

LEASE AND DEVELOPMENT AGREEMENT

THIS LEASE AND DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into as of the Effective Date (hereinafter defined) by and among **THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida, whose address is 445 West Amelia Avenue, Orlando, Florida 32801 (“School Board”), and **THE BOYS & GIRLS CLUBS OF CENTRAL FLORIDA, INC.**, a Florida not-for-profit corporation, whose address is 101 East Colonial Drive, Orlando, Florida 32801 (“BGCCF”).

WITNESSETH:

WHEREAS, School Board is or will be the fee simple owner of that certain real property consisting of approximately 12.69 acres located within the City of Orlando, Orange County, Florida, and more particularly described in Exhibit “A” attached hereto and incorporated herein by reference (“Property”) and

WHEREAS, School Board is, through others, designing and constructing an educational facility on the Property to educate students from pre-school to eighth grade, commonly referred to as the “Downtown PS8” (“Downtown PS8”); and

WHEREAS, BGCCF desires to provide philanthropic support to the Downtown PS8 and surrounding neighborhoods by establishing and promoting community services consistent with the mission, core values and goals of BGCCF to students ranging from 6 to 18 years old and their families in the surrounding community of downtown Orlando, particularly to those students and families needing it most; and

WHEREAS, a conceptual site plan for the development and construction of the Downtown PS8 is attached hereto as Exhibit “B” and incorporated herein by reference (“Overall Conceptual Plan”); and

WHEREAS, a conceptual site plan, floorplan and elevation for the development and construction of the Leased Facilities is attached hereto as Exhibit “C” and incorporated herein by reference (“BGCCF Conceptual Plan”)(the Overall Conceptual Plan and BGCCF Conceptual Plan shall be collectively referred to herein as the “Conceptual Plan”); and

WHEREAS, as more particularly set forth on the Conceptual Plan, the School Board has designated certain areas within the Downtown PS8 which will be available for the exclusive use of BGCCF including, without limitation, approximately 30,691 square feet of air-conditioned space located in a two-story building identified on the Conceptual Plan and meeting the specific needs of the BGCCF, such as classrooms, supplemental classroom areas, general support areas, student support areas, lobby and administrative offices, which will be separately operated, maintained and secured by the BGCCF (“Leased Facilities”); and

WHEREAS, as more particularly set forth on the Conceptual Plan, the School Board has designated certain areas within the Downtown PS8 which will be available for the shared joint use of the BGCCF and School Board, including without limitation, the media center, amphitheater, gymnasium, cafeteria, bus loop and parking areas, playfields and grounds, recreational and related facilities, entrance, lobby, security desk, corridors, walkways, stairwells, elevators, restrooms, mechanical rooms, courtyard, access drives, roads, delivery areas, and other similar facilities located within the Downtown PS8 (collectively, “Common Areas”); and

WHEREAS, School Board has agreed, through others, to design, permit, engineer, develop and construct the Downtown PS8, including the Leased Facilities and Common Areas within the Downtown PS8 (collectively, "BGCCF Facilities"), based on the terms and conditions of this Agreement and the mutual obligations of BGCCF and the School Board as more particularly set forth herein; and

WHEREAS, BGCCF has agreed to pay to the School Board BGCCF's Capital Contribution (as defined below) associated with the design, engineering, development, permitting and construction of the Leased Facilities within the Downtown PS8 as more particularly set forth herein; and

WHEREAS, upon completion of the Downtown PS8, School Board and BGCCF shall have certain use rights to the Leased Facilities and Common Areas for the Lease Term (as hereinafter defined), all as more specifically provided herein; and

WHEREAS, School Board and BGCCF desire to set forth the terms and conditions of their agreement for the design, planning, development, construction, use, joint use, and lease interest in the Leased Facilities and Common Areas within the Downtown PS8.

NOW THEREFORE, in consideration of the mutual promises made herein and for other good and valuable consideration, the receipt of which is hereby acknowledged by the parties, the parties hereby agree as follows:

ARTICLE 1 PRELIMINARY PROVISIONS

1.1 **Recitals**. The foregoing recitals are true and correct and are incorporated herein by this reference.

1.2 **Purpose**. The purpose of this Agreement shall be to set forth the terms and conditions for the design, planning, development and construction of the Downtown PS8 on the Property, and the use of the Leased Facilities and Common Areas by the BGCCF.

ARTICLE 2 DEFINITIONS

2.1 **Definitions**. The following terms shall be defined and have the meaning set forth herein:

2.1.1 "Hours of Operation" shall mean Monday through Friday from 3 p.m. to 9 p.m. during the School Term and Monday through Friday from 7 a.m. to 6 p.m. on days other than the School Term.

2.1.2 "BGCCF's Intended Use" shall mean the use by which BGCCF intends to use the Leased Facilities and Common Areas, including, without limitation the operation and maintenance of a community center offering youth development programs in a safe environment for children between the ages of 6 and 18, especially those needing it the most, and for such other purposes incidental thereto, consistent with the mission, club code and core values of the BGCCF.

2.1.3 "Change Request" means any design or programmatic changes to the Plans and Specifications as they existed at the date of issuance of the notice to proceed by the School Board.

2.1.4 "CM" shall mean the construction management firm duly licensed in the State of Florida engaged by the School Board pursuant to a guaranteed maximum price contract for the

completion of the Downtown PS8 and responsible for constructing or managing the construction of the Downtown PS8, including, without limitation, the supervision and management of all subcontractors performing work on the Downtown PS8. School Board has retained the firm of Williams Company Building Division, Inc. to serve as the CM; provided, however, School Board reserves the right to replace or substitute the firm retained as the CM at any time, without the prior written consent or approval of the BGCCF.

2.1.5 “Design Professional” shall mean the architect or architectural firm, planner or planning firm and/or engineering firm duly licensed in the State of Florida engaged to (a) design the Downtown PS8; (b) prepare the construction Plans and Specifications for the Downtown PS8; (c) periodically inspect the Downtown PS8 during construction; and (d) upon Substantial Completion of construction on the Downtown PS8, to certify that construction has occurred in substantial conformance with the Plans and Specifications. School Board has retained the firm of Baker Barrios to serve as the Design Professional; provided, however, School Board reserves the right to replace or substitute the firm retained as the Design Professional at any time, without the prior written consent or approval of the BGCCF.

2.1.6 “FF&E” shall mean all traditional fixed elements and furniture, fixture and equipment as are necessary to furnish and operate the Downtown PS8, as applicable.

2.1.7 “Plans and Specifications” shall mean any such program statement, schematics, plans, drawings, or amendments thereto, and any other documentation reasonably required to specify and describe the size, character and design of the Downtown PS8 as to architectural, structural, mechanical, plumbing, fire sprinkler, low voltage, audio visual, HVAC, and electrical systems, materials and such other equipment as may be appropriate, prepared by the Design Professional for the Downtown PS8, including, without limitation, the following (a) any detailed, comprehensive program for the specific spaces, types and number of uses, staffing, Unified Systems and other similar parameters for the Leased Facilities portion of the Downtown PS8; (b) schematic design documents including the Conceptual Plan, floor plans, sections, elevations and a basis for design of the Leased Facilities portion of the Downtown PS8; (c) plans, specifications, drawings, preliminary and final schedules for construction of the Leased Facilities portion of the Downtown PS8, and an estimate of final design and construction costs for the Downtown PS8 in general and the Leased Facilities specifically. The Plans and Specifications for the Leased Facilities shall be jointly approved in writing by School Board and BGCCF.

2.1.8 “PM” shall mean the project manager designated by the School Board to oversee and manage the planning, design, construction and development of the Downtown PS8. School Board has designated Krista McArthur as the PM for purposes of this Agreement, whose contact information is:

Krista McArthur,
Phone: 407-317-3700 Extension 202-5392
Email: Krista.mcarthur3@ocps.net

2.1.9 “Substantial Completion” shall be achieved when the construction on the Downtown PS8 has been completed to the point where School Board and BGCCF (as to the Leased Facilities) can lawfully occupy and beneficially use the Downtown PS8 in general and the Leased Facilities in particular (with respect to BGCCF) for their intended purposes under an issued Certificate of Occupancy or Conditional Certificate of Occupancy or the equivalent thereof.

2.1.10 “Total Construction Costs” shall mean any and all actual costs incurred by the School Board for planning, designing, engineering, developing, permitting, construction and equipping the Downtown PS8 limited to actual costs payable to third parties unrelated to the School Board for the

following: (a) all hard and soft costs payable to third parties related to the design, development, equipment and construction of the Downtown PS8 (such expenses to include construction costs, architectural and design fees, general conditions costs, construction management fees, program management fees, development management fees, administrative costs incurred by a third party unrelated to the School Board, costs of FF&E, costs of permits, license and testing, costs of third parties rendering services in connection with the Downtown PS8, and any other reasonable direct costs payable to a third party unrelated to the School Board and properly related to the Downtown PS8); (b) the cost of any indemnity and surety bonds and premiums for insurance during construction; and (c) costs of machinery and related equipment necessary for the commencement of operations of the Downtown PS8.

ARTICLE 3 DESIGN, PERMITTING AND CONSTRUCTION

3.1 Planning and Design Process. School Board and the Design Professional prepared the Conceptual Plan for the Downtown PS8 in conjunction with input from BGCCF to develop a site plan, schematic floor plan and building elevation plans that meet the needs of the School Board and BGCCF. BGCCF agrees and acknowledges that BGCCF has received and reviewed the Conceptual Plan and the Conceptual Plan thus far meets the design needs of the BGCCF with regard to BGCCF's use of the Leased Facilities (subject to future satisfactory elaboration during the design iteration process from conceptual drawings to construction drawings) .

3.2 Plans and Specifications. The Design Professional shall prepare the Plans and Specifications required by the School Board for the design and construction of the Downtown PS8. The Plans and Specifications shall be the sole and exclusive property of the School Board, but will be shared by School Board for reasonable use by BFCCF in connection with its fundraising and marketing activities.

3.3 Review of Plans and Specifications. BGCCF shall have the right to review the Plans and Specifications related to the Leased Facilities during the design and development of the Downtown PS8 and prior to the School Board's submission of the Plans and Specifications to any governmental agency, authority, municipality, or other bodies politic whose approval is required in order for CM to lawfully construct the improvements described therein (collectively, "Periodic Design Review"). Upon request from the BGCCF, School Board shall take any and all action reasonably necessary to coordinate and schedule any Periodic Design Review meetings between the Design Professional, BGCCF and School Board to ensure BGCCF is included in, and directing, the design and development of the Plans and Specifications for the Leased Facilities. School Board shall coordinate with BGCCF to provide BGCCF a complete set of the Plans and Specifications, as they relate to the Leased Facilities and any other documentation reasonably necessary for BGCCF to determine, in its reasonable discretion, if the Leased Facilities are adequate to meet the needs of BGCCF for BGCCF's Intended Use. No later than ten (10) business days following BGCCF's review of the Plans and Specifications at any Periodic Design Review, BGCCF shall notify School Board in writing of any revisions, corrections, value engineering, upgrades or enhancements to the Leased Facilities as depicted in the Plans and Specifications as may be reasonably required or desired by BGCCF for BGCCF's Intended Use thereof.

BGCCF agrees and acknowledges that BGCCF's right to review the Plans and Specifications is solely for the purpose of advising the School Board and Design Professional if the Leased Facilities have been designed in accordance with, and meet the use and spaces needs of, the BGCCF's Intended Use. BGCCF, in coordination with and through the PM and School Board, shall have the sole right to direct the Design Professional and CM, as to the design, development and construction of the Leased Facilities, including, the interior floor and space planning, furnishing, fixtures, finishes and any other interior improvements not affecting the Unified Systems or exterior of the Leased Facilities, and the costs and

budget thereof. Notwithstanding the foregoing, BGCCF understands and acknowledges that BGCCF shall not have the right to approve or deny the Plans and Specifications relating to the location or exterior of the Leased Facilities, Common Areas or remainder of the Downtown PS8, or otherwise require any additional upgrades to either the Leased Facilities beyond the standard educational and administrative facilities constructed by the School Board as part of a joint elementary school and middle school facility or that would substantially increase the overall Total Construction Costs; provided, however, in the event BGCCF elects to upgrade or enhance any portion of the Leased Facilities, BGCCF may elect to increase BGCCF's Capital Contribution (hereinafter defined) by the amount of such enhancements or upgrades to the Leased Facilities.

3.4 **Construction Budget.**

3.4.1 School Board shall cause the CM, with input from the Design Professional, to develop a preliminary line item budget for the hard and soft costs associated with the design, permitting, engineering, development and construction of the Downtown PS8 (collectively "Preliminary Construction Budget"). A copy of the Preliminary Construction Budget shall be delivered to BGCCF within ten (10) days of approval of a guaranteed maximum price amendment with the CM. BGCCF acknowledges and understands that the Preliminary Construction Budget and the final pre-construction iteration of the construction budget ("Construction Budget") prepared by CM are estimates and for reference only, and in no event shall School Board be liable or responsible for the failure to comply with the estimates set forth in the Preliminary Construction Budget or the Construction Budget prepared by CM.

3.4.2 After final approval of the Plans and Specifications, and subject to any Substantial Change Requests approved by BGCCF, the School Board shall be solely responsible for any costs and expenses incurred (over and above BGCCF's Capital Contribution) related to the construction of the Leased Facilities.

3.5 **Cost of Design and Planning.** School Board shall be responsible for all costs and expenses associated with the design, preparation, production and approval of the Plans and Specifications, subject to any reimbursement from BGCCF in the form of the BGCCF's Capital Contribution.

3.6 **Construction of the Downtown PS8.**

3.6.1 **Commencement of Construction.** Subject to the reimbursement provisions set forth below, School Board shall contract with the PM and cause construction of the Downtown PS8 to commence as soon as reasonably practical after the issuance of all required permits. Once construction has commenced on the Downtown PS8, the School Board shall cause the CM to diligently and in good faith proceed with the construction of the Downtown PS8 in accordance with the preliminary construction schedule attached hereto as Exhibit "D" and incorporated herein by reference ("Preliminary Construction Schedule") and in accordance with the Construction Budget. BGCCF acknowledges and understands that the Preliminary Construction Schedule and the Construction Budget are estimates and for reference only, and in no event shall School Board be liable or responsible for the failure to comply with the timeframes set forth in the Preliminary Construction Schedule or estimates set forth in the Construction Budget.

3.6.2 **Administration of Construction.** BGCCF and School Board agree and acknowledge that BGCCF shall have the right, through the PM, to direct the CM and construction of the Leased Facilities, exclusive of the Unified Systems; provided, however, such construction directives shall be consistent with the overall development and construction of the Downtown PS8 as a whole and shall otherwise comply with the Plans and Specifications, as approved by BGCCF and School Board, and the requirements and specifications governing the construction of educational facilities. Upon written request from the BGCCF, School Board shall take any and all action reasonably necessary to coordinate and

schedule any inspections, meetings or conferences between the Design Professional, CM, BGCCF and School Board to ensure BGCCF is included in, and directing, the development and construction of the Leased Facilities as provided for herein. Upon request, PM will accompany any BGCCF representative(s) in regular on-site inspections of the construction of the Leased Facilities.

3.6.3 Conformance with Plans and Specifications and Change Requests. The construction of the Downtown PS8 shall be in substantial conformance with the Plans and Specifications. In the event a Change Request is submitted by the CM or School Board that substantially affects the Leased Facilities, the School Board, through the PM or CM, shall provide written notice to the BGCCF detailing the content and extent of the Change Request and any potential costs or savings resulting therefrom. In the event the Change Request substantially affects the amount of BGCCF's Capital Contribution by more than five percent (5%) of the BGCCF's Capital Contribution ("Substantial Change Request"), within ten (10) business days of receipt of notice of the Substantial Change Request, BGCCF shall review the Substantial Change Request and provide written notice of its approval or disapproval of the Substantial Change Request. In the event BGCCF fails to approve or disapprove of the Substantial Change Request within ten (10) business days of receipt of written notice from the School Board, the Substantial Change Request shall automatically be deemed approved by BGCCF, and the amount of BGCCF's Capital Contribution shall be adjusted accordingly.

3.7 BGCCF's Capital Contributions. BGCCF shall contribute, deposit and pay to School Board an amount equal to Four Million and No/100 Dollars (\$4,000,000.00) ("BGCCF's Capital Contribution"). BGCCF's Capital Contribution shall be paid by BGCCF to the School Board in accordance with the following schedule:

3.7.1 Issuance of Notice to Proceed with Construction. No later than thirty (30) days from the date upon which the School Board issues a Notice to Proceed with construction management services of the Downtown PS8 (currently scheduled to be on or about February 25, 2016), BGCCF shall deposit with the School Board an amount equal to Five Hundred Thousand and No/100 Dollars (\$500,000.00) ("Initial Payment").

3.7.2 Substantial Completion of Construction. No later than thirty (30) days from the date upon which the Downtown PS8 attains Substantial Completion (currently scheduled to be on or about May 31, 2017), as approved by BGCCF (with respect to the Leased Facilities only), BGCCF shall pay to the School Board an amount equal to an additional Three Million One Hundred Thousand and No/100 Dollars (\$3,100,000.00) ("Substantial Completion Payment").

3.7.3 Final Capital Contribution Payment. No later than thirty (30) days from the date upon which the School Board and BGCCF (with respect to the Leased Facilities only) approve a certificate of Final Completion for the Downtown PS8 ("Completion Date"), BGCCF shall pay to the School Board an amount equal to BGCCF's Capital Contribution, as may be adjusted by any Substantial Changes Requests approved by BGCCF, less and except the Initial Payment and Substantial Completion Payment previously made by BGCCF to the School Board in accordance herewith ("Final Capital Contribution Payment").

3.7.4 Failure to Make Payment. In the event BGCCF fails to timely make any of BGCCF's Capital Contribution payments required hereunder after thirty (30) days prior written notice and opportunity to cure, School Board, in its sole and absolute discretion, may elect to cancel or terminate this Agreement effective immediately, and in the event of such termination, this Agreement and all rights, obligations and liabilities created hereunder shall be deemed null and void and of no further force and effect. Upon such termination, the School Board may retain all prior payments previously made to the School Board in accordance herewith.

3.8 **Substantial Completion.** Upon proposed achievement of Substantial Completion of the Downtown PS8, the School Board shall provide written notice to BGCCF of such proposed Substantial Completion and BGCCF shall have ten (10) business days to approve or disapprove of Substantial Completion with respect to the Leased Facilities only. BGCCF shall be solely responsible for inspecting the Leased Facilities to ensure compliance with the Plans and Specifications, as may be amended by any Change Requests, as such Plans and Specifications relate to BGCCF's Intended Use of the Leased Facilities. BGCCF shall be responsible for inspecting the Leased Facilities and providing a written punchlist to the PM of any outstanding issues, defects or deficiencies with the work performed by the CM as it relates to the Leased Facilities ("BGCCF Punchlist"). School Board, through the PM, shall review the BGCCF Punchlist and cause the CM to resolve any items or matters identified on the BGCCF Punchlist to the reasonable satisfaction of the PM and BGCCF.

3.9 **FF&E.** BGCCF, at its sole cost and expense, shall be responsible for selecting, procuring, purchasing, supplying and providing all FF&E (excluding equipment included in the Unified Systems) for the areas within the Leased Facilities. School Board shall be responsible for delivering the Leased Facilities with the following improvements constructed and installed in accordance with the Plans and Specifications: exterior and interior doors and related door hardware, exterior and interior walls and related windows, mechanical systems, plumbing systems, electrical systems, fire protection systems, low voltage systems, A/V systems, painted finishes, flooring finishes, cabinetry systems, ceiling systems, window treatments, toilets, urinals, sinks, faucets, stall dividers, hand dryers, drywall, insulation, and lighting fixtures. School Board, subject to the reimbursement provisions set forth herein, shall be responsible for selecting, procuring, purchasing, supplying and providing all FF&E for all areas of the Downtown PS8, including, without limitation, the Common Areas but exclusive of the Leased Facilities. The costs of FF&E for the Common Areas shall be included in the Total Costs of Construction.

3.10 **Warranties, Guaranties and O & M Manuals.** School Board shall cause the CM to (a) deliver all manufacturers' or other warranties or guarantees related to the Downtown PS8 to the School Board and (b) warranty all labor, materials and work under the construction contract with the School Board for a period of one (1) year from the Completion Date (collectively, "Warranties"), and (c) deliver all operation and maintenance manuals for all equipment and systems included in the Leased Facilities. School Board will request the CM name the BGCCF as a beneficiary of the Warranties for the Leased Facilities, exclusive of the Unified Systems. Except as otherwise provided in this paragraph, School Board shall have the sole and exclusive right to file a claim under any Warranties issued to the School Board by the CM. Upon written notification to School Board from BGCCF of a claim under any Warranties as said Warranties relate to the Leased Facilities, School Board shall file, administer, coordinate and pursue with the CM any claims under the Warranties in collaboration and cooperation with BGCCF. In the event the BGCCF believes that a Warranties claim exists but School Board is failing to take sufficient actions with respect to the CM to have the CM perform under its Warranties obligations, then BGCCF shall provide School Board with sixty (60) days' written notice ("Warranty Default Notice") and opportunity to cure the default ("Warranty Cure Period"). If School Board is unable or unwilling to obtain the CM's cooperation during the Warranty Cure Period to acknowledge in writing the CM's responsibility to perform under the specific Warranties obligation(s) at issue and correct or commence to correct (and thereafter diligently pursue to final correction if correction is impractical within the initial Warranty Cure Period) the specific Warranties issue(s) described in the BGCCF Warranty Default Notice served on the School Board, then School Board hereby assigns to BGCCF the warranty rights of the School Board against the CM such that BGCCF may pursue in its own name all Warranties-related rights and remedies of the School Board against the CM associated with the Leased Facilities and described in the Warranty Default Notice. This assignment by the School Board to the BGCCF is a conditional assignment subject to the express condition subsequent of the School Board failing to cure a Warranties-related default as specified above in this paragraph. Upon such an uncured default as described above in this paragraph, the assignment shall be deemed self-executing and no further evidence of the assignment

shall be necessary for the BGCCF to be entitled to enforce in its own name (as assignee of the School Board) the warranty rights of the School Board against the CM related to the Leased Facilities and described in the Warranty Default Notice.

3.11 **Assignment of CM Agreement.** In the event the School Board fails to complete the construction of the Downtown PS8 or otherwise defaults under the agreement with the CM, without limiting such other remedies as may be available, at BGCCF's option either (a) School Board shall take any and all action reasonably necessary to assign the agreement with the CM to BGCCF in order to permit BGCCF to complete construction of the Leased Facilities; or (b) BGCCF may terminate this Agreement in which event School Board will return to BGCCF the Initial Payment.

ARTICLE 4 LEASE OF PREMISES

4.1 **Delivery of Possession.** Upon issuance of Substantial Completion by the School Board, the School Board shall deliver possession and occupancy of the Leased Facilities to BGCCF in accordance with the terms hereof.

4.2 **Use of Property.** It is the intent of the parties that BGCCF use the Leased Facilities and Common Areas only for BGCCF's Intended Use, and shall not use the Leased Facilities or Common Areas for uses inconsistent with the BGCCF's Intended Use, or for any other use unless specifically approved in writing by the School Board. In the event the BGCCF elects to use the Leased Facilities or Common Areas for any use not otherwise included in BGCCF's Intended Use, BGCCF shall first seek the written approval of the School Board, which approval may be withheld in the School Board's sole and absolute discretion.

4.3 **Leased Facilities.** School Board agrees to lease to BGCCF, and BGCCF agrees to lease from School Board, the Leased Facilities. The Leased Facilities shall include approximately 30,691 square feet of space located in the two-story building meeting the specific needs of the BGCCF, as more particularly identified in the Conceptual Plan. The lease of the Leased Facilities shall include the nonexclusive right to utilize the Common Areas, subject to the restrictions set forth herein.

4.4 **Lease Addendum.** Upon completion of the construction of the Downtown PS8 and prior to delivery of occupancy of the Leased Facilities to BGCCF, BGCCF and School Board agree to enter into and execute an addendum to this Agreement consistent with the terms and conditions hereof and identifying the commencement date of the Lease Term and actual location of the Leased Facilities with an as-built description, which depiction shall replace the description of the Leased Facilities set forth in the Conceptual Plan ("Addendum").

4.5 **Lease Term.** This commencement date of the lease shall be the date of Substantial Completion and continue thereafter for a term of ninety-nine (99) years, unless sooner terminated as provided herein ("Lease Term").

4.6 **Rent.** BGCCF shall pay the School Board an amount equal to One and No/100 Dollar (\$1.00) per year ("Rent"). Rent shall be payable annually in advance commencing on the date of Substantial Completion and thereafter, on the anniversary of the date of Substantial Completion.

4.7 **Maintenance of the Interior of Leased Facilities.** BGCCF shall, at its sole cost and expense, maintain the interior of the Leased Facilities in a neat, clean, safe and good condition and repair during the Lease Term, ordinary wear and tear excepted. BGCCF shall be responsible for the custodial, maintenance, repair and replacement of all minor and major systems and components not otherwise

included in the Unified Systems (hereinafter defined), including, without limitation, any minor or major components that are separately designed or metered to enable said system to operate as a stand-alone system independent of the remaining facilities of the Downtown PS8. All maintenance, repair and replacement shall be conducted by BGCCF with first class materials, in a good and workmanlike manner, of the same or similar quality, quantity, and type as the materials used to initially construct the Downtown PS8 by the School Board, and in accordance with all rules, regulations and permitting requirements governing the maintenance, repair, replacement, installation or construction of educational facilities, including, without limitation, the State Requirements for Educational Facilities, all industry standards for the construction of educational facilities in the State of Florida, and all permitting and construction requirements of the School Board's Building Code and Compliance Office.

4.8 **Maintenance of the Unified Systems of Leased Facilities.** The School Board shall be responsible for the maintenance, repair and replacement of any minor or major system that is integrally related, interdependent or connected to the systems or components of the Leased Facilities such that said component or system cannot be replaced, repaired or maintained without potentially compromising the integrity of the overall system or component, including, without limitation, all electrical, plumbing, HVAC, fire suppression system, roofing systems, exterior windows, exterior doors, building envelope, grounds keeping, landscaping, mowing, irrigation systems, and other exterior facilities within or about the Leased Facilities (collectively, the "Unified Systems"). The School Board shall keep and maintain the Unified Systems in a good condition and repair during the Lease Term, ordinary wear and tear excepted. BGCCF shall not be responsible for any and all costs and expenses associated with maintaining the Unified Systems of the Leased Facilities.

4.9 **Utilities for Leased Facilities.** BGCCF and School Board shall take any and all action reasonably necessary to design, permit and construct the Leased Facilities in a manner whereby the Leased Facilities will be separately metered or invoiced, subject to the planning and design process set forth in Article 3 hereof. BGCCF shall be responsible, at its sole cost and expense, for connecting and maintaining all utilities for the Leased Facilities, including, without limitation, water, sewer, fire suppression, electricity charges and deposits (collectively, "Utilities"). To the extent the Leased Facilities are separately metered, BGCCF shall promptly pay all bills, charges, deposits and costs as same are presented by the utility providers to BGCCF for payment. To the extent the Utilities are submetered and invoiced to the School Board, BGCCF shall reimburse School Board in accordance with Section 4.13 hereof. As of the Effective Date, the parties hereto agree and acknowledge that no Utilities shall be shared and in the event any such Utilities are shared in the future, BGCCF and School Board shall enter into a separate agreement setting forth BGCCF's agreed fair share of any and all costs, charges or deposits incurred by the School Board for such Utilities serving the Leased Facilities. Notwithstanding the foregoing, BGCCF shall not be responsible for the reimbursement of bills, charges, deposits and costs associated with the exterior lighting, irrigation, trash and garbage disposal fees.

4.10 **Subletting of Leased Facilities.** In no event shall BGCCF be authorized to enter into an agreement with, assign, transfer, sublet this Agreement or any portion of the Leased Facilities to any third party without the express written consent of the School Board, which consent may be withheld or denied in the sole and absolute discretion of the School Board.

4.11 **Common Areas.** School Board agrees to license to BGCCF, and BGCCF agrees to license from School Board, the right to jointly use the Common Areas, subject to the restrictions set forth herein. Such license shall be irrevocable by School Board throughout the Lease Term. BGCCF shall have the right to use and occupy the Common Areas during the Hours of Operation consistent with BGCCF's Intended Use, subject to the School Board's right to restrict BGCCF's use of the Common Areas for School Sanctioned Activities (hereinafter defined).

4.11.1 Restrictions on BGCCF's Usage of the Common Areas. The School Board reserves the right to restrict BGCCF's use of the Common Areas for any activities, practices, or events scheduled or sanctioned by the School Board (collectively, "School Sanctioned Activities") in accordance with the following schedule:

a. The School Board may restrict BGCCF's usage of the Common Areas during the School Term and outside the School Term as provided herein. The School Term means and includes days during which student classes are regularly scheduled at the Downtown PS8 but shall not include Saturdays, Sundays, holidays or breaks during which time classes are not in session, with the exception of scheduled School Sanctioned Activities that occur on such days; specifically, "School Term" shall not include winter break, spring break or summer vacation.

b. The School Board's restriction of BGCCF's usage of the Common Areas during the School Term shall be limited to times during which regularly scheduled classes are in session, expected to be approximately between the hours of 8:00 a.m. to 5:00 p.m., and including the hours of Extended Day Programs, expected to be approximately between the hours of 7:00 a.m. to 8:00 a.m., and between the hours of 5:00 p.m. to 6:00 p.m. "Extended Day Programs" means periods of any day during the School Term during which the School organizes and provides before and/or after school child care, including, but not limited to, recreational activities utilizing the Property.

c. In the event the School Sanctioned Activities are scheduled outside of the timeframes set forth in subsection a. through b. above, upon thirty (30) days prior written notice to BGCCF, School Board may further restrict BGCCF's access to the Common Areas during the pendency of such School Sanctioned Activities. Notwithstanding the foregoing, prior to the commencement of each school year, the Principal of the Downtown PS8 ("Principal"), or Principal's designee, shall deliver to BGCCF a written schedule of known or proposed School Sanctioned Activities for the upcoming school year, if available. If said schedule is not available or if are otherwise unknown to the Principal in advance, the Principal, or Principal's designee, shall provide thirty (30) days prior written notice to BGCCF of said School Sanctioned Activities.

d. At all other times, the Common Areas shall be open and available to BGCCF as specified. Notwithstanding anything contained herein to the contrary, the restrictions of BGCCF's use of the Common Areas shall not apply to the walkways, corridors, parking areas, bus loops, or any other areas considered a part or portion of the Common Areas that would not otherwise require exclusive use of the Common Areas by BGCCF or the School Board.

e. Subject to the limitations set forth herein, the School Board shall have the exclusive right and privilege of using or authorizing other third party users, organizations, parties, entities, vendors or any other third party to use the Property (collectively, "Third Party User"), or any portion thereof exclusive of the Leased Facilities, for any use not otherwise inconsistent with the use of the Common Areas. In the event the School Board enters into any agreement or understanding with a Third Party User, the School Board shall have the exclusive right to retain any and all proceeds from the use of the Property by the Third Party User. In no event shall BGCCF be authorized to enter into an agreement with, assign, transfer, sublet or otherwise permit a Third Party User to use any portion of the Property, without the express written consent of the School Board.

f. In the event BGCCF desires to exclusively utilize any portion of the Common Areas, including, without limitation, the media center, amphitheater, athletic fields or any similar facilities, for a scheduled event of BGCCF, BGCCF shall deliver to School Board a written request containing a schedule of known or proposed BGCCF activities thirty (30) days prior to said

BGCCF activity or event. The exclusive use of the Common Areas by BGCCF shall be subject to, and subordinate to, the rights of any previously scheduled event by a Third Party User.

4.11.2 Maintenance of the Common Areas. BGCCF, at its sole costs and expense, shall exercise reasonable care in the use of the Common Areas and adjacent areas and agrees that it will use the Common Areas and adjacent areas in a clean, safe, orderly manner, and leave the Common Area after such use in an unaltered condition, ordinary wear and tear excepted, that BGCCF will replace any furniture or equipment moved during BGCCF's use of the Common Areas, and that BGCCF will remove all waste material at the conclusion of BGCCF's use of the Common Areas. Subject to the reimbursement and maintenance request provisions set forth herein, the School Board shall keep and maintain the Common Areas in a good condition and repair during the Lease Term, ordinary wear and tear excepted.

In the event BGCCF damages the Common Areas or any portion of the Property beyond routine maintenance, School Board, in its sole and absolute discretion may elect to either (i) require BGCCF, at BGCCF's own expense and risk, to restore the Common Areas to the condition existing prior to the use by BGCCF, or (ii) conduct the repairs and restorations to the Common Areas, subject to reimbursement from BGCCF as set forth below. If School Board conducts the repairs and restorations to the Common Areas or any portion of the Property, after having given reasonable notice to BGCCF and BGCCF's failure to timely undertake such repair or restoration (except in an emergency), the costs for same shall be borne solely by BGCCF. School Board shall provide written notice to BGCCF of any damage to the Common Areas resulting from the use of the Common Areas by BGCCF within ten (10) business days of said damage. BGCCF shall reimburse School Board for any repairs or restoration necessary to repair damages to the Common Areas caused by BGCCF or BGCCF's use of the Common Areas no later than ten (10) days after School Board presents BGCCF with a written statement or invoice reflecting the nature and costs of the repairs.

4.11.3 Utilities for Common Areas. School Board shall be responsible for connecting and maintaining all Utilities for the Common Areas.

4.12 Maintenance Requests.

4.12.1 BGCCF Maintenance Request. In the event BGCCF identifies a maintenance issue, defect or deficiency with the Unified Systems, BGCCF shall promptly provide written notice to the School Board ("Maintenance Request") outlining any deficiency, defective or damaged condition, area in disrepair or in need of maintenance in or about the Unified Systems (collectively, "Maintenance Issue"). Within thirty (30) days of receipt of the Maintenance Request or as soon as possible thereafter is said Maintenance Issue cannot reasonably be resolved within thirty (30) days, School Board, subject to the reimbursement provision set forth herein, shall repair, replace or maintain that certain Maintenance Issue more specifically identified and outlined in the Maintenance Request.

4.12.2 School Board Maintenance Request. In the event BGCCF fails to maintain, repair or replace the interior of the Leased Facilities or keep the Leased Facilities in a neat and clean condition, School Board shall promptly provide a Maintenance Request to BGCCF outlining any Maintenance Issue in or about the Leased Facilities. Within thirty (30) days of receipt of the Maintenance Request, BGCCF, at its sole cost and expense, shall repair, replace or maintain that certain portion of the Leased Facilities and the Maintenance Issue more specifically identified and outlined in the Maintenance Request. Notwithstanding the foregoing, in the event any Maintenance Issue shall constitute an emergency condition or impede the School Board's ability to effectively utilize the Property, or any portion thereof, for any School Sanctioned Event, the School Board, acting in good faith, shall have the right to cure such Maintenance Issue upon such advance notice as is reasonably possible under the circumstances, or if necessary, without advance notice, so long as notice is given as soon as possible

thereafter. In such event, BGCCF shall reimburse the School Board for its reasonable costs of curing the Maintenance Issue ("Maintenance Cure Costs") within thirty (30) calendar days following delivery to BGCCF of a demand for such reimbursement, which demand shall include reasonable documentation of such Maintenance Cure Costs. The right to cure the Maintenance Issue shall not be deemed to (i) impose any obligation, liability or responsibility on the School Board to do so; (ii) render the School Board liable to BGCCF or any third party for an election not to do so; (iii) relieve BGCCF from any performance obligation hereunder; or (iv) relieve BGCCF from any indemnity obligation as provided in this Agreement.

4.13 **Payment for Custodial, Maintenance and Utility Costs.**

4.13.1 Custodial Costs. BGCCF shall be solely responsible for any and all costs or expenses for custodial services incurred by BGCCF as a result of BGCCF's use of the Leased Facilities or Common Areas. In the event BGCCF fails to provide the custodial services or otherwise maintain the Leased Facilities, or any Common Areas which BGCCF has used, in a neat and clean condition as required hereunder, BGCCF shall reimburse the School Board for any and all costs and expenses incurred by the School Board to provide any custodial services provided to the Leased Facilities or Common Areas by the School Board as result of BGCCF's use thereof at a rate of the higher of (a) \$35.00 per hour or (b) the rate for custodial services charged to School Board.

4.13.2 Utilities Costs. To the extent the Utilities are submetered and invoiced to the School Board, BGCCF shall reimburse School Board within thirty (30) days of receipt of the written invoice for any Utilities paid by School Board.

4.13.3 Enhanced Costs Attributable to BGCCF. BGCCF and School Board agree and acknowledge that School Board shall provide maintenance, and utility services consistent with the services routinely provided by the School Board to a standard educational facility constructed and operated by the School Board as part of joint elementary school and middle school. In the event BGCCF requests or incurs costs or expenses related to maintenance, or utility services exceeding those routinely provided by the School Board to a standard educational facility constructed and operated by the School Board as part of joint elementary school and middle school, including, without limitation, costs and expenses associated with increased heating and cooling beyond the standard temperatures, extensive custodial services or any other costs and expenses directly attributable to the requirements for use of the BGCCF and not otherwise routinely provided by the School Board to a standard educational facility constructed and operated by the School Board as part of joint elementary school and middle school (collectively, "Enhanced Services"), BGCCF shall pay any all costs and expenses for the Enhanced Services provided to the Leased Facilities or Common Areas by the School Board on behalf of BGCCF. School Board shall provide a written breakdown for all Enhanced Services in the annual Utilities Accounting.

4.13.4 Capital Improvements. Except as set forth in Section 5.7.6 or 5.8, in the event School Board is requested by BGCCF or is required by law to design, permit, construct or install any additional capital improvements, repairs or replacements that solely benefit the Leased Facilities during the Lease Term subsequent to the Completion Date, BGCCF shall be solely responsible for the payment of any and all costs associated with said capital improvement, repairs or replacements. In the event School Board is required to design, permit, construct or install any capital improvements, repairs or replacements that solely benefit the Common Areas, Unified Systems or any other remaining portion of the Downtown PS8 not a part of the Leased Facilities, School Board shall be solely responsible for the payment of any and all costs associated with said capital improvement, repairs or replacements. With regard to the Leased Facilities, BGCCF shall have the same rights of review for any capital improvements, repairs or replacements as outlined in Section 3 hereof. Except in the event of an

emergency, School Board shall provide BGCCF thirty (30) days prior written notice before constructing or installing any capital improvements to the Leased Facilities or Unified Systems.

4.14 **Applicable Permits and Approvals.** Prior to occupying the Leased Facilities, the School Board will obtain all permits and approvals required in order for BGCCF to occupy the Leased Facilities, including a Certificate of Occupancy, and BGCCF shall obtain any and all other applicable permits or approvals reasonably required by any governmental agency, authority or permitting agency having jurisdiction over BGCCF for BGCCF's Intended Use of the Property.

4.15 **Signage.** Except as otherwise specified herein: (i) BGCCF shall be entitled to install signage within the interior of the Leased Facilities; and (ii) on the exterior of the Leased Facilities identifying the BGCCF and the BGCCF logo, as well as a major donor name, subject to the review and approval of the School Board which will not be unreasonably withheld; and (iii) otherwise on the exterior of the Leased Facilities subject to the review and approval of the School Board which shall be in School Board's sole and absolute discretion. In the event BGCCF provides written notice to the School Board of its intent to install, repair or replace signage on the exterior of the Leased Facilities ("Signage Notice"), School Board shall have thirty (30) days to review such Signage Notice. Failure to respond to the School Board within thirty (30) days of receipt of the Signage Notice shall amount to an approval by the School Board of the proposed sign. Any disapproval by the School Board will be accompanied by a written narrative describing the reason or reasons for the disapproval. In the event BGCCF elects to undertake any exterior sign or other improvements to the Leased Facilities to name the facility after an individual, entity or organization, BGCCF shall comply with the Management Directive B-14 and School Board Policy FF, unless otherwise waived in writing by the School Board. Notwithstanding anything contained herein to the contrary, BGCCF shall have the right to name any facility or room within the Leased Facilities without the prior written consent of the School Board, provided; however, such name does not appear on signage on the exterior of the Leased Facilities and BGCCF provides School Board a courtesy review of any interior improvements thirty (30) days prior to the installation of any signage or improvements.

4.16 **Improvements or Alterations.** Except as otherwise permitted herein, BGCCF shall not damage, destroy, alter, erect or permit to be erected upon the Property such improvements, alterations or modifications to the Property, Unified Systems, or any fixtures, building systems, or equipment or portion thereof, without the prior written approval of the School Board, which approval may be withheld in the School Board's sole and absolute discretion. Notwithstanding the foregoing, BGCCF shall be permitted to alter, erect or permit to be erected such improvements, alterations or modifications to interior of the Leased Facilities, or any fixtures, building systems, or equipment or portion thereof, without the written approval of the School Board, if BGCCF provides School Board thirty (30) days prior written notice and right to review any plans, specifications and drawings for any material improvements or modifications to the Leased Facilities. Any such improvements or modifications to the Leased Facilities shall be conducted by BGCCF with first class materials, in a good and workmanlike manner, of the same or similar quality, quantity, and type as the materials used to initially construct the Downtown PS8 by the School Board, and in accordance with all rules, regulations and permitting requirements governing the maintenance, repair, replacement, installation or construction of educational facilities, including, without limitation, the State Requirements for Educational Facilities, all industry standards for the construction of educational facilities in the State of Florida, and all permitting and construction requirements of the School Board's Building Code Compliance Office.

4.17 **Indemnification.** To the fullest extent permitted by law, BGCCF shall indemnify, defend and hold harmless School Board, its board members, employees and representatives from and against all claims, damages, losses, and expenses, including but not limited to, economic loss, reasonable attorney's fees and expenses, arising out of, in connection with or as a result of exercise by BGCCF or any

individual or entity claiming by, through or under BGCCF, of its rights and obligations set forth in this Agreement, provided that any such claim, damages, losses, or expenses (i) is attributable to any person(s) claiming personal injury, bodily injury, sickness, disease, or death, or damage to tangible property of a third party including the loss of use; and (ii) is caused or incurred in whole or in part by the BGCCF, its invitees, guests, attendees, participants, or any of its subcontractors, agents, or anyone directly or indirectly employed by BGCCF, subcontractors or agents, regardless if caused in part by School Board. This indemnification shall not apply to any claims, damages, losses, and expenses arising from the School Board's negligence or intentional misconduct. To the fullest extent permitted by law, School Board shall indemnify, defend and hold harmless BGCCF, its board members, employees and representatives from and against all claims, damages, losses, and expenses, including but not limited to, economic loss, reasonable attorney's fees and expenses, arising out of, in connection with or as a result of exercise by School Board or any individual or entity claiming by, through or under School Board, of its rights and obligations set forth in this Agreement, provided that any such claim, damages, losses, or expenses (i) is attributable to any person(s) claiming personal injury, bodily injury, sickness, disease, or death, or damage to tangible property of a third party including the loss of use; and (ii) is caused or incurred in whole or in part by the School Board, or any of its subcontractors, agents, or anyone employed by School Board. Nothing herein shall be deemed a waiver by the School Board of its sovereign immunity rights beyond the limits described in Section 768.28, Florida Statutes, as same made by amended from time to time.

4.18 **Insurance.**

4.18.1 BGCCF shall, at its sole cost and expense at all times throughout the term of this Agreement, maintain the following insurance, which insurance shall apply to BGCCF, its invitees, guests, attendees, participants, employees, agents, and subcontractors, and its use of the Leased Facilities, Common Areas, or any portion of the Property (collectively, "Insurance Requirements"): (a) Workers Compensation insurance in statutory amounts and Employers Liability in an amount not less than One Million Dollars (\$1,000,000) each accident/disease. This insurance shall apply to all BGCCF's employees who will be engaged in the delivery of services, goods and/or improvements in this Agreement; (b) Commercial General Liability insurance, including products and completed operations and contractual liability, arising from any and all claims for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) aggregate. This policy must include the School Board, its officers, employees and agents as additional insured; and (c) Automobile Liability insurance, including all owned, non-owned, and hired vehicles used in conjunction with providing services, goods and/or improvements outlined in this Agreement, for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each accident. This policy must include The School Board of Orange County Florida, its officers, employees and agents as additional insured.

4.18.2 BGCCF agrees that any subcontractors used to provide services, goods, and/or improvements shall also maintain the Insurance Requirements.

4.18.3 BGCCF agrees to the following as it relates to the Insurance Requirements:

a. All insurance shall be written with an insurance company licensed to issue insurance in the State of Florida and shall maintain an A.M. Best financial strength rating of A (VI).

b. All insurance shall be primary and not contributory to any other insurance or self-insurance carried or maintained by the School Board.

c. BGCCF shall notify Risk Management for the School Board within thirty (30) days of any material changes or notice of cancellation BGCCF received from its insurer on above required insurance.

d. BGCCF shall provide evidence of all insurance in the form of a Certificate of Insurance (Acord) and specify any deductible or retention applicable to Insurance Requirements.

e. BGCCF agrees that proof of insurance shall be provided prior to the date of Substantial Completion, and that no services, goods and/or improvements shall begin until proof of insurance is received by School Board. Receipt of proof of insurance shall not be construed as an approval of BGCCF's insurance or a release or waiver of BGCCF's obligation to provide insurance required in this Agreement.

f. To the extent permitted by law, BGCCF's insurance shall contain a waiver of rights to recover from the School Board or its insurance.

g. Any required insurance that BGCCF self-insures or carries retentions in excess of Ten Thousand Dollars (\$10,000) shall be pre-approved by Risk Management for the School Board and referenced in an addendum to this Agreement, as applicable.

4.18.4 School Board shall at its sole cost and expense, at all times throughout the term of this Agreement insure the Leased Facilities against loss or damage by fire, and such other risks as may be included in an All-Risks Property Insurance policy issued by an insurer with an A.M. Best's rating of A/VI or better in an initial amount not less than one hundred percent (100%) of the then full insurable value of the Leased Facilities, and with replacement cost endorsement ("Casualty Policy"). Under the Casualty Policy, the School Board and BGCCF shall each be a named insured. The Casualty Policy shall be primary and not contributory to any other insurance or self-insurance carried or maintained by BGCCF. School Board shall notify BGCCF within thirty (30) days of any material changes or notice of cancellation School Board receives from its insurer with respect to the Casualty Insurance. School Board shall provide BGCCF evidence of all insurance in the form of a Certificate of Insurance (Accord) and specify any applicable deductible or retention, and provide a renewal or replacement certificate at least ten (10) days prior to the expiration of the term of the Casualty Insurance. School Board agrees that proof of insurance shall be provided prior to the date of Substantial Completion. Receipt of proof of insurance shall not be construed as an approval of School Board's insurance or a release or waiver of School Board's obligation to provide insurance required in this Agreement. To the extent permitted by law, School Board's insurance shall contain a waiver of rights to recover from BGCCF or its insurance. Nothing in this Agreement shall prevent School Board from taking out the Casualty Policy under a blanket insurance policy or policies that cover other properties as well as the Leased Facilities; provided, however, that any such policy of blanket insurance (i) shall specify therein the amount of the total insurance allocated to the Leased Facilities, which amount shall be not less than the amount required to be carried pursuant to this Agreement, and (ii) shall not contain any clause that would result in the insured thereunder being required to carry insurance with respect to the property covered thereby in order to prevent the insured therein named from becoming a co-insurer of any loss with the insurer under such policy.

4.19 **Affirmative Obligations of BGCCF.** In addition to the other covenants and undertakings set forth herein, BGCCF makes the following affirmative covenants governing BGCCF's use of the Leased Facilities and Common Areas:

4.19.1 Implementation of Security Measures. BGCCF, at its sole cost and expense, shall take any and all actions reasonably necessary to implement safety and security measures to maintain the safety and security of the Property, the Downtown PS8, and any and all students, staff or visitors located thereon, including, without limitation, the following: (a) implementing appropriate and adequate supervision mechanisms; (b) restricting access to specific areas within the Downtown PS8 to authorized students, individuals and entities through the implementation of limited security card access and monitoring procedures; (c) implementing and ensuring adherence to visitor registration requirements, protocols and procedures reasonably required by the School Board; (d) appropriate screening, hiring and training of staff and employees in accordance with any and all applicable federal, state and local requirements governing the BGCCF relating to the supervision of, interaction with and education of minors, including, without limitation, all Florida Department of Children and Family requirements, the Jessica Lunsford Act, and Sections 1012.32 and 1012.465, Florida Statutes, as may be amended from time to time, unless same is waived by the School Board in writing; and (e) any and all other safety and security measures reasonably required by the School Board to provide a safe, secure learning environment for the staff, students and visitors of the Downtown PS8. Notwithstanding the foregoing, School Board reserves the right, in its sole and absolute discretion, to require that all staff, volunteers, employees, and agents of the BGCCF, or vendors of BGCCF that are on-site while children are present, at the sole cost and expense of the BGCCF, undergo, and submit to, the appropriate screening requirements exclusively through the BGCCF and its approved vendors or provider.

4.19.2 Supervision Responsibilities. BGCCF, at its sole cost and expense, shall be solely responsible and liable for the supervision of any guests, invitees, visitors, parents, participants, students, employees, agents or contractors on or about the Property as a result, directly or indirectly, the BGCCF's Intended Use of the Property, or any ancillary use thereof, or any actions of the agents, employees, staff or vendors of the BGCCF, regardless whether such presence on or about the Property occurs prior to, during or after the Hours of Operation; provided, however, in the event said students or participants are students of the Downtown PS8, such supervisory responsibilities applicable to the students and participants of the BGCCF shall not commence until the participants or students check-in to the Leased Facilities through BGCCF. BGCCF shall exercise commercially reasonable efforts to prevent its representatives, participants, guests and invitees from performing any disorderly conduct or committing or maintaining any nuisance on the Property, or using the Leased Facilities, Common Areas, Property, or any portion thereof, in any way so as to interfere with the operation of the educational activities of the Downtown PS8 or the exercise by other licenses or privileges which the School Board may grant in the Downtown PS8 of which BGCCF has been notified pursuant to Section 4.11.

4.19.3 Incident Reports. BGCCF shall provide written notice to the School Board within seventy two (72) hours of administratively learning of any incident resulting in a serious bodily injury or death to any persons, or any substantial damage to property of the School Board or others occurring at any portion of the Property or adjacent premises or in any way connected with the use of Property or adjacent premises. The notice must include details of the time, place and circumstances of the incident, and the names and addresses of any person(s) witnessing the incident.

4.19.4 Compliance with Rules and Regulations. BGCCF shall comply with and abide by all laws, ordinances and regulations (to the extent applicable to BGCCF) of any governmental entity having jurisdiction over the Property, any portion thereof, or BGCCF's Intended Use thereof, including, without limitation, all safety and security protocols, food service requirements, visitor registration requirements, any management directives governing the alterations to facilities, energy management directions and any and all requirements of the Jessica Lunsford Act, unless otherwise waived in writing by the School Board; provided however that School Board shall not adopt any regulations that shall materially interfere with the BGCCF Intended Use or its customary operations.

4.19.5 Performance of Obligations. Each party shall take such other actions and perform such other obligations as are required or contemplated hereunder including, without limitation, all obligations pertaining to satisfaction of any contingencies of this Agreement or conditions precedent to performance by such party of its obligations hereunder.

4.19.6 Prohibition of Substances, Devices or Materials. Unless otherwise specifically agreed to by School Board in writing, BGCCF shall not allow or permit any the use, consumption, storage or possession of any of the following items on the Property by BGCCF, its agents, participants, guests, or invitees: (a) intoxicating or alcoholic beverages, smoking, or illegal or harmful drugs; (b) gambling devices of any kind; (c) any weapons and firearms; (d) hazardous, flammable or explosive materials, including but not limited to, flammable materials or liquids, fireworks, pyrotechnic devices, explosives, poisonous materials or plants, strong acids or caustics; (e) dangerous animals; (f) amusement rides or attractions, including but not limited to, trampolines of any type, enclosed or air supported structures of any type, climbing walls, climbing ropes, firearms or shooting activity, bow and arrow shooting activity or equipment or devices; or (g) any other substance, material or items prohibited by law or ordinances of fire insurance.

4.19.7 Decorations. BGCCF agrees to abide by any and all specific limitations or restrictions of the School Board, or administration of the Property, as to the use of tape, balloons, glitter, candles, markers, tack, nails, other such materials, and signage with respect to any portion of the Property other than the interior of the Leased Facilities (collectively, "Decorations"). Decorations must be fire retardant. BGCCF shall consult with the School Board for a full overview of allowable Decorations and to appropriately accommodate BGCCF's needs. Decorations which causes damage or create additional cleaning requirements after their display will result in additional charges to the BGCCF.

4.19.8 Removal of Property. BGCCF shall not remove or damage any School Board equipment and supplies from any portion of the Common Areas or Property.

ARTICLE 5 GENERAL PROVISIONS

5.1 Disruption. In the event any replacement, renovation or reconstruction of the Downtown PS8 during the Lease Term would materially impact BGCCF's use of the Leased Facilities or Common Areas, School Board will notify BGCCF reasonably in advance of any disruption that such impact may have on BGCCF activities and shall exercise commercially reasonable efforts to minimize any such disruption.

5.2 Notice. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly received as of (i) the date and time the same are personally delivered, transmitted electronically (i.e., facsimile or e-mail); (ii) within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested; or (iii) within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

OCSB: The School Board of Orange County, Florida
445 West Amelia Street
Orlando, Florida 32801
Telephone: (407) 317-3411
Facsimile: (407) 317-3341
Email: Krista.Mcarthur2@ocps.net

With a copy to: Orange County Public Schools
Office of the General Counsel
Attn: Laura L. Kelly, Esq.
6501 Magic Way, Bldg. 200
Telephone: (407) 317-3700 (ext. 202-5906)
Telecopy: (407) 317-3751
Email: laura.kelly2@ocps.net

BGCCF: Boys and Girls Club of Central Florida, Inc.
Attention: Gary Cain, President
101 East Colonial Drive
Orlando, Florida 32803
Telephone: 407-841-6855
Facsimile: 407-
Email: gcain@bgccf.org

With a copy to: Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
Attn: Michael A. Ryan, Esquire
215 North Eola Drive
Orlando, Florida 32801
Telephone: (407) 418-6355
Facsimile: (407) 843-4444
Email: mike.ryan@lowndes-law.com

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided. The attorneys for the parties set forth herein may deliver and receive notices on behalf of their clients.

5.3 **Effective Date.** The Effective Date of this Agreement shall be the date upon which the last of the parties hereto signs this Agreement (“Effective Date”).

5.4 **Modifications and Amendments.** This Agreement may be amended upon the mutual written consent of the parties hereto. The School Board does hereby confer upon the Superintendent, or Superintendent’s designee, the authority to amend this Agreement, or provide any consent, notice, or approval hereunder, without formal School Board approval, provided such amendment, notice, consent or approval does not substantially alter or modify the terms herein. The right to amend or provide consent delegated to the Superintendent shall include the right of the Superintendent to execute the Addendum and any other agreement, request or documentation results from the agreements set forth herein and consistent with the terms and conditions of this Agreement. If, in the sole judgment of School Board, such amendment, notice, consent, or approval does substantially alter or amend this Agreement, then School Board shall have the option of declaring the amendment void *ab initio*, thus rendering the amendment without any legal force and effect. Amendments to this Agreement, which shall conclusively be presumed not to substantially alter or modify the terms hereof, are those which concern the scheduling of hours of use of the Property, and approvals and consents that are expressly contemplated in this Agreement. Amendments to this Agreement which shall conclusively be presumed to substantially alter or modify the terms hereof are those which alter maintenance obligations of the parties and those which increase monetary obligation of the School Board.

5.5 **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party to the extent incorporated into this Agreement.

5.6 **Defaults and Remedies.**

5.6.1 **Default by BGCCF.** In the event BGCCF breaches any provision contained herein or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by BGCCF under the terms and provisions of this Agreement, or otherwise fails to fulfill its obligations hereunder, including, without limitation, the obligation to operate, repair and replace the improvements on the Property, then in that event the School Board shall send a written notice to BGCCF demanding performance of the unfulfilled obligation or default ("Default Notice") and BGCCF shall have thirty (30) days from receipt of the Default Notice to cure the default outlined in the Default Notice; provided however that if the Default is not reasonably capable of being cured with commercially reasonable efforts within 30 days, BGCCF shall have such longer time to cure such default as may be reasonably necessary, not to exceed 180 days ("Cure Period"). In the event BGCCF fails to cure such non-performance or breach within the Cure Period, School Board, in School Board's sole discretion, shall be entitled to (i) exercise any and all rights and remedies available to School Board at law and in equity, including without limitation the right of specific performance; (ii) have the right to enter upon the Property to perform the obligation or to furnish any necessary materials or services to cure the default of BGCCF; (iii) terminate this Agreement and upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect. Notwithstanding the foregoing, in the event such default shall constitute an emergency condition, the School Board, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances, or if necessary, without advance notice, so long as notice is given as soon as possible thereafter. In such event School Board elects option (ii) above, BGCCF shall reimburse the School Board for its reasonable costs of the foregoing ("Cure Costs") within thirty (30) calendar days following delivery to BGCCF of a demand for such reimbursement, which demand shall include reasonable documentation of such costs. The right to cure the default of BGCCF shall not be deemed to (i) impose any obligation, liability or responsibility on the School Board to do so; (ii) render the School Board liable to BGCCF or any third party for an election not to do so; (iii) relieve BGCCF from any performance obligation hereunder; or (iv) relieve BGCCF from any indemnity obligation as provided in this Agreement.

5.6.2 **Default by the School Board.** In the event the School Board breaches any provision contained herein or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by the School Board under the terms and provisions of this Agreement, then in that event BGCCF shall send a Default Notice to School Board demanding performance of the unfulfilled obligation or default and School Board shall have the Cure Period to cure the default outlined in the Default Notice. In the event School Board fails to cure such non-performance or breach within the Cure Period, BGCCF, in BGCCF's sole discretion, shall be entitled to (i) exercise any and all rights and remedies available to BGCCF at law and in equity; (ii) have the right to enter upon the Property to perform the obligation or to furnish any necessary materials or services to cure the default of School Board; (iii) terminate this Agreement and upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect. Notwithstanding the foregoing, in the event such default shall constitute an emergency condition, BGCCF, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances, or if necessary, without advance notice, so long as notice is given as soon as possible thereafter. In such event BGCCF elects option (ii) above, School Board shall reimburse the BGCCF for its reasonable costs of the foregoing ("Cure Costs") within thirty (30) calendar days following delivery to School Board of a demand for such reimbursement, which

demand shall include reasonable documentation of such costs. The right to cure the default of School Board shall not be deemed to (i) impose any obligation, liability or responsibility on the BGCCF to do so; (ii) render BGCCF liable to School Board or any third party for an election not to do so; (iii) relieve School Board from any performance obligation hereunder; or (iv) relieve School Board from any indemnity obligation as provided in this Agreement.

5.7 Condemnation.

5.7.1 If, at any time during the term of this Agreement, there shall be a total taking or a constructive total taking of the fee title to the Property or the Leased Facilities in condemnation proceedings or by any right of eminent domain, this Agreement shall terminate on the date of such taking and the basic rent and other charges payable by BGCCF under this Agreement shall be apportioned and paid to the date of such taking. For the purposes of this Section 5.7, the term "a constructive total taking" shall mean either (i) a taking of such scope that the portion of the Property and Leased Facilities that was not taken is insufficient to permit the restoration of the existing Leased Facilities so as to constitute a complete, economical project, or (ii) a taking affecting fifty percent (50%) or more of the replacement cost of the Leased Facilities or materially negatively impacting access thereto, as to which BGCCF may, at BGCCF's option, by notice in writing given School Board within ninety (90) days after the occurrence of such taking, elect to terminate this Agreement.

5.7.2 In the event of any such total taking or constructive total taking and the termination of this Agreement, the award or awards for such taking, less the costs of the determination and collection of the amount of the award or awards ("Condemnation Proceeds"), shall be distributed as follows:

(a) School Board shall first be entitled to receive and retain as its own property, and BGCCF hereby assigns to School Board, such portion of the Condemnation Proceeds as shall equal the fair market value of the Property as encumbered by this Agreement including any portion of the Property that was not taken, exclusive of the value of the Leased Facilities plus, if the termination of the Agreement arose pursuant to Section 5.7.1(ii), the portion of the Condemnation Proceeds allocable to the restoration of the remaining Leased Facilities (not to exceed, in any event, the fair market value of the original Leased Facilities as of the date of such taking).

(b) BGCCF shall then be entitled to receive, and School Board hereby assigns to BGCCF, the balance of the Condemnation Proceeds, if any including any and all of the Condemnation Proceeds allocable to the value of the Leased Facilities and BGCCF's leasehold interest in the Leased Facilities.

5.7.3 In the event of a taking that is less than a total taking or constructive total taking ("partial taking"), this Agreement shall not terminate or be affected in any way, except as provided in Section 5.7.4, below, and School Board shall first be entitled to receive and retain as its own property, that portion of the Condemnation Proceeds applicable to the fair market value of the portion of the Property as encumbered by this Agreement so taken, exclusive of the value of the Leased Facilities and BGCCF's leasehold interest in the Property ("School Board's Proceeds"). BGCCF shall then be entitled to receive the balance of the Condemnation Proceeds ("BGCCF's Proceeds") and the same shall be payable to BGCCF for application by BGCCF to the cost of restoring, repairing, replacing or rebuilding the Leased Facilities.

5.7.4 In the event of a partial taking, BGCCF shall proceed with due diligence to restore, repair, replace or rebuild the remaining part of the Leased Facilities to substantially its former condition or with such changes or alterations as BGCCF may elect to make in conformity with approval

from the School Board. If BGCCF's Proceeds are inadequate to fund the cost of repair, replacement or rebuilding of the remaining part of the Leased Facilities, BGCCF shall have the obligation to fund the amount of any shortfall between BGCCF's Proceeds and the cost of such repair, replacement or rebuilding.

5.7.5 In the event of a partial taking, this Agreement shall terminate as to the portion of the Property so taken, but all rent payable hereunder shall not be reduced.

5.7.6 If at any time during the Term, the whole or any part of the Property, or of BGCCF's leasehold estate under this Agreement, or of the Leased Facilities shall be taken in condemnation proceedings or by any right of eminent domain for temporary use or occupancy ("temporary taking") the foregoing provisions of this Section 5.7 shall not apply and BGCCF shall continue to pay, in the manner at the times specified in this Agreement, the full amounts of the Rent and any and all other charges payable by BGCCF under this Agreement, and, except only to the extent that BGCCF may be prevented from so doing pursuant to the terms of the order of the condemning authority, BGCCF shall perform and observe all of the other terms, covenants, conditions and obligations of this Agreement upon the part of BGCCF to be performed and observed, as though such taking had not occurred. In the event of any such temporary taking, BGCCF shall be entitled to receive that portion of the Condemnation Proceeds applicable to the Leased Facilities, exclusive of the School Board's right to the proceeds applicable to the Property upon which the Leased Facilities are located, made for such taking, whether paid by way of damages, rent or otherwise unless such period of temporary use or occupancy shall extend beyond the termination of this Agreement, in which case the Condemnation Proceeds shall be further apportioned between School Board and BGCCF as of the date of termination of this Agreement. BGCCF covenants that, upon the expiration of any such period of temporary use or occupancy during the Term, it will, at its sole cost and expense, restore the Leased Facilities, as nearly as may be reasonably possible, to the condition in which the same was immediately prior to such taking, wear and tear during such temporary use or occupancy excepted and casualty excepted. To the extent that School Board receives any portion of the Condemnation Proceeds as compensation for the cost of restoration or repair of the Leased Facilities, School Board shall promptly following receipt deliver such compensation to BGCCF to be used by BGCCF for restoration of the Leased Facilities as provided above. The portion of the Condemnation Proceeds received by BGCCF as compensation for the cost of temporary use or occupancy of the Leased Facilities for any period of temporary use or occupancy after the end of the Term of this Agreement shall be delivered by BGCCF to School Board on the date of termination of this Agreement.

5.7.7 BGCCF shall have the right to participate in any condemnation proceeding for the purpose of protecting its rights under this Agreement, and in this connection, specifically and without limitation to introduce evidence independently of School Board to establish the value of or damage to the Leased Facilities.

5.8 **Casualty.** Subject to the provisions of Section 5.8.2 or Section 5.8.4 below, School Board covenants that in case of damage to or destruction of the Leased Facilities by fire or any other cause, similar or dissimilar, insured or uninsured, it will promptly, restore, repair, replace or rebuild the Leased Facilities as nearly as possible to the condition, quality and class it was in immediately prior to such damage or destruction, or with such changes or alterations as BGCCF shall elect to make with School Board's approval and without additional cost or expense to the School Board. Any restoration, repairs, replacement or rebuilding shall be commenced by School Board as soon as reasonably possible after the occurrence of such damage or destruction (subject to unavoidable delays) and diligently prosecuted to completion.

5.8.1 Notwithstanding the foregoing, if the reasonably estimated cost of rebuilding the Leased Facilities will exceed \$2,000,000.00, School Board may notify BGCCF in writing as soon as reasonably possible, and in any event within ninety (90) days after the casualty, that it does not intend to rebuild. If School Board fails to timely notify BGCCF, the provisions of Section 5.8 above shall apply.

5.8.2 If the School Board notifies BGCCF pursuant to Section 5.8.2 that School Board does not intend to rebuild, or if the School Board otherwise fails to timely undertake and diligently pursue the repair and rebuilding of the Leased Facilities after any casualty, BGCCF at BGCCF's option may notify School Board in writing that it will undertake such rebuilding, in which event School Board will deliver to BGCCF the Casualty Insurance proceeds immediately upon receipt, together with the amount of any deductible or self-insured portion of the Casualty Insurance, and BGCCF shall thereupon and thereafter undertake such repair and rebuilding. If the reasonably estimated cost of rebuilding the Leased Facilities will exceed \$2,000,000.00, the School Board may notify BGCCF to rebuild at a location on the Property designated by School Board; provided however, School Board shall designate a location that is of the same size or larger to accommodate the footprint of the existing Leased Facilities, including, without limitation, reasonable access, parking, and half gymnasium. BGCCF shall not be entitled to rebuild amenities that are a part of the Downtown PS8 and subject to the shared uses, including, without limitation, the track, multi-purpose field or auditorium, but not otherwise a requisite part of the Leased Facilities, or otherwise expand the Leased Facilities or uses, without the written consent of School Board. School Board shall not be required to perform any removal, demolition, or site work to prepare the site for the replacement, restored or rebuilt Leased Facilities.

5.8.3 If the School Board notifies BGCCF pursuant to Section 5.8.1 that it does not intend to rebuild, BGCCF may notify the School Board in writing that in lieu of rebuilding it intends to not rebuild and to terminate this Agreement. Upon receipt of such a notice from BGCCF, the School Board shall immediately deliver to BGCCF all of the proceeds of the Casualty Insurance, together with the amount of any deductible or self-insured portion of the Casualty Insurance applicable to the Leased Facilities, and this Agreement shall thereupon terminate.

5.8.4 Unless BGCCF exercises its right to terminate this Lease, BGCCF's obligation to make payment of rent and all other charges on the part of BGCCF to be paid and to perform all other covenants and agreements on the part of BGCCF to be performed shall not be affected by any such damage to or destruction of the Leased Facilities.

5.9 **Quiet Enjoyment.** School Board hereby covenants and agrees that if BGCCF shall perform all the covenants and agreements herein stipulated to be performed on BGCCF's part, BGCCF shall at all times during the continuance hereof have the peaceable and quiet enjoyment and possession of the Leased Facilities without any hindrance from Landlord or any person or persons lawfully claiming the Leased Facilities.

5.10 **No Partnership.** School Board and BGCCF do not, in any way or for any purpose, become a partner of the other in the conduct of its business, or otherwise, or a joint venturer or a member of a joint enterprise.

5.11 **Waiver.** The failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall not constitute a waiver of either party's right to demand exact compliance with the terms hereof.

5.12 **Time.** Time is of the essence of this Agreement.

5.13 **Legal Construction.** Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or holiday, such time for performance shall be extended to the next business day. For purposes of this Agreement, "holiday" shall mean federal holidays as defined in 5 U.S.C. 6103. Except as otherwise set forth herein, the last day of any period of time described herein shall be deemed to end at 11:59 p.m. local time in Orange County, Florida. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph.

5.14 **Governing Law and Venue.** Venue for any action, suit, or proceeding brought to recover any sum due under, or to enforce compliance with, this Agreement shall lie in the court of competent jurisdiction in and for Orange County, Florida; each party hereby specifically consents to the exclusive personal jurisdiction and exclusive venue of such court.

5.15 **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

5.16 **Attorneys' Fees.** In the event of any dispute hereunder or of any action to interpret or enforce this Agreement, any provision hereof or any matter arising herefrom, the prevailing party shall be entitled to recover its reasonable costs, fees and expenses, including, but not limited to, witness fees, expert fees, consultant fees, attorney, paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses whether suit be brought or not, and whether in settlement, in any declaratory action, in mediation, arbitration, bankruptcy or administrative proceeding, or at trial or on appeal. Notwithstanding the foregoing, nothing contained herein shall be construed or interpreted (a) to alter, amend or waive the School Board's sovereign immunity, or any defenses thereto, of the State of Florida, or its agencies, beyond the waiver provided in Section 768.28, Florida Statutes; or (b) as the consent of the School Board or BGCCF to be sued.

5.17 **Counterparts and Facsimile Signatures.** This Agreement may be executed in two or more counterpart copies, including facsimile and electronic mail signatures, each of which shall be deemed to constitute one original document. The parties may execute different counterparts of this agreement, and, if they do so, the signatures pages from the different counterparts may be combined to provide one integrated document and taken together shall constitute one and the same instrument.

5.18 **Relationship of Parties.** This Agreement is solely for the benefit of the parties executing the Agreement, and no rights are intended, nor shall any rights accrue, to any third party unless expressly provided in this Agreement.

5.19 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns.

5.20 **Force Majeure.** The time for the performance of School Board's obligations under this Agreement, including without limitation School Board's performance of the design, permitting and

construction requirements set forth in Article 3 hereof, will be extended for a period of time equal to any period of delay experienced by School Board, or the number of days lost, due to any of the following ("**Force Majeure**"): strikes, civil riots or commotion, war, invasion, acts of terrorism, explosion, fire or other casualty, sabotage, theft, vandalism, Acts of God, labor disputes, unavailability of labor or materials, hurricane, tropical storm, tornado, or other adverse weather conditions, act or failure to act of governmental authorities (including failure or delay in issuing necessary approvals, permits, and licenses so long as Seller is diligently pursuing its obligations hereunder), act or failure to act of third-party utility service providers, or other causes beyond the reasonable control of School Board.

5.21 **Participation.** All of the parties to this Agreement have participated fully in the negotiation and preparation hereof; this Agreement shall not be construed more strongly for or against any party regardless of which party is deemed to have drafted the Agreement.

5.22 **Third Party Beneficiary.** Except as otherwise set forth herein, no person other than the parties shall have any rights or privileges under this Agreement, whether as a third-party beneficiary or otherwise.

5.23 **Jury Trial.** THE PARTIES HERETO WAIVE A TRIAL BY JURY OF ANY AND ALL ISSUES ARISING IN ANY ACTION OR PROCEEDING BETWEEN THEM OR THEIR SUCCESSORS UNDER OR CONNECTED WITH THIS AGREEMENT OR ANY OF ITS PROVISIONS AND ANY NEGOTIATIONS IN CONNECTION THEREWITH.

[SIGNATURE PAGES TO FOLLOW]

[SIGNATURE PAGE OF LEASE AND PARTNERSHIP AGREEMENT BETWEEN THE ORANGE COUNTY SCHOOL BOARD AND THE BOYS AND GIRLS CLUB OF CENTRAL FLORIDA, INC.,]

IN WITNESS WHEREOF, BGCCF and OCSB have caused this Agreement to be executed as of the dates set forth below.

WITNESSES:

“BGCCF”

THE BOYS & GIRLS CLUBS OF CENTRAL FLORIDA, INC., a Florida not-for-profit corporation

Daniel N. Mallory
Print Name: DANIEL N. MALLORY

By: *Gary W. Cain*
Gary W. Cain, President

Wharen A. Harrell
Print Name: WHAREN A. HARRELL

Date: 12/15/2015

STATE OF FLORIDA)
) s.s.:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me on the 15 day of DECEMBER, 2015, by Gary W. Cain, as President of THE BOYS & GIRLS CLUBS OF CENTRAL FLORIDA, INC., a Florida not-for-profit corporation, on behalf of the corporation, who is personally known to me or provided _____ as identification.



AFFIX NOTARY STAMP

Mary L. Elduff
NOTARY PUBLIC OF FLORIDA
Print Name: MARY L. ELDUFF
Commission No.: EE 221414
Expires: 8/1/2016

[ADDITIONAL SIGNATURE PAGES TO FOLLOW]

[SIGNATURE PAGE OF PARTNERSHIP AGREEMENT BETWEEN THE ORANGE COUNTY SCHOOL BOARD AND THE BOYS & GIRLS CLUBS OF CENTRAL FLORIDA, INC.]

“OCSB”

WITNESSES:

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a corporate body organized and existing under the constitution and laws of the State of Florida

[Signature]
Print Name: Sandra Koopwah
[Signature]
Print Name: Catherine Campanella

By: [Signature]
Name: William E. Sublette
Title: Chairman
Dated: February 4, 2016

STATE OF FLORIDA)
) s.s.:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 4th day of February, 2016, by William E. Sublette, Chairman of The School Board of Orange County, Florida, a public corporate body organized and existing under the Constitution and the laws of the State of Florida, on behalf of The School Board, who is personally known to me or had produced _____ (type of identification) as identification.



[Signature]
NOTARY PUBLIC OF FLORIDA
Print Name: Margarita Rivera
Commission No.: EE864042
Expires: 1.10.17

[ADDITIONAL SIGNATURE PAGES TO FOLLOW]

[SIGNATURE PAGE OF PARTNERSHIP AGREEMENT BETWEEN THE ORANGE COUNTY SCHOOL BOARD AND BOYS & GIRLS CLUBS OF CENTRAL FLORIDA, INC.]

WITNESSES:

Sandra Hoopman
 Print Name: Sandra Hoopman
Cherine Camporeale
 Print Name: Cherine Camporeale

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a corporate body organized and existing under the constitution and laws of the State of Florida

Attest: *Barbara M. Jenkins*
 Barbara M. Jenkins, as its Secretary and Superintendent

Dated: 2/5/16

STATE OF FLORIDA)
) s.s.:
 COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 5th day of February, 2016, by Barbara M. Jenkins as Secretary and Superintendent of The School Board of Orange County, Florida, a public corporate body organized and existing under the Constitution and the laws of the State of Florida, on behalf of The School Board. She is personally known to me or has produced _____ (type of identification) as identification.



AFFIX NOTARY STAMP

Margarita Rivera
 NOTARY PUBLIC OF FLORIDA
 Print Name: Margarita Rivera
 Commission No.: EE864042
 Expires: 1.10.17

Reviewed and approved by Orange County Public School's Chief Facilities Officer

John T. Morris
 John T. Morris
 Chief Facilities Officer

Dated: 12/21, 2015

Approved as to form and legality by legal counsel to The School Board of Orange County, Florida, exclusively for its use and reliance.

Laura L. Kelly
 Laura L. Kelly, Esquire

Dated: December 21, 2015

Exhibit "A" (Recitals)

Legal Description of the Property

DESCRIPTION

LOTS 1 THROUGH 9, INCLUSIVE, LOTS 13 AND 15, LESS THE NORTH 25.00 FEET THEREOF, AND LOTS 18 THROUGH 24, INCLUSIVE, BRADSHAW AND MARTIN SUBDIVISION AS RECORDED IN PLAT BOOK E, PAGE 85, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

AND

LOTS 20 THROUGH 23, INCLUSIVE, SUNNYSIDE ADDITION TO THE CITY OF ORLANDO, FLORIDA AS RECORDED IN PLAT BOOK F, PAGE 97, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

AND

LOTS 1 THROUGH 12, INCLUSIVE, BLOCK A, AND LOTS 1 THROUGH 12, INCLUSIVE, BLOCK B AND OTEY PLACE, FEDERAL PARK AS RECORDED IN PLAT BOOK H, PAGE 30, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

AND

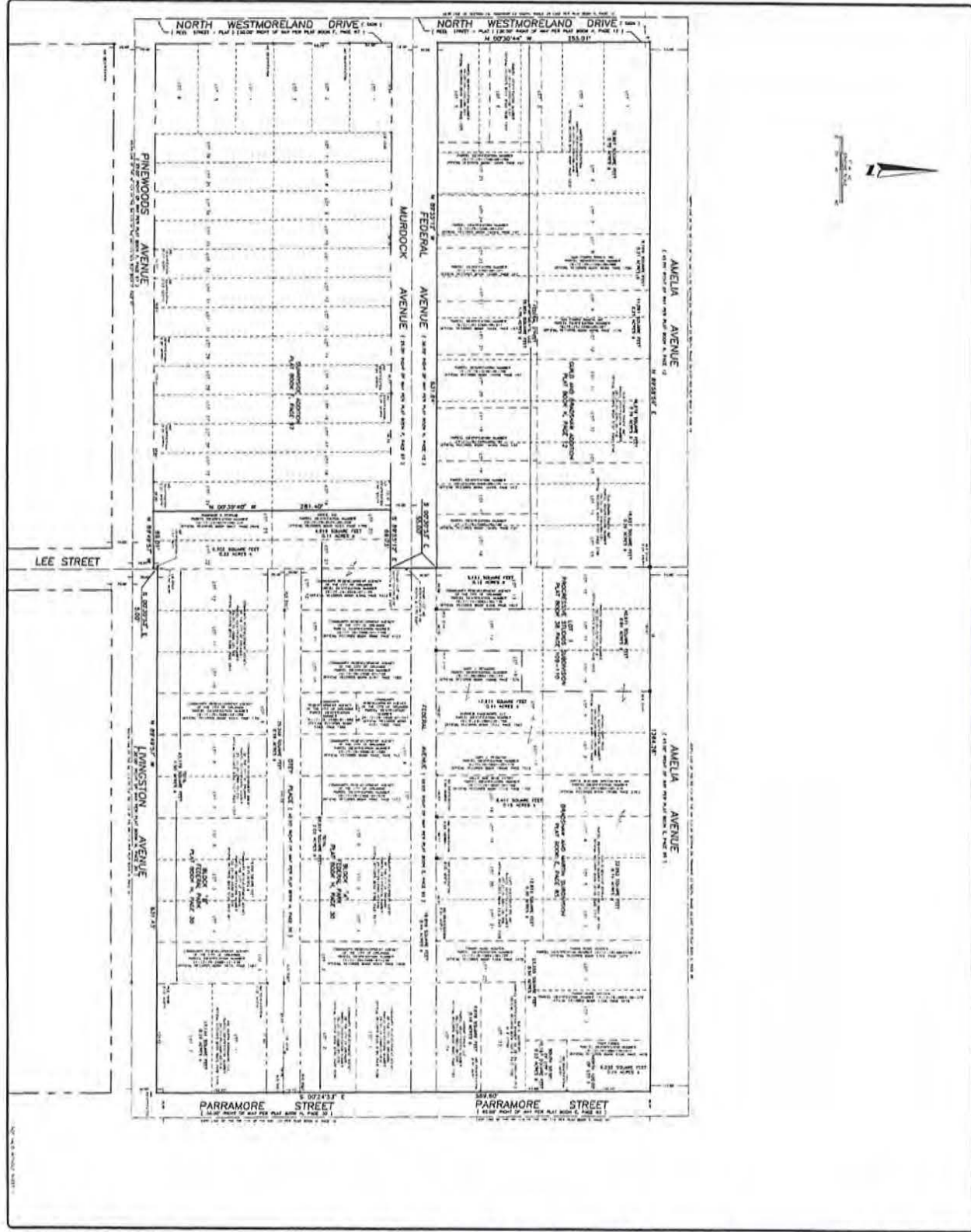
LOTS 1 THROUGH 25, INCLUSIVE, GUILD AND BRADSHAW ADDITION AS RECORDED IN PLAT BOOK K, PAGE 12, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

AND

LOT 1, PROGRESSIVE STUDIOS SUBDIVISION AS RECORDED IN PLAT BOOK 39, PAGES 109 THROUGH 110, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

AND

THAT PORTION OF FEDERAL AVENUE LYING SOUTH OF AND ADJACENT TO BRADSHAW AND MARTIN SUBDIVISION AS RECORDED IN PLAT BOOK E, PAGE 85, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.



V001

OCPS
 ORANGE COUNTY PUBLIC SCHOOLS
 DESIGN & CONSTRUCTION
 FACILITIES & ENVIRONMENTAL SERVICES
 BLDG. 200, 6501 MAGIC WAY ORLANDO, FLORIDA 32809

DOWNTOWN K - B SCHOOL
 OCPS PROJECT TITLE-SITE 131 K8 SW 5
 OCPS PROJ. No:
 BOUNDARY & TOPOGRAPHIC SURVEY



REVISIONS	DATE	BY

Exhibit "B" (Recitals)

Overall Conceptual Plan (including site plan)

Orange County Public Schools

SITE PLAN

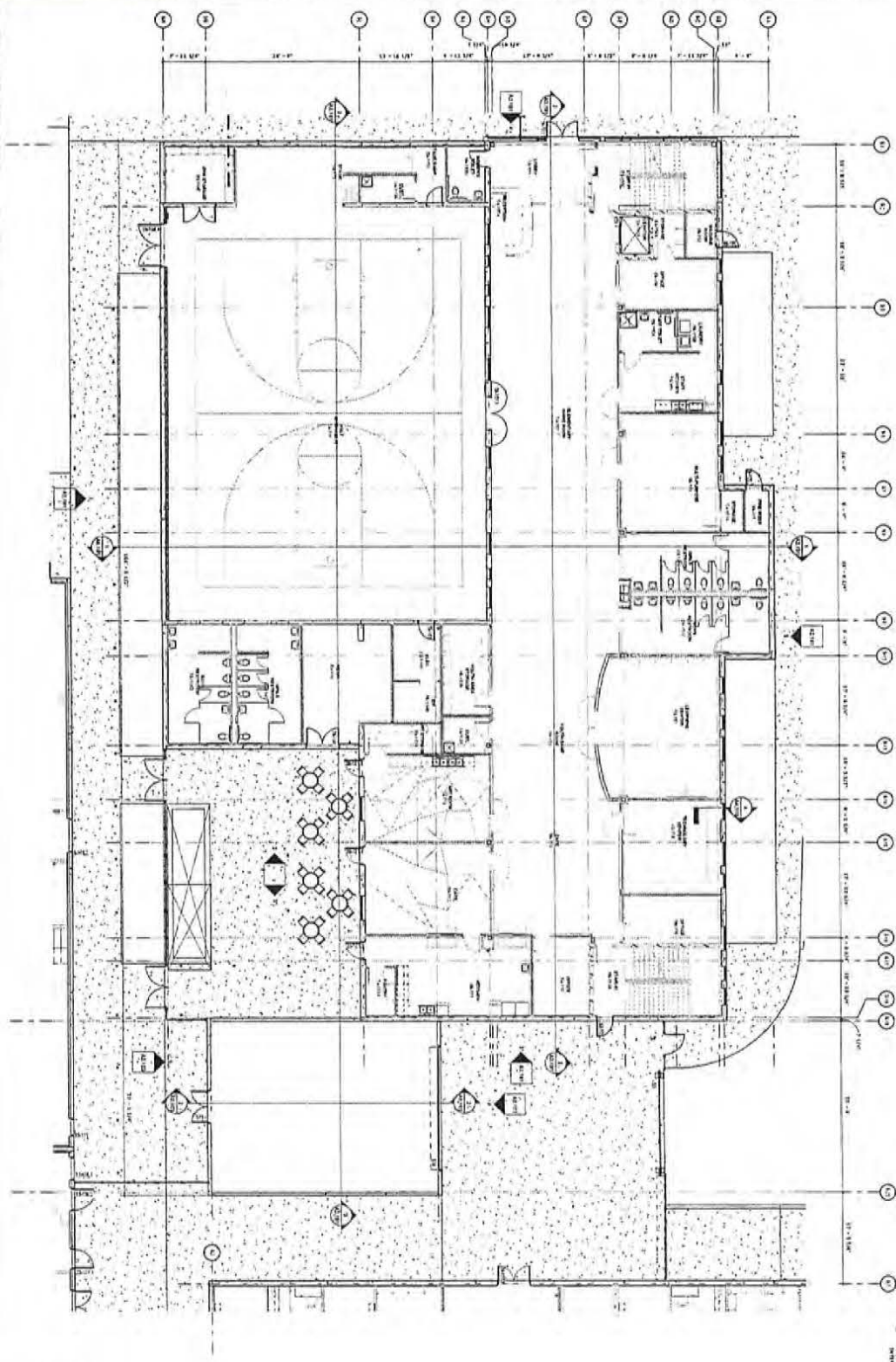
- ① Surface Parking
- ② Parking Garage (3 Floors)
- ③ Parent Drop Off
- ④ Covered Loading
- ⑤ Controlled Security Access
- ⑥ Administration (2 Floors)
- ⑦ Student Outdoor Activity Area
- ⑧ Classroom (3 Floors)
- ⑨ Classroom (2 Floors)
- ⑩ Media Center (2 Floors)
- ⑪ Multi-Purpose Courtyard
- ⑫ Amphitheater
- ⑬ Stage (1 Floor)
- ⑭ Dining/Multi Purpose (1 Floor)
- ⑮ Outdoor Dining
- ⑯ Food Service (1 Floor)
- ⑰ Custodial and Central Receiving (1 Floor)
- ⑱ Music/Art (1 Floor)
- ⑲ Bus Loading
- ⑳ Gym (1 Floor)
- ㉑ Tot Lot
- ㉒ Youth Lot
- ㉓ Portables
- ㉔ Basketball Court
- ㉕ Track/Fields
- ㉖ Rosen Center (1 Floor)
- ㉗ Health Cottage (1 Floor)
- ㉘ HUB - UCF/Valencia (1 Floor)
- ㉙ Student Outdoor HUB
- ㉚ Community Room
- ㉛ Boys and Girls Club (2 Floors)



Exhibit "C" (Recitals)

BGCCF Conceptual Plan (including site plan, floor plan and elevations)

1 BLDG 900 FIRST FLOOR PLAN - EXTERIOR



- GENERAL PLAN NOTES**
1. ALL UTILITY SHALL BE EXPOSED TO THE PUBLIC.
 2. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.
 3. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.
 4. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.
 5. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.
 6. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.
 7. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.
 8. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.
 9. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.
 10. ALL UTILITY SHALL BE PROTECTED BY A MINIMUM 18" CONCRETE SLAB ON GRADE.



DATE: 12/10/11
 TIME: 1:02:41 PM
 A1.191

OCPS ORANGE COUNTY PUBLIC SCHOOLS
 DESIGN & CONSTRUCTION
 FACILITIES SERVICES

DOWNTOWN URBAN PS8
 CORNER OF PARRAMORE AVE AND AMELIA
 ORLANDO, FL 32805
 OCPS PROJ. NO. C0076
 B900 1ST FLOOR PLAN-EXT

Baker Barrios
 181 S. ORANGE AVE, SUITE 1700
 ORLANDO, FLORIDA 32801
 407.251.1200
 INFO@BAKERBARRIOS.COM
 BAKERBARRIOS.COM
 AMANDA@BAKERBARRIOS.COM

HKS
 HKS Architects, Inc.
 225 East Freeman St.
 Suite 405
 Orlando, Florida 32801
 407.448.4100
 HKA 7000119

NO.	REVISIONS	DATE	BY

Exhibit "D"
Preliminary Construction

Activity ID	Activity Name	Original Duration	Start	Finish	2016												2017											
					N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A		
131 PS8-SW-5 (Replacement/Relief)		461	25-Feb-16	31-May-17																								
Construction Phase		461	25-Feb-16	31-May-17																								
A1030	Construction	461	25-Feb-16	31-May-17																								
CM - General Construction		461	25-Feb-16	31-May-17																								
D1100	Issue CM NTP	0	25-Feb-16																									
C1070	CM/GC Mobilization	30	25-Feb-16	26-Mar-16																								
C1080	Site Work & Building Construction	431	27-Mar-16	31-May-17																								
C1085	Topping Out	0		23-Aug-16																								
A1070	40% Construction - Community Presentation	30	05-Sep-16	04-Oct-16																								
C1155	Dry-in	0	03-Oct-16																									
C1410	O & M Manuals to OCPS	1	03-Oct-16	03-Oct-16																								
C1165	Transformer Delivery	0	28-Oct-16																									
C1185	Start Hanging Drywall	0		01-Nov-16																								
C1160	Building Finishes	180	03-Dec-16	31-May-17																								
C1230	Walk-Thru Punch List & C.O. Inspections	30	02-May-17	31-May-17																								
C1205	Final Building Inspections	30	02-May-17	31-May-17																								
C1210	Phase 1 - Issue Substantial Completion	0		31-May-17																								
C1220	Phase 1 - Obtain Conditional Certificate of Occupancy	0		31-May-17																								
FDEP CM Coordination		278	27-Mar-16	30-Dec-16																								
C1490	Sanitary & Water Distribution System	180	27-Mar-16	22-Sep-16																								
C1500	Sanitary & Water Inspections by BCCO / Municipality in Public ROW	7	23-Sep-16	29-Sep-16																								
C1510	Survey & As-Built of Sanitary & Water	21	30-Sep-16	20-Oct-16																								
C1520	CM Notifies & Submits Sample for BACT's & As-Built to A/E	3	21-Oct-16	23-Oct-16																								
C1530	A/E Reviews & Confirms As-Built for FDEP & Submits Clearance Application	14	21-Oct-16	03-Nov-16																								
C1540	Municipality Review & Approve FDEP Clearance Application	14	04-Nov-16	17-Nov-16																								
C1550	A/E submits to FDEP for Final Clearance	1	18-Nov-16	18-Nov-16																								
C1560	FDEP Provides Final Clearance	30	19-Nov-16	18-Dec-16																								
C1570	Chiller Flushing	7	19-Dec-16	25-Dec-16																								
C1350	HVAC Available	0	30-Dec-16																									
Utility Power CM Coordination		194	25-May-16	05-Dec-16																								
C1130	Install Primary Conductors	120	25-May-16	21-Sep-16																								
C1390	Install Transformer	7	22-Sep-16	28-Sep-16																								
C1460	Install Primary Conductor Terminations	30	29-Sep-16	28-Oct-16																								
C1470	Complete Switchgear / Secondary Conductors	30	29-Oct-16	27-Nov-16																								
C1480	BCCO Pre-Power Inspection	7	28-Nov-16	04-Dec-16																								
C1340	Electrical Power Available (POWER ON)	0	05-Dec-16																									
Portable Ops		461	25-Feb-16	31-May-17																								
A1140	Install Portables (if needed)	60	25-Feb-16	25-Apr-16																								
A1150	Disconnect Portables (if necessary)	42	20-Apr-17	31-May-17																								

Remaining Level of Effort Critical Remaining Work
 Actual Work Milestone
 Remaining Work Summary



Activity ID	Activity Name	Original Duration	Start	Finish	2016												2017										
					N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	
School Opening Mapping Strategy					431	27-Mar-16	31-May-17																				
During Construction					431	27-Mar-16	31-May-17																				
C1090	School Principal Selection	90	27-Mar-16	24-Jun-16																							
C1095	Operational Budget Available	0	25-Jun-16																								
C1100	Principal Orientation - Manual & FAQ's	30	25-Jun-16	24-Jul-16																							
C1110	Prepare Curriculum Orders	60	25-Jul-16	22-Sep-16																							
C1120	Furniture, Fixture and Equipment (FF&E) Ordered	60	04-Oct-16	03-Dec-16																							
C1140	School Attendance Zone & Name Established	30	03-Nov-16	03-Dec-16																							
C1150	School Mascot & Sprit Colors Selected	15	03-Dec-16	17-Dec-16																							
C1135	Prepare IT Equipment & Technology Orders (Computers, Cameras, Audio, Safari Moni	30	02-Jan-17	01-Feb-17																							
C1193	Install information Technology System	45	17-Apr-17	31-May-17																							
C1170	Security System Installed (Sonitrol)	30	02-May-17	31-May-17																							
C1190	Low Voltage Subcontracts (ICTS/IDF/MDF)	30	02-May-17	31-May-17																							
C1245	Pre-Occupancy Meeting	0	25-May-17																								
C1264	Installation of Cafeteria POS	1	31-May-17	31-May-17																							
C1430	Final Test and Balance Report to OCPS	1	31-May-17	31-May-17																							

Remaining Level of Effort Critical Remaining Work
 Actual Work Milestone
 Remaining Work Summary

131 PS8-SW-5 (Replacement/Relief)

Print Date: 08-Dec-15
Data Date: 21-Nov-15

