

**INTERLOCAL AGREEMENT  
BETWEEN THE SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA  
AND THE CITY OF NORTH PORT, FLORIDA  
REGARDING USE OF HERON CREEK MIDDLE SCHOOL  
FOR PARKING FOR BUTLER PARK**

THIS INTERLOCAL AGREEMENT (the "Agreement") is made and entered into by and between the School Board of Sarasota County, Florida, a body corporate under the laws of the State of Florida, (the "School Board") and City of North Port, Florida, a political subdivision of the State of Florida (the "City"), together, "the Parties."

**WITNESSETH:**

**WHEREAS**, the School Board and the City acknowledge the advantages and the importance of providing adequate facilities and amenities that serve a public purpose in promoting affordable recreational programs for families in the community; and

**WHEREAS**, the School Board and the City are mutually interested in providing and in making available school facilities and amenities available pursuant to the provisions of this Agreement; and

**WHEREAS**, the City's population has steadily increased over the last decade, and the City of North Port is the most populous city within Sarasota County; and

**WHEREAS**, on May 22, 2017, the City Commission for the City of North Port approved plans for the construction of the North Port Aquatic Center on the Butler Park campus, 6205 W. Price Blvd, North Port, Florida 34291; and

**WHEREAS**, the North Port Aquatic Center is anticipated to attract over 87,000 patrons annually; and

**WHEREAS**, the Butler Park campus includes the Morgan Family Community Center, multipurpose fields, a walking trail, and parkland; and

**WHEREAS**, due to the number of patrons expected to visit the North Port Aquatic Center and the amenities at the Butler Park campus, additional parking opportunities would be beneficial to the visiting patrons; and

**WHEREAS**, Butler Park is adjacent to the School Board's Heron Creek Middle School, located at 6501 W. Price Blvd, North Port, Florida 34291; and

**WHEREAS**, the anticipated peak North Port Aquatic Center and Butler Park usage aligns with days that Heron Creek Middle School is not operating, i.e. summer break; and

**WHEREAS**, the parking lots used by Heron Creek Middle School staff and parents are primarily used during times the school is operating; and

**WHEREAS**, the School Board and the City have the authority pursuant to the provisions of general law, including Section 163.01, Florida Statutes, to enter into this Agreement.

**NOW THEREFORE**, for and in consideration of the mutual covenants specified herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the School Board and the City mutually covenant and agree as follows:

1. RECITALS: The above recitals are true and correct and by this reference, are incorporated herein.
2. DEFINITIONS: The following definitions apply to this Agreement:
  - a. Repair and Replacement – The restoration of minor building materials, elements, components, and fixtures beyond normal use and wear and tear.
  - b. Parking Lot – Heron Creek Middle School parking lot as depicted on Exhibit “A,” attached hereto and incorporated as if set forth fully herein, that will be made available for the City's use according to the schedule established by the School Board pursuant to Section 5.b. below when school is not in session or in need of the parking lot for school activities.
  - c. Sidewalk – Heron Creek Middle School sidewalk as depicted on Exhibit “A,” attached hereto and incorporated as if set forth fully herein, that will be made available to for the City's use according to the schedule established by the School Board pursuant to Section 5.b. below when school is not in session or in need of the sidewalk for school activities.
  - d. Premises – Collectively the Parking Lot and the Sidewalk depicted on Exhibit “A,” attached hereto and incorporated as if set forth fully herein.
3. USAGE AND SCHEDULING:
  - a. The School Board agrees to provide the City with access to the Premises for the purpose of providing additional parking spaces to Butler Park on the schedule established pursuant to Section 5.b. below. The School Board has no obligation to improve the existing conditions of the Premises, including pavement of unpaved sections of the parking lot.
  - b. The School Board shall have priority for use of the Premises at all times including when school is in session as well as for any school events that may occur after school hours, during scheduled vacation breaks, and holidays. When the Premises is not being used by the School Board, the Premises will be available for use by the City for purpose of public parking for Butler Park. As outlined in section 5, the School Board will provide the City a calendar of school use on an annual basis and be required to provide 30-day notice of any changes to the calendar.
  - c. The City shall have the right to use of the Premises when school is not in session or does not have events scheduled during scheduled vacation breaks, after school hours, weekends, and holidays.
4. CITY RESPONSIBILITIES:
  - a. The City shall make no alteration or structural changes to the Premises without the prior written consent of the School Board. Any improvements to the Premises desired by the City would require a separate agreement agreed to by all Parties.

- b. The City has sole responsibility to provide for debris and garbage pick-up in the Parking Lot during its use as noted of its use of the Premises above.
- c. The City must notify the School Board of any issues, damage, or similar condition within 24-hours of identification.
- d. The City is responsible for the Repair and Replacement of all School Board property damaged at the Premises during its use as noted in Section 3 above. Nothing herein shall prevent the City from seeking payment for such Repair and Replacement from any other responsible party.

5. SCHOOL BOARD RESPONSIBILITIES:

- a. The School Board must provide access to the Premises when school is not in session or needed for school activities.
- b. The School Board must provide the City a schedule of available use for the Premises by August 15 of each year that this Agreement is in place. The schedule of availability must identify the dates and times of availability from September 1 for the upcoming year.
- c. The School Board must notify the City no less than thirty (30) days prior to any change in access to the Premises as provided in Section 3 above. Examples that would impact access are scheduled regular maintenance or other school related activity that would limit or prohibit access to the Premises.
- d. Following an event in which the Sarasota County Commission declares a state of emergency that prevents the City's use of the Premises as permitted by the terms of this Agreement, the School Board must immediately notify the City when the Premises is unavailable and when the City may resume its use.

6. TERM AND TERMINATION: This Agreement shall commence on the date of the last signatory hereto and shall continue until terminated. This Agreement may be signed in counterparts. Either party may terminate this Agreement, for any or no reason, by providing the other party with no less than twelve (12) months written notice of its intent to do so.

7. AMENDMENT: This Agreement constitutes the sole and complete understanding between the Parties and supersedes all other agreements between them, whether oral or written with respect to the subject matter. No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both Parties and incorporated into this Agreement. Either party may request that an amendment be made to this Agreement by notifying the other party no less than twelve (12) months prior to the date such amendment would become effective. The City Manager or designee may agree to amendments that do not increase compensation to the School Board.

8. INDEMNIFICATION: **To the extent permitted by Florida law, the City agrees to defend, indemnify, and save harmless the School Board, its agents, officials and employees up to the limits set forth in Section 768.28, Florida Statutes, against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs, attorney fees, and expenses which may accrue against the School Board as a consequence of any injury or damage sustained by any individual or entity upon the Premises during**

its use as provided in Section 3 of this Agreement. This provision shall not apply in the event the claimed loss occurs as a result of the intentional or negligent acts of the School Board or its employees, agents, licensees, or invitees at the Heron Creek Middle School Parking Lot or Sidewalk, or at a time when the School Board is actually using the Heron Creek Middle School Parking Lot or Sidewalk, or when school is in session during normal school hours, or when the City is prohibited from using the Premises as described in Section 4.2 or Section 11 of this Agreement. Provided, however, nothing contained in this Section shall constitute a waiver of sovereign immunity or of the limitations on liability provided to either party under the Florida Constitution or general law. Further, the Parties acknowledge that the City and the School Board are self-insured. In the event of any threatened or impending action that may give rise to a claim under the terms of this Section or suit or other proceedings, the party seeking indemnification for such claim must promptly give notice to the other party in writing by Certified Mail. The indemnity provided herein shall not apply to any settlement agreement entered into by one party without the consent of the indemnifying party. This Section shall survive termination of this Agreement. In any action between the Parties arising from this Agreement, or the activities authorized herein, the Parties waive the right to jury trial.

9. DISPUTE RESOLUTION: In the event of a dispute between the School Board and the City regarding this Agreement, the School Board Superintendent and the City Manager or their respective designee(s) shall review the dispute and negotiate a mutually acceptable resolution. Any dispute not resolved by the designee(s) shall be referred to the School Board Superintendent and the City Manager to come to a mutually acceptable resolution. In the event the School Board Superintendent and the City Manager are unable to agree, the matter shall be referred to their respective Commissions, who must hold a joint meeting to resolve the matter. If the matter is not resolved at the joint meeting of the Commissions, the parties may avail themselves of any other available legal rights or remedies available. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.
10. ASSIGNMENT AND SUBLETTING: This Agreement may not be assigned in whole or in part and no portion of the Premises shall be sublet without the prior written consent of the School Board and any attempted assignment of this Agreement or subletting of any of the Premises without such written consent shall be void.
11. NOTICE: All notices required or desired to be given pursuant to the term of this Agreement must be in writing and delivered as follows:

City of North Port:

City Manager  
North Port City Hall  
4970 City Hall Boulevard  
North Port, Florida 34286

School Board:

Superintendent  
The Sarasota County School Board  
1960 Landings Boulevard  
Sarasota, Florida 34231

With copies of Notices to:

City Attorney  
North Port City Hall  
4970 City Hall Boulevard  
North Port, Florida 34286

12. FORCE MAJEURE:

- a. Except for any payment obligation by either party, if either the City or the School Board is unable to perform, or is delayed in its performance of any of its obligations under this Agreement by reason of any event of Force Majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for the City or the School Board to correct the adverse effect of such event of Force Majeure.
- b. An event of "Force Majeure" shall mean the following events or circumstances to the extent that they delay the City or the School Board from performing any of its obligations (other than the payment obligations) under this Agreement:
  - i. Strikes and work stoppages unless caused by a negligent act or omission of either party;
  - ii. Acts of God, tornadoes, hurricanes, floods, sinkholes, fires, explosions, landslides, earthquakes, epidemics, quarantine, pestilence, and extremely abnormal and excessively inclement weather;
  - iii. Acts of public enemy, acts of war, terrorism, effects of nuclear radiation, blockages, insurrection, riots, civil disturbances, or national or international calamities; and
  - iv. Suspension, termination, or interruption of utilities necessary to the performance of the obligation.
- c. In order to be entitled to the benefit of this Section, a party claiming an event of Force Majeure must give prompt notice to the other party specifying in detail the event of Force Majeure and must diligently proceed to correct the adverse effect of any Force Majeure. The terms of this Section shall survive the termination of this Agreement.

13. NON-DISCRIMINATION: Neither the City of North Port, Florida nor the School Board, discriminates on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services and shall not administer this Agreement in an unlawfully discriminatory manner.

14. GOVERNING LAW AND VENUE: The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Agreement. The exclusive venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement is the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida.

15. NO AGENCY: Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the Parties, it being understood and agreed that no provision contained herein, or any acts of the Parties shall be deemed to create any relationship between them other than that as detailed herein.

16. SEVERABILITY: Should any provision of this Agreement be decided by the courts to be illegal, invalid, or conflict with any law, the validity of the remaining portions or provisions of this Agreement shall not be affected thereby.

17. BINDING EFFECT: By the signatures affixed hereto, the Parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors and assigns.

18. HEADINGS: The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Agreement and do not affect its construction.

**IN WITNESS WHEREOF**, the Parties have caused this Interlocal Agreement to be executed by the respective undersigned duly authorized officials commencing on the date of the last signatory hereto.

SCHOOL BOARD OF SARASOTA COUNTY,  
FLORIDA

CITY OF NORTH PORT, FLORIDA, A POLITICAL  
SUBDIVISION OF THE STATE OF FLORIDA

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
Christopher Hanks, Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
School Board Clerk

\_\_\_\_\_  
Kathryn Peto, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

APPROVED AS TO FORM AND CORRECTNESS:

\_\_\_\_\_  
School Board Attorney

\_\_\_\_\_  
Amber L. Slayton, City Attorney

#### EXHIBIT A – HERON CREEK MIDDLE SCHOOL PARKING AND SIDEWALK

