

LICENSE AGREEMENT BETWEEN  
SCHOOL BOARD OF PINELLAS COUNTY, FLORIDA AND CITY OF CLEARWATER

This License Agreement is made and entered into this 31st day of July, 2018 by and between the School Board of Pinellas County, Florida ("Board"), a public school board organized and operating under Florida Law, whose mailing address is 301 4th Street SW, Largo, FL 33770, and the City of Clearwater ("City"), a Florida Municipality, whose mailing address is P.O. Box 4748, Clearwater, FL 33758-4748 (collectively referred to as "Parties").

WHEREAS, the Board and City have enjoyed a long relationship for sharing facilities through joint use agreements; and

WHEREAS, the Board has a need for and desires more space for Clearwater High School baseball and softball teams to practice and compete; and

WHEREAS, the City owns Jack Russell Memorial Stadium, located at 800 Phillies Drive, Clearwater, FL 33755 ("Stadium") and the Eddie C. Moore Softball Complex located at 3050, 2994, 2780 Drew Street, Clearwater, FL 33755 ("Fields") (collectively, "License Areas"); and

WHEREAS, the Stadium requires certain renovations and updates, most notably to the locker room facilities; and

WHEREAS, the Board desires to make certain renovations and updates to the Stadium in consideration for use of the Stadium by Clearwater High School's baseball team and use of the Fields for their softball team.

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

1. GRANT OF LICENSE, CONSIDERATION. The City hereby grants the Board a license to use the Stadium for baseball games and practices and use the Fields for softball games and practices during the Season (as described herein), subject to priority use by the City to conduct maintenance and for its out-of-market sports tourism initiatives and priority use by St. Petersburg College ("College") for use of the Stadium and Fields for baseball and softball activities. The College and the Parties shall work in good faith to coordinate practice and game times with the Board. In consideration for the License, the Board agrees to reimburse the City for certain Improvements to be done to the License Areas as more particularly described in Section 7 below.

2. USE OF LICENSE AREAS. The Board shall have non-exclusive use of the License Areas described below, during times agreed to by the Parties:

Jack Russell Memorial Stadium:

- Main field and spectator viewing areas
- Batting cages
- Turf practice field
- Locker room third base side
- Public restrooms

Eddie C. Moore Softball Complex:

- Fields
- Batting cages
- Bullpen
- Press box
- Public Restrooms

This License shall **not** confer upon the Licensee a property interest in the License Area.

3. BOARD SEASONS. For baseball and softball, the following is considered to be the operating season: Spring (Mid January through End of April), or as established by the Florida High School Activities Association.

4. TERM. This License shall commence on the date that this License is fully executed and shall continue for fifteen (15) years ("Initial Term") unless terminated by either party as provided for herein. Thereafter the agreement shall automatically renew for an additional one (1) year term, each year, for a maximum of ten (10) additional years ("Renewal Term") unless either party provides the other party with written notice of its intent to terminate as provided for herein.

5. TERMINATION. Either Party may terminate this License without cause at any time upon ninety (90) days written notice to the other Party. Provided that the termination shall not become effective until the end of the high school baseball season if the City does not provide at least one hundred fifty (150) days written notice prior to the start of the season, as described in Section 3 above.

The City, at its option, may terminate this License upon thirty (30) days written notice to the Board if the City Council determines at a duly constituted City Council Meeting that the Property is needed for other municipal purposes.

Upon termination by either party, the Board shall restore the License Area to a condition consistent with the License Area as it existed prior to Licensee's occupation. If City elects to terminate this License, the City will reimburse the Board for a pro rata share of the Improvements identified in Section 7 hereof. The total amount spent by the Board will be divided by the term of the License, fifteen (15) years. The City's reimbursement will be the total cost paid by the Board, less the amount attributable to each year the License has been in effect.

6. **DIRECT CHARGES.** The Board is responsible to reimburse the City for all direct charges associated with its facility usage. This would include field lighting utility charges, as well as staff and field maintenance outside of the City's customary hours of operation.

7. **IMPROVEMENTS.** The Board shall not construct any improvements on or otherwise alter, change or improve any part of the License Areas without the prior written consent of the Director of Parks and Recreation, upon such terms and conditions as he may reasonably deem necessary. Request by the Board to construct any such improvements on or otherwise alter, change or improve any part of the License Areas shall be presented to the Director of Parks and Recreation in written form and he shall get them within a reasonable prompt time. The City agrees to make improvements to the Stadium, in particular the locker room facilities on the third base side of the Stadium, for the benefit of the baseball team. The exact plans and other details of the improvements shall be agreed upon by the City's Manager and the Board's Superintendent, or their respective designees, and in return the Board will compensate the City a total cost of \$50,000, provided the City spends a minimum of \$50,000 on such improvements. If the improvements cost less than \$50,000 the Board will only reimburse for the lesser amount.

Signage is prohibited unless approved in writing by the Licensor. For purposes of this paragraph, email communications shall constitute written approval. All signage shall comply with requirements of the Code of Ordinances of the City of Clearwater or other applicable law, rules, regulations or policies.

8. **LIABILITY AND HOLD HARMLESS.** The City and Board shall be liable for their own acts of negligence, or their respective agents' acts of negligence when acting within the scope of their employment, in the performance of this agreement; provided, however, that the City's and Board's liability is subject to the monetary limitations and defenses imposed by Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by the parties, nor shall anything herein be construed as consent by the parties to be sued by any third party for any cause or matter arising out of or related to this agreement.

9. **INSURANCE.** The Board shall, at its own cost and expense, acquire and maintain (and cause contractors and subcontractors, if applicable, to acquire and maintain) during the term of the License, sufficient insurance, or self-insurance, to adequately protect the respective interest of the parties. Specifically, the Board must carry the following minimum types and amounts on an occurrence basis or in the case of coverage that cannot be obtained on an occurrence basis, then coverage can be obtained on a claims-made basis with a minimum three (3) year tail following the termination or expiration of this Agreement:

1. Commercial General Liability Insurance in the amount of \$1,000,000 per occurrence and \$1,000,000 general aggregate.
2. Commercial Automobile Liability Insurance for any owned, non-owned, hired or borrowed automobile is required in the minimum amount of \$1,000,000 combined single limit.

3. Statutory Workers' Compensation Insurance and Employer's Liability Insurance in the minimum amount of \$100,000 each employee each accident, \$100,000 each employee by disease and \$500,000 aggregate by disease with benefits afforded under the laws of the State of Florida. Coverage should include Voluntary Compensation and U.S. Longshoremen's and Harbor Worker's Act coverage where applicable. Coverage must be applicable to employees, contractors, and subcontractors, if any.

The above insurance limits may be achieved by a combination of primary and umbrella/excess liability policies.

Other Insurance Provisions:

1. The City is to be specifically included as an "Insured" on the Commercial Liability Insurance, and Commercial Auto Liability Insurance policies listed.
2. Prior to the execution of this Agreement then annually upon the anniversary date(s) of the insurance policy's renewal date(s), the Board will furnish the City with a Certificate of Insurance or letter evidencing the coverage set forth above and naming the City as an "Insured" on the Board's Commercial General Liability Insurance and Commercial Auto Liability Insurance policies listed above. In addition, Board will provide the City with certified copies of all applicable policies when requested in writing from the City. The address where such certificates or letters and certified policies shall be sent or delivered is as follows:

Kevin Dunbar  
City of Clearwater Parks and Recreation Department  
100 S. Myrtle Ave.  
Clearwater, Florida 33756

3. Board shall provide thirty (30) days written notice of any cancellation, non-renewal, termination, material change or reduction in coverage.
4. Board's insurance as outlined above shall be primary and non-contributory coverage for County's negligence.
5. Board shall defend, indemnify, save and hold the City harmless from any and all claims, suits, judgments and liability for death, personal injury, bodily injury, or property damage arising directly or indirectly including legal fees, court costs, or other legal expenses.

The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to the City, and failure to request evidence of this insurance shall not be construed as a waiver of Board's obligation to provide the insurance coverage specified.

10. ASSIGNMENT. Neither party hereto may assign its rights hereunder without the prior written consent of the other party.

11. **GOVERNING LAW.** This agreement shall be governed by and construed under the laws of the State of Florida.

12. **REPAIRS AND IMPROVEMENTS.** Subject to the Improvements contemplated to be made by the city and reimbursed by the Board as described herein, the City shall be responsible for all other general repairs and improvements to the Stadium.

13. **UTILITIES.** Provisions and payment for utilities shall be the responsibility of the City, unless billed to the Board as direct charges pursuant to Section 6 of the agreement.

14. **MAINTENANCE.** General maintenance and upkeep of the Stadium shall be the responsibility of the City. However, the Board shall be responsible for the cleanliness and upkeep of the locker room areas, and also to return the License Areas that they use as part of this agreement to the condition they received them at the beginning of each use.

15. **SECURITY.** Security of the Stadium shall be the responsibility of the City. However, should additional security be necessary on specific occasions for Board specific events, the provision of additional security shall be the responsibility of the Board.

16. **NO PAYMENTS.** Except as provided in this agreement, no monetary payments will be made between the parties in connection with this agreement.

17. **NO PARTNERSHIP.** The parties hereby acknowledge that they are independent contractors, and neither the Board nor any of its agents, representatives, program participants, or employees shall be considered agents, representatives, or employees of the City. In no event shall this agreement be construed as establishing a partnership or joint venture or similar relationship between the parties. The Board shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes or benefits. No program participant, Board employee, or other third person is entitled to, and shall not receive any rights under this agreement. Neither party shall have the right or authority nor hold itself out to have the right or authority to bind the other party and neither shall either party be responsible for the acts or omissions of the other except as provided specifically to the contrary herein. Parties hereto do not intend nor shall this License be construed to grant any rights, privileges or interest to any person not a party to this License.

18. **NON-DISCRIMINATION.** There shall be no discrimination on the basis of race, color, ethnicity, religion, sex, age, national origin, marital status, pregnancy, sexual orientation, gender identity, genetic information, or against any qualified individual with disabilities in either the selection of participating students, employment of staff, or as to any aspect of the program.

19. **USE OF NAME OR LOGO.** The parties will not, and will cause to use names, logos or marks associated with the other party without the express written consent of the other party.

20. SEVERABILITY. If any provision of this agreement is held to be invalid or unenforceable for any reason, this agreement shall remain in full force and effect in accordance with its terms disregarding such unenforceable or invalid provision.

21. CAPTIONS. The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this agreement.

22. NO WAIVER. Delay or failure to exercise any right or remedy hereunder will not impair such right or remedy to be construed as a waiver thereof. Any single or partial exercise of any right or remedy will not preclude any other or further exercise thereof or the exercise of any other right or remedy.

23. APPLICABLE LAW. Licensee shall comply with all statutes, ordinances, rules, orders, regulations and requirements of any governmental agency with authority over the License Areas and applicable law.

24. NOTICES. All notices hereunder by either party to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

If to City: Kevin Dunbar, Director  
Parks and Recreation Department  
100 S. Myrtle Avenue  
Clearwater, FL 33756

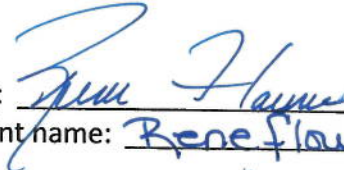
If to Board: Pinellas County Schools  
Real Estate Department  
11111 S. Belcher Road  
Largo, FL 33733  
Attn: Charlene Beyer, Real Estate Analyst  
Copy to: School Board Attorney

Or to such other person or place as either party may from time to time designate by written notice to the other party.

25. ENTIRE AGREEMENT. This agreement sets forth the entire agreement with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This agreement may not be amended or modified except by mutual written agreement of the parties. All continuing covenants, duties and obligations herein shall survive the expiration or earlier termination of this agreement.

IN WITNESS WHEREOF, the parties have hereunder placed their hands and seals on the date first above written:

SCHOOL BOARD OF PINELLAS COUNTY, FLORIDA

By:   
Print name: Rene Flowers

Attest:   
Superintendent

Approved as to form:

  
School Board Attorney

Countersigned:

CITY OF CLEARWATER, FLORIDA

\_\_\_\_\_  
George N. Cretekos  
Mayor

\_\_\_\_\_  
William B. Horne, II  
City Manager

Approved as to form:

Attest:

\_\_\_\_\_  
Owen Kohler  
Assistant City Attorney

\_\_\_\_\_  
Rosemarie Call  
City Clerk