

**INTERLOCAL AGREEMENT BETWEEN THE
CITY OF GREENACRES AND THE SCHOOL BOARD OF PALM
BEACH COUNTY
FOR MUTUAL USE OF RECREATION FACILITIES**

THIS AGREEMENT, entered into this ____ day of _____, 2005 between THE CITY OF GREENACRES, a municipal corporation of the State of Florida, ("CITY") and the SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, a corporate body politic pursuant to the constitution of the State of Florida, ("BOARD"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

WITNESSETH

WHEREAS, it is the intent of Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969", to encourage cooperation between local government units in the provision of services and facilities for the needs of local communities; and;

WHEREAS, Part I of Chapter 163, Florida Statutes, permits public agencies, as defined therein, to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the purpose of this Agreement is to enable CITY and BOARD to utilize the facilities of the other and provide a procedure for authorizing such use; and

WHEREAS, CITY and BOARD recognize the need and benefit for each party to utilize the recreation facilities of the other thereby maximizing the availability of said facilities.

NOW THEREFORE, for and in consideration of the mutual benefits herein contained, the parties agree as follows:

1. The foregoing recitals are true and correct and are hereby incorporated herein by reference.
2. For purposes of this Agreement, the following definitions are provided:
 - A. "Board Facilities" and "Board Facility" mean facilities owned or operated by the BOARD at the John I. Leonard High School site that are made available for

public use by the BOARD and are used primarily for recreational activities, excluding facilities that are leased, licensed or under the contractual control of others. The terms "Board Facilities" and "Board Facility" shall include, gymnasiums; playgrounds; athletic fields, and exterior meeting areas.

B. "City Facilities" and "City Facility" mean facilities owned or operated by the CITY that are made available for public use by the CITY and are used primarily for recreational activities, excluding facilities that are leased, licensed or under the contractual control of others. The terms "City Facilities" and "City Facility" shall include, parks; playgrounds, tennis, racquetball and basketball courts; athletic fields, and exterior meeting areas.

C. "Facilities" means the Board Facilities and City Facilities.

D. "Priority of Use" means the priority of uses when there are conflicting requests for the use of a Facility. For Board Facilities, the Priority of Use shall be as follows:

1. BOARD activities and programs;
2. County activities and programs pursuant to the Interlocal Agreement entered into by the BOARD and Palm Beach County dated October 15, 2003; and
3. City or City Recognized Sports Provider activities and programs pursuant to this Agreement.

For City Facilities, the Priority of Use shall be as follows:

1. City or City Recognized Sports Provider Group activities and programs; and
2. BOARD activities and programs pursuant to this Agreement.

E. "City Recognized Sports Provider Group(s)" mean those organized recreation groups and organizations identified in the attached Exhibit "A", which may be amended or supplemented from time to time upon the mutual agreement of the BOARD'S Chief Operating Officer and the CITY'S Leisure Services Director without formal amendment hereto.

3. The parties may place reasonable time period restrictions with respect to the use of the Facilities and shall use the Facilities pursuant to the following provisions:

A. BOARD agrees to make the Board Facilities available for use by the CITY according to the Priority of Use at no cost or expense to the CITY, except as otherwise provided for in this Agreement. The CITY'S use of the Board Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement; (ii) the BOARD'S rules, regulations and policies governing the use of the Board Facilities; (iii) any grant or bond obligations pertaining to the use of any of the Board Facilities; and (iv) all applicable local, state and federal laws.

B. The CITY agrees to make available the City Facilities for use by the Board according to the Priority of Use at no cost or expense to the BOARD, except as otherwise provided for in this Agreement. The BOARD'S use of the City Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement; (ii) the CITY'S rules, regulations and policies governing the use of the City Facilities; (iii) any grant or bond obligations pertaining to the use of any of the City Facilities; and (iv) all applicable local, state and federal laws.

C. The CITY shall submit all requests for use of the Board Facilities in writing in the form attached hereto as Exhibit "B" to the Principal of John I. Leonard High School or his or her designee no less than thirty (30) days prior to the date that the CITY desires to use the Board Facility. The BOARD shall be responsible for ensuring that written response to the request is provided to the CITY within fifteen (15) days of the date of the request. In the event a request is denied, the reason for denial shall be stated in the written response.

D. The BOARD shall submit all requests for use of the City Facilities in writing in the form attached hereto as Exhibit "B" to the CITY'S Leisure Services Director no less than thirty (30) days prior to the date that the BOARD desires to use the CITY Facility. The CITY shall be responsible for ensuring that a written response to the request is provided to the BOARD within fifteen (15) days of the date of the request. In the event a request is denied, the reason for denial shall be stated in the written response.

E. The BOARD and CITY acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the

limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. The BOARD and CITY agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

F. Without waiving the right to sovereign immunity, the parties acknowledge that they are self-insured for commercial general liability and automobile liability in the amounts specified in Florida Statutes Section 768.28, as may be amended from time to time. In the event either party maintains third-party commercial general liability or business automobile liability insurance in lieu of exclusive reliance on self-insurance, the party maintaining the third-party insurance shall maintain limits of not less than Two Hundred Thousand Dollars (\$200,000) combined single limit for bodily injury or property damage and shall add the other party as an additional insured to the commercial general liability policy, but only with respect to negligence arising out of this Agreement that is not a result of the other party's negligence. The additional insured endorsement for the CITY shall read "The City of Greenacres, a municipal corporation of the State of Florida, its Officers, Employees and Agents". The additional insured endorsement for the BOARD shall read "The School Board of Palm Beach County, Florida, its Officers, Employees and Agents". The parties agree additional insured endorsements shall provide coverage on a primary basis. Claims-bill tailored coverage shall not be considered third-party liability coverage for purposes of this Agreement. The parties agree to maintain or to be self-insured for worker's compensation and employer's liability insurance in accordance with Chapter 440, Florida Statutes, as may be amended from time to time. Each party agrees to provide the other party with an affidavit or certificate of insurance evidencing insurance, self-insurance and/or sovereign immunity status, which the parties agree to recognize as acceptable for the above-referenced coverages. Compliance with the requirements

of this paragraph shall not relieve the parties of their liability and obligations under this Agreement.

G. Each party agrees to provide adequate supervision of its own activities to prevent bodily harm to the users and damage to the Facilities, taking into consideration the types of activities planned, when using the other's Facilities. When aquatic facilities will be included in the Facilities to be utilized, the party using the Facility shall provide supervisors certified in Lifeguard Training in addition to any other supervision required hereunder.

H. In the event the Facilities are damaged, the party using the Facilities of the other party shall promptly notify the other party in writing of the damage and shall reimburse the other party for the actual costs to repair the damage. Reimbursement shall be made within sixty (60) days of a written request for reimbursement of costs.

I. The Facilities shall be surrendered by the party using the Facilities of the other party in the same condition as they were accepted and shall cause to be removed from the Facilities all waste, garbage and rubbish resulting from such party's use of the Facilities.

4. City Recognized Sports Providers shall use the Board Facilities pursuant to the following provisions:

A. The BOARD agrees to make the Board Facilities available for use by the City Recognized Sports Providers at no cost or expense to the City Recognized Sports Providers according to the Priority of Use, except as otherwise provided for in this Agreement. Use of the Board Facilities by the City Recognized Sports Providers shall depend on availability and shall be subject to and in accordance with: (i) the terms and conditions of this Agreement; (ii) the BOARD'S rules, regulations and policies governing the use of Board Facilities; (iii) any bond or grant obligations pertaining to the use of the Board Facilities; and (iv) all applicable local, state and federal laws.

B. Prior to being granted access to any of the Board Facilities, each City Recognized Sports Provider shall be required to obtain a Facility Use Permit from the CITY. The Facility Use Permit shall, at a minimum, require the City Recognized Sports Provider to:

1. provide proof of insurance for such coverages and amounts as may be required by the BOARD'S Director of Employee Benefits and Risk Management when Board Facilities are to be utilized and name the BOARD and the CITY as additional insureds;
 2. protect, defend, reimburse indemnify and hold the BOARD and the CITY, their agents, employees and elected officers harmless from and against all claims, liability, expenses, costs, damages and causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising from or in anyway connected to the City Recognized Sports Provider's use of the Board Facilities;
 3. provide adequate supervision of its own activities to prevent bodily harm to the users or damage to the Board Facilities, taking into consideration the types of activities planned;
 4. return the Board Facilities in the same condition as they were accepted and to remove all waste, garbage and rubbish resulting from the City Recognized Sports Provider's use of the Board Facilities; and
 5. notify the Board of any damage to the Board Facilities resulting from the City Recognized Sports Provider's use of the Board Facilities and reimburse the BOARD for the actual costs to repair the damage.
- C. The Facility Use Permit issued by the CITY shall also indicate that the Facility Use Permit may be revoked or suspended by the CITY and the BOARD may deny access to the Board Facilities for failure to comply with the terms and conditions of the Facility Use Permit.
- D. The City Recognized Sports Providers shall be required to submit all requests for use of the Board Facilities in writing in the form attached hereto as Exhibit "B" to the CITY's Leisure Services Director no less than thirty (30) days prior to the date the City Recognized Sports Provider desires to use the Board Facility. The CITY'S Leisure Services Director shall coordinate scheduling of the use of the Board Facility with the Principal of John I. Leonard High School or his or her designee. The BOARD shall be

responsible for ensuring that a written response to the request is provided to the CITY'S Leisure Services Director within fifteen (15) days of the date of the request. In the event a request is denied, the reason for denial shall be stated in the written response.

- E. Notwithstanding any provision of this Agreement to the contrary, the BOARD shall not be obligated to make the Board Facilities available for use by a City Recognized Sports Provider for tournaments or any events where admission or concession fees or charges will be collected or imposed by the City Recognized Sports Provider.
5. The sale, use or possession of alcoholic beverages or controlled substances at any of the Facilities sites is strictly prohibited.
 6. In the event an issue arises which cannot be resolved between the Principal and the CITY'S Leisure Services Director regarding the use or availability of a Facility, the dispute shall be referred to the Board's Chief Operating Officer and the City Manager who shall both make a good faith effort to resolve the dispute.
 7. Neither party shall be required to make any improvements or repairs to the Facilities as a condition of use of the Facilities by the other party or City Recognized Sports Providers. The parties and City Recognized Sports Providers shall accept the Facilities in their "As is", "Where is" condition. The parties acknowledge and agree that neither party has made any warranties or representations to the other party regarding the Facilities, including, but not limited to, any representations or warranties regarding the suitability of the Facilities for use by the other party or City Recognized Sports Providers.
 8. Notwithstanding any provision of this Agreement to the contrary, the use the Facilities by either of the parties or the City Recognized Sports Providers shall only amount to a license to use the Facilities on a non-exclusive basis, which license shall be revocable by the party licensing the use for any reason whatsoever. The parties agree that nothing in this Agreement shall be construed as granting either party or the City Recognized Sports Providers any title, interest or estate in the Facilities.
 9. The parties agree that, in the event either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party thirty

(30) days written notice to cure the default. In the event the defaulting party fails to cure the default within the thirty (30) day cure period, the non-defaulting party shall be entitled to seek any remedy available to it at law or equity, including, but not limited to, the right to terminate this Agreement and seek damages, if any.

10. All notices herein required shall be in writing. Any such notice shall be deemed sufficiently delivered or served if hand delivered or deposited in the U.S. Mail:

As to CITY: City Manager
 City of Greenacres
 5985 10th Avenue North
 Greenacres, Florida 33463

With copy to: Leisure Services Director
 City of Greenacres
 525 Swain Blvd.
 Greenacres, Florida 33463

As to BOARD: Principal, John I. Leonard High School
 School District of Palm Beach County
 4701 10th Avenue North
 West Palm Beach, Florida 33463

With copy to: Director, Real Estate Services
 The School District of Palm Beach County
 3300 Forest Hill Boulevard
 West Palm Beach, FL 33406 -5813

And:

Office of Chief Counsel
The School District of Palm Beach County
3300 Forest Hill Boulevard
West Palm Beach, FL 33406-5813

11. This Agreement may not be assigned, in whole or in part, without the prior written consent of BOARD and CITY.
12. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated by either party: (i) without cause upon thirty (30) days prior written notice to the other party or (ii) with cause upon the expiration of the thirty (30) day cure period provided for in Section 11 above.
13. Each party's performance and obligations under this Agreement shall be contingent upon an annual budgetary appropriation by its respective governing body for subsequent fiscal years.
14. This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.
15. This Agreement is made solely and specifically among and for the benefit of the parties hereto, and no other person shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.
16. The parties agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, or sexual orientation be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.
17. In the event that any section, paragraph, sentence, clause, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

18. This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement.
19. Except as otherwise provided for in this Agreement, this Agreement may be modified and amended only by written instrument executed by the parties hereto.
20. No waiver of any provision of this Agreement shall be effective against any party hereto unless it 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.
21. Neither party shall be considered the author of this Agreement since the parties have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it.
22. This Agreement shall become effective when signed by both parties hereto (hereinafter "Commencement Date"). The term of this Agreement shall be for a period of two (2) years and shall be automatically renewed up to two (2) additional consecutive one (1) year terms, unless it is terminated by either party in accordance with the termination provisions of this Agreement.
23. This Agreement shall not change, modify or have any effect whatsoever on that certain August 18, 1999 Interlocal Agreement and Operational Management Plan for Pinehurst Park between the BOARD, the CITY and Palm Beach County.
24. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County pursuant to Section 163.01(11), Florida Statutes.

{Remainder of page intentionally left blank}

IN WITNESS WHEREOF, this Agreement has been executed by the parties herein on the day and year first above written.

SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA

By: _____
Chair

ATTEST:

Dr. Arthur Johnson, Superintendent

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Blair [Signature] 10/7/05
School Board Attorney

Date: _____

CITY OF GREENACRES, FLORIDA

By: _____

Its: _____

ATTEST:

City Clerk

Approved as to form and legal sufficiency

By: _____
City Attorney

Date: _____

EXHIBIT "A"
CITY RECOGNIZED SPORTS PROVIDER GROUPS

Greenacres Little League

EXHIBIT "B"
FACILITY REQUEST FORM

**CITY OF GREENACRES and
SCHOOL BOARD OF PALM BEACH COUNTY**

INTERLOCAL FACILITY REQUEST FORM

Date

Contact Person

School Name (if applicable)

Phone Number

Fax Number

Other Contact Number

Address

City

State/ZIP

FACILITY REQUEST:

Choice #1

Choice #2

Activity

Age Group

Estimated Attendance:

Participants: _____

Spectators: _____

Total: _____

Mark appropriate day(s) facility will be needed:

Monday Tuesday Wednesday Thursday Friday Saturday Sunday

Date(s): _____

Time(s): From _____ am/pm to _____ am/pm

New Request

Repeat Request:

Date and location of previous use: _____

Other pertinent information (as necessary): _____

Requesting Principal

Date

Leisure Services Director

City Recognized Sports Provider

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Approve _____ Disapprove

Reason if disapproved: _____

Principal

Date

Leisure Services Director