shall be registered in the State of Florida. All construction shall be in strict conformity with the final plans and specifications as approved by the City. The City’s Utilities Director or other representative, shall have the right to inspect any and all construction, whether in public rights-of-way or on private property. Upon notification of any deviation from the approved plans and specifications, the School Board shall immediately make modifications as directed by the City. No construction shall be commenced without final approval of the plans and specifications by the City’s Utilities Director. After approval, the School Board shall cause to be constructed, at the School Board’s expense, the water distribution, irrigation and wastewater collection systems as shown on all plans and specifications.
- 5.3 To connect the School Board’s water transmission and distribution system to the City’s existing water transmission system, the School Board’s wastewater collection system to the City’s existing wastewater system, and the School Board’s reclaimed water system to the City’s existing reclaimed water system, the School Board shall design to the City’s

specifications, apply for and be issued all required permits, and construct to the City's most current specifications all infrastructure, approved by Staff Development Review ("SDR").

- 5.4 The School Board understands the need to support the City's water conservation efforts and, to the extent it is possible, shall utilize Florida friendly yards, xeriscape landscaping and agrees to permit, construct and design all irrigation systems to meet the City's reclaimed water standards approved by SDR and to include FDEP Rule 62-610.460. The quality of the reclaimed water shall meet the requirements of FDEP Rule 62-610.460. TO THE EXTENT ALLOWED BY LAW, THE CITY SHALL BE HELD HARMLESS AND INDEMNIFIED BY THE SCHOOL BOARD FOR THE RESULTING WATER QUALITY AFTER MIXING IN THE SCHOOL BOARD'S STORAGE POND, UNLESS RECLAIMED WATER OF QUALITY NOT MEETING THE REQUIREMENTS OF FDEP RULE 62-610.460 IS PROVIDED BY THE CITY. The School Board agrees to connect any existing irrigation distribution systems to the City's reclaimed water system at such time as reclaimed water is made available to the development.
- 5.5 All costs relating to the construction of the systems by the School Board including but not limited to labor, overhead, permits, taxes, licenses, application fees, easement acquisitions, lift stations, backflows, supervisory control and data acquisition ("SCADA") systems, pumps, pipes, materials, and any other direct or indirect costs related to the construction shall be borne by the School Board and shall be fully paid by the School Board.
- 5.6 During the construction of the water distribution and wastewater collection systems by the School Board, the City shall have the right to inspect such installation to determine compliance with plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to perform standard tests for pressure, infiltration/vacuum, line and grade, and all other normal engineering tests required by specifications and/or good engineering practices. Complete as-built plans shall be submitted to the City upon completion of construction. City inspections of the off-site and on-site facilities will not delay the construction schedule.
- 5.7 By these presents, the School Board hereby transfers to the City, title to all water distribution and wastewater collection systems installed by the School Board's contractor, pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by the City of said installation. As further evidence of said transfer to title, and upon the completion of the installation and prior to the rendering of service by the City, the School Board shall convey to the City, by bill of sale, or other appropriate documents, in a form satisfactory to the City's counsel, the complete on-site and off-site water distribution and wastewater collection systems as constructed by the School Board and approved by the City. The School Board shall further cause to be conveyed to the City, all easements and/or rights-of-way covering areas in which water distribution and wastewater collection lines are installed by recordable document in a form satisfactory to the City's counsel. All conveyance of easements and/or rights-of-way shall be accompanied by a title policy or other evidence of title, satisfactory to the City, establishing the School Board's rights to convey such continuous enjoyment of such easements or rights-of-way for those purposes set forth in this Agreement to the exclusion of any other person in interest. The use of easements granted by the School Board shall include the use by other utilities so long as such uses by electric, telephone, gas utilities, or

cable television do not unreasonably and materially interfere with use by the City. The City agrees that the acceptance of the water distribution and wastewater collection systems, installed by the School Board, for service, or by acceptance of the bill of sale, shall constitute that assumption of responsibility by the City for the continuous operation and maintenance of such systems from that date forward.

- 5.8 All installations by the School Board or its contractor shall have at least a one-year warranty from the date of acceptance by the City. Mortgagee(s), if any, holding prior liens on such properties shall be required to release such liens, subordinate their position and join in the grant or dedication of the easements or rights-of-way. Any such liens shall remain subordinate to this Agreement. All water distribution and wastewater collection facilities shall be covered by easements if not located within platted or dedicated rights-of-way.
- 5.9 Whenever the development of the subject Property involves one customer or a unity of several customers, and in the opinion of the City, ownership by the City of the internal water distribution and wastewater collection systems is not necessary, then at the sole option of the City, the School Board or its successor or assigns shall retain ownership and the obligation for maintenance of such on-site facilities.
- 5.10 Payment of the contribution-in-aid-of-construction does not and will not result in the City waiving any of its rates, rate schedules or rules and regulations, and their enforcement shall not be affected in any manner whatsoever by the School Board making the contribution. The City shall not be obligated for any reason whatsoever nor shall the City pay any interest or rate of interest upon the contribution. Neither the School Board nor any person or other entity holding any of the Property by, through or under the School Board, or otherwise, shall have any present or future right, title, claim or interest in and to the contributions or to any of the water and wastewater facilities and properties of the City, and all prohibitions applicable to the School Board with respect to no refund of contributions, no interest payment on said contributions and otherwise, are applicable to all persons or entities. Any user or customer of water and wastewater services shall not be entitled to offset any bill or bills rendered by the City for such service or services against the contributions. The School Board shall not be entitled to offset the contributions against any claim or claims of the City unless specified in the Special Conditions of this Agreement.
- 5.11 If any use involving commercial kitchen facilities is located on the Property, the wastewater facilities shall include such grease interceptors or grease traps ("Grease Trap") as may be required by the City Standards or by applicable law, codes, rules, regulations and standards pertaining thereto, as the same may from time to time be amended. All wastewater from any grease producing equipment, including floor drains in food preparation areas, must first enter the Grease Trap for pretreatment before the wastewater is delivered to the City's wastewater system. Provisions for a Grease Trap shall be included in the plans and specifications and shall call for such size, capacity and other specifications as are required by the City's Standards and the applicable governmental agencies. City shall have the right, but not the obligation, to inspect and test any Grease Trap in order to ensure compliance with the terms hereof. **TO THE EXTENT ALLOWABLE BY LAW, THE SCHOOL BOARD SHALL INDEMNIFY AND HOLD HARMLESS THE CITY FROM AND AGAINST ANY AND ALL LIABILITY, COST, EXPENSES AND FEES,**

INCLUDING ATTORNEYS' FEES AND COSTS, ARISING OR RESULTING FROM THE SCHOOL BOARD'S FAILURE TO INSTALL AND ADEQUATELY MAINTAIN A GREASE TRAP INCLUDING, WITHOUT LIMITATION, ANY COSTS OR EXPENSES RESULTING OR ARISING FROM DAMAGE TO THE CITY'S WASTEWATER SYSTEM LINES, LIFT STATIONS AND PLANT FACILITIES CAUSED BY GREASE, OIL, FATS, PROHIBITED SOLVENTS OR ANY OTHER MATERIALS ENTERING INTO OR COMING IN CONTACT WITH SUCH LINES, LIFT STATIONS AND PLANT FACILITIES BECAUSE OF THE SCHOOL BOARD'S FAILURE TO ADHERE TO THE PROVISIONS.

SECTION 6. EVIDENCE OF TITLE. Within a period of thirty (30) days after the execution of this Agreement, at the expense of the School Board, School Board agrees to either deliver to the City an Abstract of Title, brought up to date, which abstract shall be retained by the City and remain the property of the City, or to furnish the City an opinion of title from a qualified attorney-at-law or a qualified title insurance company with respect to the Property, which opinions shall include a current report on the status of the title, setting out the name of the legal title holders, the outstanding mortgages, taxes, liens, and covenants. The provisions of this Section are for the exclusive rights of service contained in this Agreement. Any mortgage or lien holder having an interest in the Property shall be required to join in the grant of exclusive service rights set forth in this Agreement. Any and all such grants of exclusive service rights set forth in any prior agreement shall survive through the adoption of this Agreement. Title standards shall be the same as those applicable to real estate generally adopted by the Florida Bar and in accordance with Florida law.

SECTION 7. OWNERSHIP OF FACILITIES. The School Board agrees with the City that all water and wastewater facilities conveyed to the City for use in connection with providing water and wastewater services to the Property, shall at all times remain in the complete and exclusive ownership of the City, and any entity owning any part of the Property or any residence or building constructed or located thereon, shall not have the right, title, claim or interest in and to such facilities, or any part of them, for any purpose, including the furnishing of water and wastewater services to other persons or entities located within or beyond the limits of the Property.

SECTION 8. APPLICATION OF RULES, REGULATIONS, AND RATES. Notwithstanding any provision in this Agreement, the City may establish, revise, modify and enforce rules, regulations and rates covering the provision of water and wastewater services to the Property. Such rules and regulations shall at all times be reasonable and subject to regulations as may be provided by law or under contract. Rates charged to the School Board or customers located upon the Property shall be identical to rates charged for the same classification of service. All rules, regulations and rates in effect, or placed into effect in accordance with the preceding, shall be binding upon the School Board, upon any other entity holding by, through or under the School Board, and upon any customer of the water and wastewater services provided to the Property by the City.

SECTION 9. PERMISSION TO CONNECT REQUIRED. The School Board, or any owner of any parcel of the Property, or any occupant of any residences or buildings located thereon, shall not have the right to and shall not connect any customer installation to the water and wastewater facilities of the City until the City has granted approval for such connection and shall be subject to illegal connection fee in effect at the time of discovery.

SECTION 10. BINDING AGREEMENT; ASSIGNMENTS BY THE SCHOOL BOARD; DISCLOSURE.

- 10.1 This Agreement shall be binding upon and shall inure to the benefit of the School Board, the City and their respective assigns and successors by merger, consolidation or conveyance.
- 10.2 This Agreement shall not be sold, conveyed, assigned or otherwise disposed of by the School Board without the written consent of the City first having been obtained. The City's consent shall not be unreasonably withheld in the event of a sale, conveyance, assignment or other disposal of this Agreement, or the assignment of Equivalent Residential Connections ("ERCs") under the terms of this Agreement.
- 10.3 The Parties agree that the Florida Statutes exempt the School Board from paying Water and Wastewater Capital Charges; however, it shall pay the connection fee as connections are required and approved by the City's Utilities Department. The School Board and City acknowledge that the School Board may sell or lease some or all of the Property prior to connection of the proposed units to be serviced by the City. Any grantee, lessee, or assignee shall pay Water and Wastewater Capital Charges in full unless otherwise exempted by law. The School Board agrees to disclose to any grantee, lessee, or assignee any obligation of such grantee, lessee, or assignee to pay to the City the then-adopted Water and Wastewater Capital Charges.

SECTION 11. NOTICES. Until further written notice by either party to the other, all notices provided for herein shall be in writing and delivered by email, courier service or by US Mail, return receipt requested, to the following. Notices shall be deemed received on the date sent.

As to School Board:

Sarasota County School Board  
Mark D. Smith, Director  
Construction Services Department  
7895 Fruitville Road  
Sarasota, FL 34240  
Telephone: 941-361-6680  
Email: Mark\_Smith@exmail.sarasota.k12.fl.us

As to City:

City of North Port Utilities Department  
Attention: Utilities Director  
6644 W. Price Boulevard  
North Port, FL 34291  
Telephone: 941-240-8000  
Email: rnnewkirk@cityofnorthport.com

SECTION 12. SURVIVAL OF COVENANTS. The rights, privileges, obligations and covenants of the School Board and the City shall survive the completion of work of the School Board with

respect to completing the water and wastewater facilities and services to any phase area and to the Property as a whole.

SECTION 13. ENTIRE AGREEMENT; AMENDMENTS; APPLICABLE LAW; VENUE; ATTORNEY'S FEES.

- 13.1 Except as provided for herein, this Agreement supersedes all previous agreements or representations either verbal or written, heretofore in effect between the School Board and the City, made with respect to the matters herein contained, and when duly executed, constitutes the entire Agreement between the School Board and the City.
- 13.2 No additions, alterations or variations of the terms of this Agreement shall be valid, nor can either party waive provisions of this Agreement, unless such additions, alterations, variations or waivers are expressed in writing and duly signed.
- 13.3 This Agreement shall be governed by the laws of the State of Florida, as well as all applicable local ordinances of the City and it shall be and become effective immediately upon execution by both parties hereto.
- 13.4 Exclusive venue for any action arising out of this Agreement shall be in the state courts having jurisdiction within Sarasota County, Florida.
- 13.5 In the event that the City or the School Board is required to enforce this Agreement by court proceedings or otherwise, by instituting suit or otherwise, then the prevailing party in such suit shall be entitled to recover all costs incurred, including reasonable attorney's fees.

SECTION 14. DISCLAIMERS, LIMITATIONS ON LIABILITY.

- 14.1 STATUS. The parties deem each other to be independent contractors, and not agents of the other.
- 14.2 INDEMNITY. TO THE EXTENT ALLOWABLE BY LAW, THE SCHOOL BOARD SHALL INDEMNIFY THE CITY, ITS RESPECTIVE AGENTS, COMMISSIONERS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITY, DEMANDS, DAMAGES, EXPENSES, FEES, FINES, PENALTIES, SUITS, PROCEEDINGS, ACTIONS AND FEES, INCLUDING ATTORNEY'S FEES, FOR INJURY (INCLUDING DEATH) TO PERSONS OR DAMAGE TO PROPERTY OR PROPERTY RIGHTS THAT MAY ARISE FROM OR BE RELATED TO ACTS, ERRORS, OR OMISSIONS OF THE SCHOOL BOARD, ITS AGENTS, EMPLOYEES, SERVANTS, LICENSEES, INVITEES, OR CONTRACTORS OR BY ANY PERSON UNDER THE CONTROL OF DIRECTION OF THE SCHOOL BOARD, OR BY THE SCHOOL BOARD'S USE OF THE CITY'S SYSTEM, AND THE SCHOOL BOARD SHALL INDEMNIFY AND HOLD HARMLESS THE CITY AS AFORESAID FROM ALL LIABILITY, CLAIMS AND ALL OTHER ITEMS ABOVE MENTIONED, ARISING OR GROWING OUT OF OR CONNECTED WITH ANY DEFAULT, BREACH, VIOLATION OR NONPERFORMANCE BY THE SCHOOL BOARD OF ANY COVENANT, CONDITION, AGREEMENT OR PROVISION CONTAINED IN THIS AGREEMENT CONCERNING ALL OR ANY PART OF THE CITY'S SYSTEM.

14.3 FORCE MAJEURE.

(a) Neither party shall be liable to the other in any way whatsoever for any failure or delay in performance of any of the obligations under this Agreement (other than obligations to make payment) arising out of any event or circumstance beyond the reasonable control of such party ("force majeure event"), including without limitation, acts of God, hurricanes, earthquakes, fires, floods, washouts, power outages, explosions, interruptions in telecommunications or internet or network provider services, acts of governmental entities (provided, however, that a legislative or executive act of the City shall not constitute a force majeure event as to the City except in the case of a declared emergency), war, terrorism, civil disturbance, insurrection, riots, acts of public enemies, epidemics, strikes, lockouts or other labor disputes, inability of City to obtain necessary materials, supplies, labor, or permits whether due to existing or future rules, regulations, orders, laws or proclamations, either federal, state or county (but not any such rules, regulations, orders, laws or proclamations by the City, except as set forth above relating to declared emergencies), civil or military, or otherwise, and other causes beyond the reasonable control of either party, whether or not specifically enumerated herein.

(b) Failure or delay of performance by either party due to a force majeure event shall not be deemed a breach of this Agreement, and neither party shall have the right to terminate this Agreement on account of non-performance of the other party based on a force majeure event.

14.4 LIMITATION OF LIABILITY

(a) In no event shall the City have any liability for any indirect, incidental, special, consequential or punitive damages, however caused and on whatever theory of liability, arising out of this agreement, including, but not limited to, loss of anticipated profits or business interruption, even if the city has been advised of the possibility of such damages; and

(b) Furthermore, any temporary cessation or interruption of water and/or sewer services to the Property by the City resulting from necessary maintenance work, breakdown of, or damages to, machinery, pumps or pipelines shall not constitute a breach of this Agreement by the City nor shall it impose liability upon the City by the School Board, its successors or assigns

14.5 DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of and shall be binding upon the formal parties hereto and their respective authorized successors and assigns, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a party to this Agreement or an authorized successor or assignee thereof.

14.6 DISCLAIMER OF SECURITY. Notwithstanding any other provision of this Agreement, the School Board expressly acknowledges: (1) That it has no pledge of or lien upon any real property (including, specifically, the City's system), any personal property, or any existing or future revenue source of the City (including, specifically, any revenue or rates,

fees, or charges collected by the City in connection with the City system) as security for any amounts of money payable by the City under this Agreement; and (2) that its rights to any payments or credits under this Agreement are subordinate to the rights of all holders of any stocks, bonds, or notes of the City, whether currently outstanding or hereafter issued.

14.7 INSURANCE. The Parties recognize the School Board is self-insured pursuant to the limits set forth in the letter attached as Exhibit "A-3" to this Agreement.

SECTION 15. COVENANT NOT TO ENGAGE IN UTILITY BUSINESS. The School Board, as further consideration for this Agreement, agrees that it shall not engage in the business of providing water and wastewater services to the Property during the period of time the City or its successors and assigns provide water and wastewater services to the Property. The Parties agree that this shall be a covenant running with the land and under said provision and also under other provisions of this Agreement the City shall have sole and exclusive right and privilege to provide water and wastewater services to the Property and to the occupants of each residence, building or unit constructed thereon.

SECTION 16. RECORDATION. The parties hereto agree that an executed copy of this Agreement and Exhibits attached hereto shall be recorded in the Public Records of Sarasota County, Florida at the expense of the School Board.

SECTION 17. SEVERABILITY. If any court finds any part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the Parties contained therein are not materially prejudiced, and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

SECTION 18. AUTHORITY TO EXECUTE AGREEMENT. The signature by any person to this Agreement shall be deemed a personal warranty by that person that he or she has the full power and authority to bind any entity for which that person purports to act hereunder.

SECTION 19. CAPACITY.

19.1 Except as otherwise forth in this Agreement, the execution of this Agreement between the School Board and the City does not constitute a specific reservation of capacity. Unless and until all required charges have been paid, the City does not hereby guarantee that capacity will be available for the Property on any later date.

19.2 Any specific reservations of capacity, and the fees and charges for such reservation of capacity, must be detailed either within the body of this Agreement or in Section 20 -- Special Conditions. Such reservation of capacity shall be so reserved for a definite period of time only as long as the payment of appropriate fees and charges are made by the School Board or as negotiated between the parties.

19.3 Water and Wastewater Capital Charges paid for reservation of capacity, but which are not used within the period of the reservation, are not refundable.

19.4 The City reserves the right to increase or decrease the Water and Wastewater Capital Charges in the future.

SECTION 20. SPECIAL CONDITIONS. The following Special Conditions are mutually agreed between the School Board and the City. Notwithstanding anything herein to the contrary, the City

agrees that the School Board is exempt from paying for Water Capital Charges and Wastewater Capital Charges for public educational plants in accordance with the Florida Statutes; however, for planning purposes, the anticipated phasing of water and wastewater capacity is as follows:

20.1 The School Board requires a block of 55 ERCs on or before September 1, 2016.

20.2 The School Board requires a block of 27 ERCs on or before September 1, 2017.

SECTION 21. DEFAULT, NOTICE, DAMAGES AND REMEDIES AS TO ASSIGNED PARTIES.

21.1 Any grantee, lessee, or assignee of the School Board (“Assigned Parties”) shall have a five (5) day grace period before a failure to make payment as required herein shall constitute an event of default under this Agreement. The Assigned Parties shall be assessed a five percent (5%) late fee to be calculated on any delinquent payment if made after the expiration of the five (5) day grace period. In the event of the Assigned Parties’ failure to make timely payment as set forth herein and upon the expiration of the five (5) day grace period, the City shall, prior to declaring an event of default, provide the Assigned Parties with written notice of the City’s intent to declare an event of default. Upon such notice, should the School Board be in default of any provision of this Agreement, and fail to cure the default upon proper notice, the City has the right to deny issuance of any building permits, certificate of occupancies or approval of any Florida Department of Environmental Protection (“FDEP”) permits for utility construction associated with the Property. The Assigned Parties shall have an additional twenty (20) days from the date the Assigned Parties receive the City’s written notice within which to make the specified payment.

21.2 Should the Assigned Parties fail to cure a default upon receipt of proper notices, the City may undertake the appropriate legal actions it deems necessary to enforce its right and remedies as provided under this Agreement and Florida law.

21.3 The Parties agree that in the event of an uncured default by the Assigned Parties resulting in termination of this Agreement, the City will suffer damages in the amount of Assigned Parties’ proportionate share of the capital investment the City has made in constructing the City’s water and wastewater system made available to serve the Assigned Parties, including but not limited to the debt service on bonds or other financing instruments issued for that purpose. For purposes of calculating damages related to the City’s capital investment in the water and wastewater system, such damages shall be valued at \$132.73 per year per requested water ERC and at \$111.82 per year per requested wastewater ERC, and that the Assigned Parties shall be liable to City, as liquidated damages, and not as a penalty, for three (3) years of such damages. This liquidated damages amount shall pertain only to City’s damages related to its capital investment in its water and wastewater system.

21.4 In addition to its other remedies, should the Assigned Parties be in default of any provision of this Agreement, and fail to cure the default upon proper notice, the City has the right to deny issuance of any building permits, certificate of occupancies or approval of any FDEP permits for utility construction associated with the Property.

REMAINDER OF PAGE INTENTIONALLY BLANK

IN WITNESS WHEREOF, the School Board and the City have executed or have caused this Agreement, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:

**CITY OF NORTH PORT, FLORIDA**

\_\_\_\_\_  
CITY CLERK

By: \_\_\_\_\_  
JACQUELINE MOORE  
MAYOR

Approved as to form and correctness:

\_\_\_\_\_  
MARK MORIARTY  
CITY ATTORNEY

STATE OF FLORIDA     )  
  )  
COUNTY OF SARASOTA    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by Jacqueline Moore, Mayor of the City of North Port, Florida, on behalf of the City of North Port. She is personally known to me and did not take an oath.

\_\_\_\_\_  
Notary Public

REMAINDER OF PAGE INTENTIONALLY BLANK

SIGNATURES CONTINUED ON FOLLOWING PAGES

WITNESSES:

SCHOOL BOARD OF SARASOTA  
COUNTY, FLORIDA

Zonise Marshall  
Witness

Zonise Marshall  
Print Name

Linda Termine  
Witness

Linda Termine  
Print Name

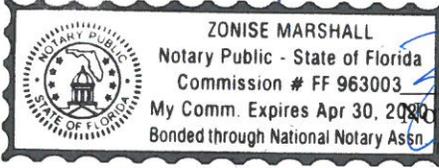
By: Shirley Brown  
SHIRLEY BROWN  
CHAIR

Approved as to form and correctness:

Arthur S. Hardy  
ARTHUR S. HARDY  
SCHOOL BOARD ATTORNEY

STATE OF FLORIDA     )  
  )  
COUNTY OF SARASOTA    )

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of September, 2016, by Shirley Brown, as Chair of School Board of Sarasota County, Florida. She is personally known to me or has produced Shirley Brown as identification, and did not take an oath.

 Zonise Marshall  
Notary Public

REMAINDER OF PAGE INTENTIONALLY BLANK

**EXHIBIT A-1**

**BOUNDARY DESCRIPTION OF PROPERTY**

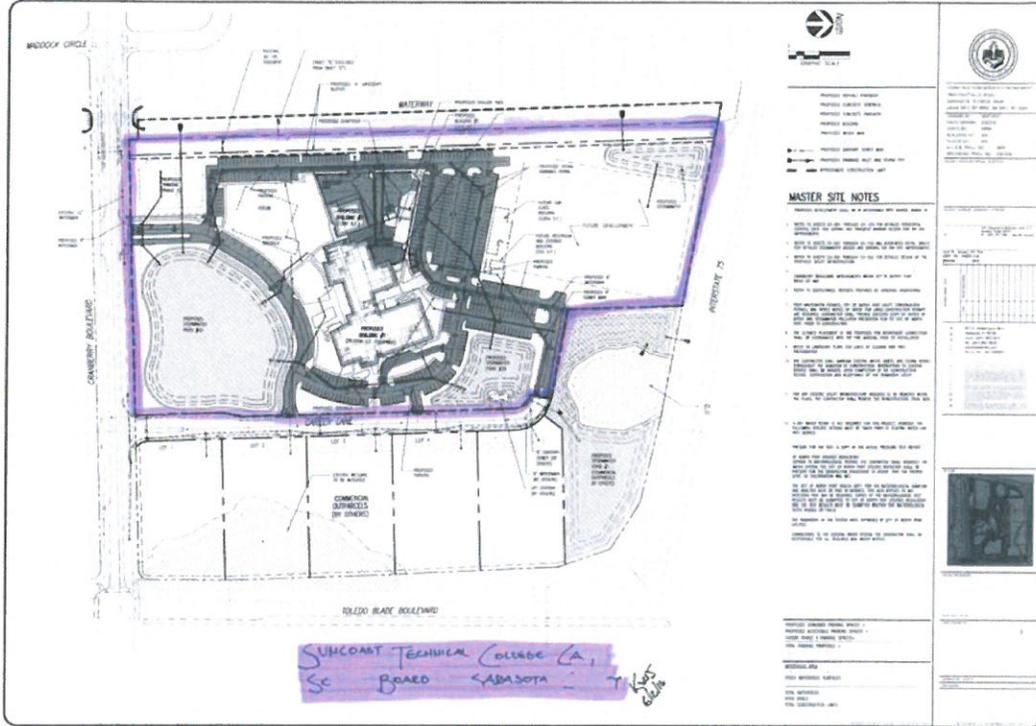
Parcel ID numbers: 0960-01-0001

TRACTS 101 AND 301, SUNCOAST TECHNICAL COMMERCIAL COLLEGE  
SUBDIVISION, RECORDED IN PLAT BOOK 49,

PAGES 42 and 42A THROUGH 42C, PUBLIC RECORDS OF SARASOTA COUNTY,  
FLORIDA.

# EXHIBIT A-2

## MAP OF PROPERTY





**SARASOTA**  
County Schools

**Lynn Peterson, Supervisor**  
Risk Management  
Lynn.Peterson@SarasotaCountySchools.net  
1960 Landings Blvd., Sarasota, FL 34231  
941-927-9000, ext. 32315 •

TO WHOM IT MAY CONCERN:

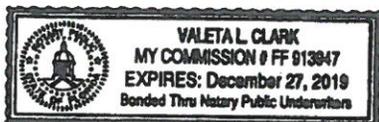
This will certify that on January 6, 1987, the School Board of Sarasota County, Florida, in public assembly, by resolution, became self-funded for all general liability claims, effective January 15, 1987, pursuant to the provisions of Florida Statute 768.28. This election is continuous until rescinded by official action of the School Board.

Lynn Peterson  
Risk Manager

STATE OF FLORIDA  
COUNTY OF SARASOTA

WITNESS my hand and official seal

this 22 day of August 2016.



Notary Public, State at Large  
My Commission Expires: