

INTERLOCAL AGREEMENT BETWEEN CITY OF GAINESVILLE AND SCHOOL BOARD OF ALACHUA COUNTY FOR JOINT USE OF ABRAHAM LINCOLN MIDDLE SCHOOL RECREATION FACILITIES (LINCOLN PARK)

This AGREEMENT is made and entered into this ____ day of _____, 2022, by and between the City of Gainesville, a Florida municipal corporation (“City”) and the School Board of Alachua County, a Florida district school board (“School Board”).

WITNESSETH:

WHEREAS, Chapter 163, Florida Statutes, authorizes public agencies, including cities and school boards, to enter into agreements to provide services and to jointly exercise in power, privilege, or authority they share in common and which each might exercise separately; and

WHEREAS, the City and School Board wish to coordinate the recreational facilities and activities of the City and School Board in order to prevent duplication and to provide more fully for the recreational needs of the citizens of our City and School Board at the least expense; and

WHEREAS, the School Board recognizes the existence of the City of Gainesville Parks, Recreation and Cultural Affairs Department (PRCA) as an entity within the jurisdiction of City government which has the experience, expertise, staff, and abilities to support the use of School Board recreational facilities made available to the public during non-school hours; and

WHEREAS, the School Board desires to offer its outdoor active recreational facilities at Lincoln Park, located at 924 SE 15th Street, Gainesville, Florida 32641, as shown in Exhibit A, (the “Park”) for use and benefit of the general public, while retaining control of these facilities; and

WHEREAS, the City has invested in recreation equipment and infrastructure at the Park since 1980, and desires to continue operating and maintaining it as a City park.

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

1. **Term.** This Agreement shall take effect upon execution and shall remain in effect for a period of twenty-five (25) years, unless earlier terminated in accordance with paragraph 7, below. This Agreement may be renewed, at the option of the City, for successive terms of

twenty-five (25) years each under the same terms and conditions as provided herein unless the School Board objects, in writing, to such renewal at least one (1) year prior to the expiration of the current term.

2. **Physical Improvements.**

a. The City may renovate existing facilities and build and construct recreational improvements in the Park, subject to written approval by a designated representative of the School Board. Any renovations, rehabilitations, and installations of equipment or construction of facilities on said premises, for community recreation purposes, shall be at City's cost.

b. The plans and specifications for the renovation, rehabilitation, or replacement of existing equipment, facilities, and improvements upon said premises and the type, design, and construction thereof shall be approved in writing by the City and a designated representative of the School Board in advance.

c. Any equipment, facilities, or improvements installed or erected on said premises by the City shall remain the property of the City and may be removed at the expense of the City after this Agreement is terminated, except that any landscaping or paving that has been installed shall remain on the property. The City agrees to leave the site or facility in reasonable repair after such removal.

3. **Maintenance.**

a. The City, through its PRCA Department, agrees to maintain and repair all sites, equipment, play areas, ball parks, lighting, etc., in the Park. It is further agreed that the City PRCA Department will furnish and supply all expendable materials necessary for carrying on community recreation programs in the Park when such is under its supervision and control. The City shall be responsible for maintaining the fencing within the Park, but not the perimeter fencing around the school fields.

b. The City shall perform weekly grounds maintenance of the Park, consisting of removing litter, providing and picking up containers for trash and recycling, mowing, and trimming trees and shrubs.

c. The City shall be responsible for the maintenance of the baseball/softball field within the Park on an as needed basis.

d. The City shall be responsible for emptying trash from trash receptacles from the Park a minimum of one time per week.

e. The City shall be responsible for maintaining playground area within the Park by removing trash and debris one time per week and shall provide an inspection of the play equipment bi-weekly for safety. City will also repair small items on playground such as swing seats and chains and shall maintain the surfacing under the playground on an as needed basis.

4. **Use as City Park.** The School Board will make the Park available to the City and general public for recreational purposes as a City park. The Parties agree that the Park and school grounds may be used occasionally for after school programs and school related events. The school will submit a schedule of their scope, time, and duration in advance to the City. In the event of a conflict in the use during after school hours of the Park and school grounds between the School Board and the City, the School Board shall have first priority for its event. During such activities the described area will be under the control and supervision of the School Board.

5. **Control and Supervision.**

a. The Park may be used by, and will be deemed to be under the control and supervision of, the School Board during school hours, on regular school days when utilized for regularly-scheduled school activities. The City will be deemed to have supervision and control of the above-described areas at all other times and such will be open to public use from dawn until 11:30 p.m.

b. It is understood and agreed that the personnel employed by the City to perform work on the subject property shall be under the supervision of the City.

c. The school Principal will be involved in planning for the community recreation program to be conducted by the City on the subject playground and park sites.

6. **Insurance and Liability.**

a. The parties recognize that the City and the Board are self-insured for amounts up to \$300,000 (\$200,000 per individual) for each occurrence as provided for in Florida Statute 768.28.

b. The Parties shall each be responsible for any and all risks of personal injury and property damage attributable to the acts or omissions of their own officers, employees, servants

and agents. The City shall assume liability for injuries or damage occurring at the Park during City park hours outside of Lincoln Middle School's hours that are attributable to the general public's use of the Park. The City shall not be liable for injuries or damage occurring at the Park during Lincoln Middle School hours, or for hours outside of City park hours. This provision shall survive the termination of the Agreement. Nothing in this Agreement shall be interpreted as a waiver of either party's sovereign immunity under law.

7. **Default/Termination.**

a. The failure of either party to comply with any provision of this Agreement shall place such party in default. Prior to terminating this Agreement, the non-defaulting party shall notify the defaulting party in writing, making specific reference to the provision which gave rise to the default. The defaulting party shall then be entitled to a period of fifteen (15) days in which to cure the default. In the event the default is not cured within the 15 day period, this Agreement may be terminated.

b. If the City determines that it wishes to cease use of the subject property for general public recreation purposes, the City may terminate the Agreement and remove the City's equipment and facilities upon ninety (90) days' written notice.

8. If the School Board determines that it wishes to use the subject property, or any portion thereof, for any other purpose, the School Board may terminate the Agreement upon ninety (90) days' written notice, subject to the City's right to remove the City's equipment and facilities.

9. **Notices.** Except as otherwise provided herein, any notice of default or termination, from either party to the other party shall be in writing and sent by certified mail, return receipt requested or personally delivered with signed proof of delivery, to the following addresses:

City: Roxana Gonzalez, Director
Parks, Recreation & Cultural Affairs Department
PO Box 490, Station 30
Gainesville, FL 32627
gonzalezrn@gainesvillefl.gov

School Board: Suzanne Wynn
ACPS Director of Community Planning
3700 NE 53rd Ave.

10. **Miscellaneous.**

a. **Amendments.** This Agreement may be amended by mutual written agreement of the parties and may be changed only by such written amendment.

b. **Laws and Regulations.** The parties will comply with all laws, ordinances, regulations, and building code requirements applicable to the work required by this agreement. The parties are presumed to be familiar with all state and local laws, ordinances, code rules and regulations that may in any way affect the work outlined in this agreement. If either party is not familiar with state and local laws, ordinances, code rules and regulations, the party remains liable for any violation and all subsequent damages or fines.

c. **Assignment.** The parties shall not assign, convey, pledge, sublet, or otherwise dispose of, any interest in this agreement and shall not transfer any interest in same, whether by assignment or notation, without the prior written consent of the other two parties.

d. **Third Party Beneficiaries.** This Agreement does not create any relationship with, or any rights in favor of, any third party.

e. **Severability.** If any provision of this Agreement is declared void by a court of law, all other provisions will remain in full force and effect.

f. **Non Waiver.** The failure of either party to exercise any right in this Agreement will not waive such right in the event of any further default or non-compliance.

g. **Captions and Section Headings.** Captions and section headings used herein are for convenience only and shall not be used in construing this Agreement.

h. **Construction.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by one of the parties. It is recognized that both parties have substantially contributed to the preparation of this Agreement.

i. **Governing Law and Venue.** This Agreement is governed in accordance with the laws of the State of Florida. Venue is in Alachua County.

j. **Attachments.** All exhibits attached to this Agreement are incorporated into and made part of this agreement by reference.

k. **Entire Agreement.** This Agreement constitutes the entire agreement and supersedes all prior written or oral agreements, understandings, or representations.

1. **Recording of Agreement.** The City, upon execution of this Agreement by all parties, shall record this Interlocal Agreement in the public records of Alachua County, Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed for the uses and purposes expressed herein, on the day and year first above written.

ATTEST:

SCHOOL BOARD OF ALACHUA COUNTY

Shane Andrew, Superintendent

Robert Hyatt, Chair

Approved as to form and legality:

Date: _____

Francine Turney
Staff Attorney

ATTEST:

CITY OF GAINESVILLE

Omichele D. Gainey, City Clerk

Lauren Poe, Mayor

Date: _____

Approved as to Form and Legality:

Assistant City Attorney