



CITY OF MIAMI SPRINGS, FLORIDA

Mayor Maria Puente Mitchell

**Vice Mayor Walter Fajet, Ed.D.
Councilwoman Jacky Bravo**

**Councilman Jorge Santin
Councilman Victor Vazquez, Ph.D.**

Decorum: "Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the City Council, shall be barred from further audience before the City Council by the Mayor, unless permission to continue or again address the City Council is granted by the majority vote of the City Council members present. In accordance with the foregoing, the City Council has determined that racial or ethnic slurs, personal attacks and comments unrelated to City matters or issues constitute prohibited comments from the podium."

CITY COUNCIL REGULAR MEETING AGENDA

Monday, May 13, 2024 – 7:00 p.m.

**Council Chambers, 201 Westward Drive, Miami Springs, Florida
(In-person and virtually; See pages 3-4 for additional information)**

- 1. Call to Order/Roll Call**
- 2. Invocation:** Mayor Maria Mitchell
Pledge of Allegiance: Audience will lead the Pledge of Allegiance and Salute to the Flag
- 3. Agenda / Order of Business**
- 4. Awards & Presentations:**
 - A) Update by Tammy Key, Miami Springs Adult Community Center on Adult Community Center attendance and events
 - B) Yard of the Month Award for May 2024 – 543 Hunting Lodge Drive – Michael and Melisande Perez
 - C) City Hall Lobby Artist of the Month for May 2024 - Aiden from Loyola Elementary School
- 5. Open Forum:** Persons wishing to speak on items of general City business, may do so in person (*subject to capacity restrictions*) or virtually by following the instructions on pages 3-4. This portion of the meeting also includes any pre-screened video submittals. *The purpose of Open Forum is to encourage residents and members of the public to address their concerns and make comments on any item. The City Council will not enter into a dialogue at this time. City staff will gladly address any question, issue, and/or comment after the meeting. The Mayor is the presiding officer of all Council meetings and shall conduct the meetings accordingly.*
- 6. Approval of Council Minutes:**
 - A) April 22, 2024 – Regular Meeting
- 7. Reports from Boards & Commissions: None.**

8. Public Hearings:

A) **Ordinance – Second Reading** – An Ordinance Of The Mayor And The City Council Of The City Of Miami Springs, Florida, Comprehensively Amending The City Code Of Ordinances To Allow Notice By Publication To Be Made In Any Manner Permitted Under Florida Law, Including Through Publicly Accessible Websites; Providing For Severability; Providing For Conflicts; Providing For Codification; And Providing For An Effective Date

9. Consent Agenda: None.

10. Old Business: None.

11. New Business:

A) **Ordinance – First Reading** – An Ordinance Of The City Of Miami Springs, Florida, Comprehensively Amending Chapter 54, “Tree Protection Program,” Of The City’s Code Of Ordinances To Revise Permitting Procedures, Regulations, And Penalties Relating To Tree Protection, Removal, And Relocation; Providing For Conflicts; Providing For Severability; Providing For Codification; And Providing For An Effective Date

B) **Resolution** – A Resolution Of The City Council Of The City Of Miami Springs, Florida, Approving A Joint Use Agreement With The School Board Of Miami-Dade County Relating To The Use Of The Hardcourt/Basketball Courts At Miami Springs Senior High School For Recreational And Educational Purposes; Providing For Authorization; And Providing For An Effective Date

12. Other Business:

A) Request by Mayor Mitchell to discuss directing Staff to draft resolution on charter amendment relating to elected officials’ terms for November 2024 Election

B) Request by Mayor Mitchell to discuss exploring the process of implementing Impact Fees

C) Request by Mayor Mitchell to discuss hedge and landscaping heights in yards which obstruct visibility and safety

D) Request by Councilman Santin to discuss City landscaping and beautification projects

13. Reports & Recommendations:

A) City Attorney

B) City Manager

C) City Council

14. Adjourn



**CITY OF MIAMI SPRINGS
PUBLIC MEETING NOTICE**

The City of Miami Springs will hold a Council meeting on:
**Monday, May 13, 2024 at 7:00 p.m. at
City Hall, Council Chambers, 201 Westward Drive, Miami Springs, Florida
(Physical Meeting Location)**

The meeting agenda is available online at: <https://www.miamisprings-fl.gov/meetings>

Elected officials and City staff will participate from the physical meeting location. Members of the public may attend the meeting in person at the physical meeting location, or, alternatively, may watch or call in to the meeting by following these instructions:

ATTEND THE MEETING IN PERSON AT THE PHYSICAL MEETING LOCATION

The meeting will be held in person at the physical meeting location stated above. Admission to the physical meeting location is on a first-come, first-serve basis and space is limited. Doors will open 30 minutes prior to the meeting start time. The City highly encourages those in attendance to wear facial coverings and abide by social distancing as recommended by the CDC.

WATCH AND/OR PARTICIPATE IN THE MEETING

- **ZOOM:** Meeting ID 863-9512-4146
- **YouTube:** <https://www.youtube.com/channel/UC2at9KNnqUxZRSw1UkhdHLQ/featured>
- **From your computer/mobile device:** <https://www.miamisprings-fl.gov/meetings>

CALL IN TO THE PUBLIC MEETING

Dial 305-805-5151 or 305-805-5152

*(Alternatively, you may also dial the phone numbers below to join the meeting:
1 (646) 558 8656, 1 (301) 715 8592, 1 (312) 626 6799, 1 (669) 900 9128, 1 (253) 215 8782,
1 (346) 248 7799) then input the Meeting ID: 863-9512-4146, followed by #.*

There is no participant ID. Press # again.

Any person requiring special accommodations to access this proceeding is asked to advise the City at least 2 days before the proceeding by contacting the City Clerk at cityclerk@miamisprings-fl.gov

PUBLIC COMMENTS WILL BE ACCEPTED BY THE FOLLOWING MEANS:

EMAILED COMMENTS: Members of the public may email their public comments to the City in advance of the meeting. Please email the City at cityclerk@miamisprings-fl.gov by 12:00 p.m. on the day of the meeting with the subject line "PUBLIC COMMENT" and the following information in the body of the email: Your Name, Address, if you are a hired Consultant or City Employee, and/or if you are engaged in Lobbying Activities and/or representing an organization. Please limit your comments to no more than 350 words. Public comments received via email may be read into the record during the public comment portion of the agenda, if any.

IN-PERSON COMMENTS: Members of the public may attend the meeting at the physical meeting location stated above and deliver their public comments in person during the public comment portion of the agenda.

VIRTUAL COMMENTS: *Public comments will also be accepted during the meeting using the virtual meeting platform as follows:*

By telephone: To ask to speak during the meeting, call in to the meeting using the instructions above. Please press *9 from your telephone and you will be called on to speak during public comments and identified by the last 4-digits of your telephone number.

During the meeting, when your name or the last 4-digits of your telephone number is called, you will

be unmuted and you may deliver your comments.

Please be sure to be in a quiet area to avoid unnecessary noise. Please provide the following information before delivering your comments: Your Name, Address, if you are a hired Consultant or City Employee, and/or if you are engaged in Lobbying Activities and/or representing an organization.

A time limit may be imposed for each speaker during public comment.
Your cooperation is appreciated in observing the time limit.

Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the City Council, shall be barred from further audience before the City Council by the Mayor, unless permission to continue or again address the City Council is granted by the majority vote of the City Council members present. In accordance with the foregoing, the City Council has determined that racial or ethnic slurs, personal attacks and comments unrelated to City matters or issues constitute prohibited comments when addressing the Council during public comments.

PUBLIC RECORDS

The meeting will be recorded for later viewing and is a public record. The virtual chat, if any, will be saved and is a public record. Minutes of the meeting will be taken and will be made available.

NOTICE PURSUANT TO §286.0105, FLORIDA STATUTES

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AMERICANS WITH DISABILITIES ACT

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this proceeding is asked to advise the City at least 2 days before the proceeding by contacting the City Clerk's Office at 305-805-5006.

LOBBYING ACTIVITIES

In accordance with Section 33-01 of the City Code, adopting Section 2-11.1(s) of the Miami-Dade County Code, any person engaging in lobbying activities, as defined therein, must register at the City Clerk's Office before addressing the City Council on the agenda items or engaging in lobbying activities. Specifically, all persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the City Council; (2) any action, decision, recommendation of any City Board or Committee; or (3) any action, decision or recommendation of City personnel during the time period of the entire decision-making process on such action, decision or recommendation which will be heard or reviewed by the City Council, or a City Board or Committee shall register with the City before engaging in any lobbying activities on forms prepared for this purpose and shall state under oath his or her name, business address, the name and business address of each person or entity which has employed said registrant to lobby, and the specific issue on which he or she has been employed to lobby. A copy of the lobbyist registration form is available from the Office of the City Clerk and online at: <https://www.miamisprings-fl.gov/cityclerk/lobbyist-registration-form-0>.

Have questions or need additional information?

Write: cityclerk@miamisprings-fl.gov

Call: 305-805-5006

Mail: 201 Westward Drive, Miami Springs, FL 33166



City of Miami Springs, Florida

City Council Meeting

Regular Meeting Minutes

Monday, April 22, 2024 at 7:00 p.m.

City Hall, Council Chambers, 201 Westward Drive, Miami Springs, Florida

In-Person/Virtual Council Meeting

1. **Call to Order/Roll Call:** The meeting was called to order by the Mayor at 7:00 p.m.

Present were the following:

Mayor Maria Puente Mitchell

Vice Mayor Walter Fajet, Ed.D.

Councilman Jorge Santin

Councilwoman Jacky Bravo

Councilman Victor Vazquez. Ph.D.

City Manager JC Jimenez

Assistant City Manager Tammy Romero

City Clerk Erika Gonzalez

City Attorney Haydee Sera

City Attorney Susan Trevarthen

City Planner Silvia Vargas

2. **Invocation:** Offered by Councilwoman Jacky Bravo
Pledge of Allegiance: The audience led in the pledge.

3. **Agenda / Order of Business:**

4. **Awards & Presentations:**

A) Miami-Dade Fire Rescue Annual Report by Fire Chief Raied "Ray" Jadallah

Mayor Mitchell asked Fire Chief Jadallah to the podium. Chief Jadallah provided a visual and oral report. He proceeded to report on the Annual Fire Department Service Delivery 2023 to the City. He stated that the MDFR responded to 2,249 emergency calls within the City, which 75% of the calls were primarily serviced by Station 35 located within the City limits. The remaining calls of service are spread out through various surrounding stations that responded to emergency City calls. He thanked the Council for their continuing support and that it is a privilege and an honor to serve the residents of Miami Springs.

B) Presentation by Caballero Fierman Llerena + Garcia, LLP on a) Annual Comprehensive Financial Report (ACFR) for Fiscal Year ending September 30, 2023 and b)

Communications with those charged with governance report

Mr. Andrew S. Fierman, partner at Caballero Fierman Llerena & Garcia LLP, auditors for the City, gave a presentation on the on the City’s Annual Comprehensive Financial Report (ACFR) for Fiscal Year ending September 30, 2023. Mr. Fierman reviewed the various sections of the ACFR. He noted that the Compliance Section includes the reports that are required under Generally Accepted Auditing Standards, as well as the Rules of the Auditor General of the State of Florida. The Auditors are pleased to report that they did not identify any significant deficiencies or material weaknesses in internal control, nor did their tests find any instances of non-compliance. He reported that they did not encounter any difficulties in performing or completing the audit; there were no disagreements with management and there were no misstatements requiring correction as a result of the audit. He thanked City Manager and Finance Director and Staff for their cooperation and assistance throughout the entire process.

C) Announcing City Hall Lobby Artist of the Month for April 2024 – Students from ISAAC Academy

Mr. Del Cristo introduced himself and introduced the students that were selected for the exhibition. The Mayor and City Council presented them with a certificate of recognition.

D) Recognizing STEAM winner from Miami Springs Elementary – 1st Grader Ashely Hernandez

Ms. Ashley Hernandez was present to showcase her 1st place “Every Drop Counts” poster. Her teacher was available to share a few words about the guidelines and the County recognition. She thanked the Mayor and the City Council for the opportunity of attending the meeting.

5. Open Forum: The following members of the public addressed the City Council: There were no speakers at this time.

6. Approval of Council Minutes:

- A) March 20, 2024 – Workshop
- B) April 8, 2024 – Regular Meeting

Vice Mayor Fajet moved to approve the minutes of March 20, 2024 Workshop and April 8, 2024 Regular Meeting. Councilman Vazquez seconded the motion, which carried 5-0 on roll call vote. The vote was as follows: Vice Mayor Fajet, Councilman Santin, Councilwoman Bravo, Councilman Vazquez and Mayor Mitchell voting Yes.

7. Reports from Boards & Commissions: None at this time.

8. Public Hearings:

A) **Resolution** – A Resolution Of The Mayor And City Council Of The City Of Miami Springs, Florida, Approving A Final Plat Application By Enclave At Miami Springs, LLC For Property Located At 1101 Wren Avenue (Folio Number 05-3024-017-0010); Providing For Conditions; Providing For Violations; Providing For Authorization; Providing For Recording; And Providing For An Effective Date

Vice Mayor Fajet moved to approve the Resolution as recommended. Councilman Vazquez seconded the motion, which carried 5-0 on roll call vote. The vote was as follows: Vice Mayor Fajet, Councilman Santin, Councilwoman Bravo, Councilman Vazquez and Mayor Mitchell voting Yes.

9. Consent Agenda: (Funded and/or Budgeted):

A) **Resolution** – A Resolution Of The Mayor And City Council Of The City Of Miami Springs, Florida, Approving The Purchase Of Garbage Containers From Rehrig Pacific Company In An Amount Not To Exceed \$11,716 Utilizing The Terms And Conditions Of Miami-Dade County Contract No. 00254 Pursuant To Section 31-11(E)(5) Of The City Code; Providing For Authorization; And Providing For An Effective Date

B) **Resolution** – A Resolution Of The City Council Of The City Of Miami Springs, Florida, Approving An Interlocal Agreement With Miami-Dade County Relating To On-Demand Transportation Services; Providing For Authorization; And Providing For An Effective Date

Councilman Vazquez moved to approve the Consent Agenda. Vice Mayor Fajet seconded the motion, which carried 5-0 on roll call vote. The vote was as follows: Vice Mayor Fajet, Councilman Santin, Councilwoman Bravo, Councilman Vazquez and Mayor Mitchell voting Yes.

10. Old Business: None at this time.

11. New Business:

A) **Presentations/Resolution** – A Resolution Of The Mayor And City Council Of The City Of Miami Springs, Florida, Selecting _____ For Professional Tennis Management And Operation Services For The Miami Springs Tennis Center Pursuant To Request For Proposals No. 01-23/24; Providing For Authorization; And Providing For An Effective Date

Vice Mayor Fajet recused himself from the dais and left the meeting due to a possible conflict and in abundance of caution since Brad Mixon is the tennis coach at the school where the Vice Mayor is the principal of; filing a Form 8B with the City Clerk and attached to the minutes herein.

Andy Valiente of Deviceful Solutions and Brad Mixon of Tennis Pro Miami gave fifteen minute presentations. They both, independently, answered questions made by the City Council.

Councilwoman Bravo moved to approve the selection of Deviceful Solutions d/b/a Valiente Tennis Academy. Councilman Vazquez seconded the motion, which carried 3-1 on roll call vote. The vote was as follows: Councilman Santin, Councilwoman Bravo, Councilman Vazquez voting Yes; Mayor Mitchell voting No; Vice Mayor Fajet was absent.

B) Ordinance – First Reading – An Ordinance Of The Mayor And The City Council Of The City Of Miami Springs, Florida, Comprehensively Amending The City Code Of Ordinances To Allow Notice By Publication To Be Made In Any Manner Permitted Under Florida Law, Including Through Publicly Accessible Websites; Providing For Severability; Providing For Conflicts; Providing For Codification; And Providing For An Effective Date

City Attorney Haydee Sera read the item by title.

City Attorney Haydee Sera explained the purpose of the Ordinance reflecting the ability to allow a municipality to advertise notices on a County approved website rather than printed notices in a publication which is adversely expensive and costly.

Vice Mayor Fajet moved to approve the Ordinance on first reading. Councilman Vazquez seconded the motion, which carried 5-0 on roll call vote. The vote was as follows: Vice Mayor Fajet, Councilman Santin, Councilwoman Bravo, Councilman Vazquez and Mayor Mitchell voting Yes.

12. Other Business:

A) Request by MS Little League President Fred Gonzalez to accept a Douglas Orr Plumbing donation for \$15,000 to Miami Springs Little League to help build out the Hit Zone at Prince Field replacing the old batting cage; in exchange for the donation, Douglas Orr Plumbing receives signage that will credit Douglas Orr Plumbing as the provider of the Hitting Zone: "MSLL Hit Zone powered by Douglas Orr Plumbing."

This item was heard earlier in the meeting. Mr. Gonzalez requested that the City Council consider the naming of the new hitting station after the late Douglas Orr, as the Orr Family will donating the funds for the construction of the hitting zone.

Vice Mayor Fajet moved to approve the signage of naming the hitting area in memory of Douglas Orr. Councilman Santin seconded the motion, which carried 5-0 on roll call vote. The vote was as follows: Vice Mayor Fajet, Councilman Santin, Councilwoman Bravo, Councilman Vazquez and Mayor Mitchell voting Yes.

B) Update by Silvia Vargas, City Planner, on the status of the timeline for the NW 36 St/Abraham Tract (aka "Activate Southeast Springs") process

Silvia Vargas of CGA, City Planner, updated the City Council with an updated timeline on projects assigned by the City. She stated that the timeline is still in line with the end

result. There were additional assignments that have been assigned since the original timeline was presented. She also updated the Council with the upcoming series of outreach meetings with specific stakeholders such as hotels and businesses along NW 36th Street.

C) Request by Staff for discussion on trash and garbage pick up

City Manager JC Jimenez advised the City Council that the trucks are up and running. The staff was able to contact the truck provider, for the purchase of new trucks, and were advised that the trucks are in assembly and should be available in July and September.

D) Request by Mayor Mitchell to discuss consideration of ballot question on elected officials' terms

Mayor Mitchell explained that currently in the Charter, Council terms are every two years. She stated that it would be beneficial to the City to amend the Charter to reflect Council terms to four years creating stability for staff and having the completion of projects for Council. The City Council conceded that the discussion should be further explored at the next Council meeting

E) Request by Councilman Santin for the City Council to consider and approve the first Miami Springs Centennial Event on November 4, 2024 "The Glenn Curtiss Vintage Motorcycle and Car Show"

Councilman Santin requested that the City Council consider having a Motorcycle and Car Show on November 2nd, this year, foregoing the car show in December as to not close down the circle for another event that adversely affects the local businesses. Centennial Committee Chair Julie Arias was available to comment and answer the Council's questions.

Councilman Santin moved to approve the proposed Motorcycle and Car Show on November 2nd. Councilman Vazquez seconded the motion, which carried 4-1 on roll call vote. The vote was as follows: Vice Mayor Fajet, Councilman Santin, Councilman Vazquez and Mayor Mitchell voting Yes; Councilwoman Bravo voting No.

13. Reports & Recommendations:

A) City Attorney

City Attorney Haydee Sera reported that there should be a revised ordinance amending the parking limitations which will be worked on, but that should not hold up any phases of the implementation. She updated the Council on the Form 6 litigation which is still in the assigned judge consideration for determining what action will be taken.

B) City Manager

City Manager JC Jimenez updated the City Council that the City is working with School Board Member Espino and Miami Springs Senior High School on a joint use agreement for the use of basketball courts. He introduced Mr. Kevin Morris, the new Golf Director, who was present in the audience. He also recognized Public Works, Parks, Police and Shannen for their efforts before, during and after the River Cities Festival. Assistant City Manager Tammy Romero provided dates of upcoming City events.

C) City Council

Vice Mayor Fajet stated that River Cities Festival was great! Factory Town had an event on April 20th and did not hear anything or no complaints were made. He was happy that the City's involvement was successful.

Councilman Santin also congratulated the River Cities Festival Committee for a wonderful event. He referenced the tennis presenters and thanked both of them for attending. He looks forward to a successful tennis program.

Councilwoman Bravo welcomed Valiente Tennis to the Springs family. She looks forward to working with them. She also welcomed Mr. Kevin Morris to the Springs team and looks forward to working with him as well.

Councilman Vazquez said he is delighted with Silvia Vargas' presentation on the activation of East Springs. He was asked and honored to say yes at the Memorial Day event on May 27th. He stated that he spoke to Senator Avila for the funding of the War Memorial renovation and the bid process, he stated that Sen. Avila will look for more funding for the project.

Mayor Mitchell had no report at this time.

14. Adjourn

There being no further business to be discussed the meeting was adjourned at 10:59 p.m.

Respectfully submitted:

*Erika Gonzalez-Santamaria, MMC
City Clerk*

*Adopted by the City Council on
This 13th day of May, 2024.*

Maria Puente Mitchell, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, THE CITY HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT

CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.



MEMORANDUM

To: Honorable Mayor and Council

From: Haydee Sera, Esq., Weiss Serota Helfman Cole & Bierman, P.L., City Attorney

Date: April 22, 2024

RE: Ordinance Comprehensively Amending the City Code of Ordinances (the “Code”) to allow use of publicly accessible website designated by Miami-Dade County for publication of legally required advertisements and public notices

Recommendation: Adopt on first reading the proposed Ordinance allowing the use of the publicly accessible website to be designated by Miami-Dade County for publication of legally required advertisements.

Background: The Florida Constitution requires all meetings of a county, municipality, school board, or special district at which official acts are to be taken or at which public business is to be discussed or transacted to be open to the public and properly noticed. The City of Miami Springs (the “City”), like many other municipalities in Miami-Dade County, has historically published legal notices in the Daily Business Review when possible because it was more cost effective than other newspaper options available for publication. However, as of December 22, 2023, the Daily Business Review ceased producing a print product and no longer meets the qualifications necessary for publication of legal notices under Florida Law.

In 2022, the State Legislature adopted HB 7049, amending the legal notice requirements in Chapter 50, Florida Statutes, to allow for publication of legal notices on a publicly accessible website as specified in Section 50.0311, Florida Statute. Miami-Dade County (“County”) is in the process of designating a County-wide publicly accessible website to allow publication of legal notices by municipalities on the County’s publicly accessible website consistent with Section 50.0311, Florida Statutes. However, in order to publish legal notices on the County publicly accessible website once it is created, the City must first amend various provisions in the City Code that expressly require legal notices to be published in a newspaper of general circulation to allow legal notices to instead be published in any manner permitted by law, including through a publicly accessible website.

If adopted, the proposed Ordinance accompanying this memorandum would amend the following City Code sections to permit publication of legal notices to be made in any manner permitted by Florida law, including through publication on a publicly accessible website:

- Section 11-02, “City Canvassing Board”;
 - Section 31-11, “Purchasing, procurement, and sale procedures”;
 - Section 31-27, “Sale”;
 - Section 32-71, “Notice”;
 - Section 50-13, “Notice to connect; procedure”;
 - Section 50-14, “Connection effected by City lien; recording; redemption”;
 - Section 50-17, “Unimproved property”;
 - Section 90-05, “Notice after impounding; redemption”;
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- Section 96-207, "Procedures relating to applications";
- Section 150-114.5, "Notification of public hearings";
- Section 150-116, "Administrative building moratoria";
- Section 150-120, "Administrative zoning moratoria"; and
- Section 150-121, "Other zoning moratoria."

Notwithstanding the amendments provided in the Ordinance, unless and until the City Charter is amended, any proposed zoning changes, public emergency ordinances, and notices of public hearings shall continue to be published in a newspaper of general circulation as required pursuant to the City Charter, Section 1.04, "Limitations of powers"; Section 5.05, "Ordinance procedures and adoption"; and Section 5.06, "Public Hearing."

ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, COMPREHENSIVELY AMENDING THE CITY CODE OF ORDINANCES TO ALLOW NOTICE BY PUBLICATION TO BE MADE IN ANY MANNER PERMITTED UNDER FLORIDA LAW, INCLUDING THROUGH PUBLICLY ACCESSIBLE WEBSITES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provides municipalities with the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, the City Council of the City of Miami Springs (“City”) finds it periodically necessary to amend its Code of Ordinances (“Code”) in order to update regulations and procedures to maintain consistency with state law, implement municipal goals and objectives, clarify regulations, and address specific issues and needs that may arise; and

WHEREAS, the Florida Constitution requires all meetings of a county, municipality, school board, or special district at which official acts are to be taken or at which public business is to be discussed or transacted to be open to the public and properly noticed; and

WHEREAS, various sections of the City Code currently specify that certain notices must be published in a newspaper of general circulation in the City; and

WHEREAS, in 2022, the State Legislature adopted HB 7049, amending the legal notice requirements in Chapter 50, Florida Statutes, to allow for publication of legal notices on a publicly accessible website, as specified in Section 50.0311, Florida Statutes; and

WHEREAS, the City Council desires to comprehensively amend the Code to allow legal notices to be published in any manner permitted under Florida Law, including by publication on a publicly accessible website; and

WHEREAS, notwithstanding the amendments provided for herein, unless and until the City Charter is amended, proposed zoning changes, public emergency ordinances, and notices of public hearings shall continue to be published in a newspaper of general circulation as required pursuant to the City Charter Section 1.04, “Limitations of powers”; Section 5.05, “Ordinance procedures and adoption”; and Section 5.06, “Public Hearing”; and

WHEREAS, the City Council conducted a duly noticed public hearing as required by law and approved the ordinance on second reading; and

WHEREAS, the City Council finds that this Ordinance is in the best interest and welfare of the City.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That each of the above recitals are true and correct and incorporated herein by this reference.

Section 2. Amending Code of Ordinances. The City's Code of Ordinances is hereby amended as set forth in Exhibit "A" attached hereto and incorporated herein.

Section 3. Conflicts. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 4. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Codification. That it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City Code, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 6. Effective Date. That this Ordinance shall become effective immediately upon adoption on second reading.

PASSED ON FIRST READING on the __ day of _____, 2024, on a motion made by _____ and seconded by _____.

PASSED AND ADOPTED ON SECOND READING this ___ day of _____, 2024, on a motion made by _____ and seconded by _____. Upon being put to a roll call vote, the vote was as follows:

Vice Mayor Dr. Walter Fajet, Ph.D.	_____
Councilmember Jacky Bravo	_____
Councilmember Jorge Santin	_____
Councilmember Dr. Victor Vazquez, Ph.D.	_____
Mayor Maria Puente Mitchell	_____

MARIA PUENTE MITCHELL
MAYOR

ATTEST:

ERIKA GONZALEZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF MIAMI SPRINGS ONLY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
CITY ATTORNEY

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EXHIBIT A1

CHAPTER 10 – GENERAL PROVISIONS

Section 10-18. Public Notice; Advertisement and notice by publication on publicly accessible websites.

(A) Publication. Whenever the term “Publication” or “Publish” is used in this Code, it shall be construed to mean to publish a legal notice in accordance with Chapter 50, Florida Statutes. Publication may be achieved by one of the following:

(1) Publication in a newspaper of general circulation;

(2) Publication on a publicly accessible website, as defined under Section 50.0311, Florida Statutes; or

(3) Publishing in any other manner authorized by Florida law and consistent with the City Charter, Miami-Dade County Charter, or any other relevant authority.

(B) Publication on Publicly Accessible Websites. Notwithstanding any provision to the contrary in this Code, including under Chapter 150, “Zoning Code,” of the City Code, wherever an advertisement or notice is required to be published in a newspaper of general circulation or other print publication, such advertisement or notice may instead be provided on a publicly accessible website, as permitted by Chapter 50, Florida Statutes, provided that:

(1) The cost of providing advertisements and public notices on such website is less than the cost of publishing advertisements and public notices in a newspaper of general circulation;

(2) Publication on such website conforms with the requirements of Section 50.0311, Florida Statutes; and

(3) Publication on such website is made within the time frame required by this Code for the respective advertisement or notice, and includes all information required by the respective Code provisions.

(C) City Charter Notice Requirements. Nothing in this Section shall be construed to amend the notice requirements provided in the City Charter.

CHAPTER 11 – ELECTIONS

* * *

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted double strikethrough and double underline.

44 **Section 11-02. City Canvassing Board.**

45 * * *

46
47
48 (C) Board duties. The City Canvassing Board shall have the following duties:

49
50 (1) The board shall meet in a City building which is accessible to the public at a
51 time and place to be designated by the City's supervisor of elections to publicly
52 canvass the absentee elector ballots.

53
54 (a) Public notice of the time and place at which the board shall meet to
55 canvass the absentee elector ballots shall be given at least 48 hours prior
56 thereto.

57
58 (b) The required public notice shall be given by ~~Publication~~, as
59 prescribed under Section 10-18 of the City Code, or in any other manner
60 so authorized by law, in a newspaper of general circulation in the City and
61 by posting notice in at least four City buildings.

62 * * *

63
64
65 **CHAPTER 31 – GENERAL CITY POLICIES**

66 * * *

67
68
69 **ARTICLE I. – GENERAL PROVISIONS**

70 * * *

71
72
73 **Section 31-11. Purchasing, procurement, and sale procedures.**

74 * * *

75
76
77 (F) Sealed bidding procedure. All purchases and procurements by the City which
78 require utilization of sealed bids shall be in accordance with the procedures set
79 forth in this division.

80 * * *

81
82
83 (3) *Public notice.* Public notice of the invitation to bid shall also be given not less
84 than ten calendar days prior to the date set forth in the notice for the opening of
85 bids. Such notice shall be given by ~~Publication~~, as prescribed under Section
86 10-18 of the City Code, or in any other manner so authorized by law in a
87 newspaper of general circulation in the City. The notice shall state the place,
88 date and time of the bid opening. In addition, the notice shall be posted in a
89 conspicuous place in City Hall.

90 * * *

91
92 **ARTICLE II. – PROPERTY**

93
94 * * *

95
96
97 **Section 31-27. Sale.**

98
99 After the expiration of the period of 45 days provided for in § 31-24, the City
100 Manager shall sell any property not claimed or reduced to possession by the owner
101 thereof, at public sale, after advertising by Publication, as prescribed under Section 10-
102 18 of the City Code, or in any other manner so authorized by law, in a newspaper of
103 general circulation in the City at least one time, ten days prior to the sale. Publication
104 may be made before the termination of the 45-day period, for a sale thereafter.

105 * * *

106
107
108 **CHAPTER 32 – BOARDS, COMMISSIONS, COMMITTEES**

109 * * *

110
111
112 **ARTICLE VIII. – CODE COMPLIANCE BOARD**

113 * * *

114
115
116 **Section 32-71. Notice.**

117 * * *

118
119
120 (B) In addition to providing notice as set forth in subsection (A), at the option of the
121 board or the City, notice may be served by publication or posting, as follows:

- 122
123 (1) Such notice shall be published once during each week for four consecutive
124 weeks (four publications being sufficient) in a Publication, newspaper of
125 general circulation in the county where the board is located. The newspaper
126 shall meet such requirements as are prescribed under Section 10-18 of the
127 City Code, or in any other manner so authorized by law, for legal and official
128 advertisements. Proof of publication shall be made as provided in sections
129 50.041 and 50.051, Florida Statutes, and/or as otherwise provided by law.

130 * * *

131
132
133 **CHAPTER 50 – SEWERS**

134 * * *

136
137 **ARTICLE II. – SANITARY SEWER CONNECTIONS**
138

139 * * *

140
141 **Section 50-13. Notice to connect; procedure.**
142

143 If the City Manager finds and determines that buildings subject to the terms of this
144 chapter have not been connected to sewer mains of sewer utilities, he shall notify the
145 record owner of the buildings in writing and demand that the owner cause the
146 connections to be made by duly licensed contractors or the property owner in
147 accordance with the South Florida Building Code within 90 days of the date of service of
148 the notice as hereinafter provided. The notice shall be served by registered mail,
149 addressed to the owner or owners of the property described as they are known to the
150 City Manager or as their names and addresses are shown upon the records of the
151 county tax assessor or other public records of the county, and shall be deemed
152 complete and sufficient when so addressed and deposited in the United States mail with
153 proper postage prepaid. In the event that such notice is returned by postal authorities,
154 the City Manager shall cause a copy of the notice to be served by a law enforcement
155 officer upon the occupant of the land or upon any agent of the owner thereof. In the
156 event that personal service upon the occupant of the land or upon any agent of the
157 owner thereof cannot be performed after reasonable search by a law enforcement
158 officer the notice shall be served by physical posting on the said property, and by
159 Publication, as prescribed under Section 10-18 of the City Code, or in any other
160 manner so authorized by law, in a newspaper of general circulation at least twice, seven
161 days between publications, and 90 days before the date of connection is required. The
162 notice shall be in substantially the following form:

163
164 * * *

165
166 **Section 50-14. – Connection effected by City lien; recording; redemption.**
167

168 (A) If within 90 days after service of the notice or physical posting of the notice on the
169 property, or Publication of the notice in a newspaper, as prescribed under Section 10-
170 18 of the City Code, or in any other manner so authorized by law, all as set forth in the
171 preceding section, the connection required thereby has not been effected, the City
172 Manager shall cause the connection to be effected by the City at the expense of the
173 property owners. The cost of the connection shall constitute a lien upon the real estate
174 served thereby as is hereinafter set out.

175
176 * * *

177
178 **Section 50-17. Unimproved property.**
179

180 * * *

181

182 (E) The City Manager shall cause to be prepared and filed with the City Clerk an
183 assessment plat showing the lands to be assessed, a statement of the annual debt
184 service, and costs of administration and a statement of all moneys previously
185 received by the City from unimproved properties benefitted by the imposition of an
186 assessment to defray the costs of debt services and administration. A resolution
187 declaring the necessity for providing for defraying the costs of debt services and
188 administration relating to the sanitary sewer system of the City, shall thereafter be
189 published once a week for a period of two weeks, as prescribed under Section 10-
190 18 of the City Code, or in any other manner so authorized by law, in a newspaper
191 of general circulation published within the City together with a notice of public
192 hearing upon said resolution, the assessment roll, assessment plat, and statement
193 of payment of prior assessments relating thereto.

194
195 * * *

196 197 **CHAPTER 90 – ANIMALS AND FOWL**

198
199 * * *

200 201 **Section 90-05. Notice after impounding; redemption.**

202
203 After the animal is impounded, the City shall, without unnecessary delay, notify the
204 owner of same. If the owner is unknown, the chief of police shall publish a notice, as
205 prescribed under Section 10-18 of the City Code, or in any other manner so authorized
206 by law in a newspaper of general circulation in the City, which notice shall give a
207 description of the animal and require the owner to appear within the next three days and
208 redeem the animal. If the owner of any such animal shall desire to contest the justice of
209 impounding, or the amount of fees or charges made on same, he may, at any time
210 within the three days allowed for redeeming the animal, appear before the judge, who
211 shall hear and determine all such matters complained of and shall decide the same
212 according to the principles of law and equity, with the same right of appeal to the circuit
213 court as is provided now by law in other cases against the City.

214
215 * * *

216 217 **CHAPTER 96 – STREETS, SIDEWALKS, AND PARKWAYS**

218
219 * * *

220 221 **ARTICLE VI. – VACATION, ABANDONMENT, AND CLOSURE OF STREETS,** 222 **EASEMENTS, AND ALLEYS**

223 224 **Section 96-207. Procedures relating to applications.**

225
226 Upon receipt of the application and fee pursuant to this article, the Zoning and
227 Planning Department shall:

228
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* * *

- (4) Notify the general public by causing to be published a notice, as prescribed under Section 10-18 of the City Code, or in any other manner so authorized by law, in a newspaper of general circulation in the City of the public hearing to be held by the Zoning and Planning Board on the application and by posting said notice at City Hall. Notice shall be published and posted at least ten days prior to the date of the meeting before the Zoning and Planning Board at which the application shall be considered.

* * *

- (7) Notify the general public by causing to be published a notice, as prescribed under Section 10-18 of the City Code, or in any other manner so authorized by law, in a newspaper of general circulation in the City of the public hearing to be held by the City Council on the application and by posting said notice at City Hall. Notice shall be published and posted at least ten business days prior to the date of the meeting before the City Council at which the application shall be considered.

CHAPTER 150 – ZONING CODE

* * *

ARTICLE XII. – BOARD OF ADJUSTMENT

* * *

Section 150-114.5. Notification of public hearings.

* * *

- (2) *Public advertisement.* Notice of public hearing shall be published ~~in a newspaper of general circulation within the City~~ as prescribed under Section 10-18 of the City Code, or in any other manner so authorized by law at least 15 days prior to the hearing, with a second publication to be at least five days prior to the hearing. Notice shall also be posted in a conspicuous location at the City Hall, and may be posted at other public locations at the discretion of the City.

* * *

Section 150-116. Administrative building moratoria.

* * *

274 (D) The clerk shall give reasonable notice by publication, as prescribed under
275 Section 10-18 of the City Code, or in any other manner so authorized by law, ~~in~~
276 ~~a newspaper of general circulation in the City~~ of the public hearing which he
277 has scheduled before the City Council.

278
279 * * *

280
281 **Section 150-120. Administrative zoning moratoria.**

282
283 * * *

284
285 (C) Immediately upon issuance of any resolution or administrative order pursuant
286 to division (A), the City Manager shall notify the City Clerk, whose duty it shall
287 be to place the matter before the City Council for consideration and review
288 following a public hearing as soon as is practicable, ten days after
289 Publication, as prescribed under Section 10-18 of the City Code or any other
290 manner so authorized by law, ~~once in a newspaper of general circulation in~~
291 ~~the City~~ of the public hearing which he has scheduled before the City Council.

292
293 * * *

294
295 **Section 150-121. Other zoning moratoria.**

296
297 * * *

298
299 (B) Should the council determine that a public hearing should be held on whether a
300 zoning moratorium is appropriate, it shall call the same for the earliest
301 practicable date and give ten days notice by the Ppublication, as prescribed
302 under Section 10-18 of the City Code, or in any other manner so authorized by
303 law, ~~once in a newspaper of general circulation in the City~~ as provided in §
304 150-116(A). Pending the public hearing, the council may issue an order
305 prohibiting the consideration by any City department, board, or agency of any
306 zoning amendment, modification, variance, special exception, or other zoning
307 change in the area.

308
309 * * *



MEMORANDUM

To: Honorable Mayor and Council

From: Roger Pou and Haydee Sera, City Attorneys Office

Date: May 13, 2024

RE: Ordinance Comprehensively Amending Chapter 54 of the City Code of Ordinances (the "Code") to Revise Permitting Procedures, Regulations, and Penalties relating to Tree Protection, Removal, and Relocation

Recommendation: Adopt on first reading the proposed Ordinance comprehensively amending Chapter 54 of the City Code to revise permitting procedures, regulations, and penalties relating to tree protection, removal, and relocation.

Background: The City's Board of Parks and Parkways (the "Board") underwent a comprehensive review of Chapter 54, "Tree Protection Program," of the City Code in order to make recommendations of potential changes to the City's Code that would strengthen and supplement existing provisions that protect the tree canopy within the City. On August 15, 2023, the Board finalized their recommendations, which main recommendations can be summarized as follows:

- Revise existing tree removal permitting procedures relating to the review and submission of tree removal and mitigation plans and requirements.
- Create a replacement tree canopy credit permitting framework for determining the number and type of trees required to mitigate the impact of tree removal during the permitting process.
- Provide a method of calculating tree size based on diameter at breast height (DBH) calculations.
- Revise code enforcement penalties for violations of Chapter 54 of the City Code.

The Ordinance accompanying this memorandum incorporates the Board's recommendations together with the following additional amendments proposed by City Staff:

- Revise Section 54-03, "Definitions," of Chapter 54 of the City Code to strengthen existing definitions, eliminate terms that are unused or that have become unnecessary, and add additional terms that are needed in light of the proposed changes.
 - Separate tree permit requirements for private property versus public rights-of-way to ensure maximum protection of City-owned trees located on public rights-of-way.
 - Create tree barrier zone protection requirements for existing trees that could be negatively impacted during development and construction.
-

- Revise and strengthen procedures for the creation of a City Tree Trust Fund and eligible uses of such funds.
- Strengthen code enforcement penalties for violations of Chapter 54 of the City Code by allowing the City Special Magistrate to determine whether an unpermitted tree removal constitutes an uncorrectable violation that is irreparable or irreversible in nature and punishable by a fine of up to \$5,000.

It is recommended that Council consider the Ordinance and make a motion to approve the Ordinance as presented on first reading. If the Ordinance is approved on first reading, the Ordinance will be placed on the agenda for second reading at the May 28, 2024 City Council Meeting.

ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE CITY OF MIAMI SPRINGS, FLORIDA, COMPREHENSIVELY AMENDING CHAPTER 54, "TREE PROTECTION PROGRAM," OF THE CITY'S CODE OF ORDINANCES TO REVISE PERMITTING PROCEDURES, REGULATIONS, AND PENALTIES RELATING TO TREE PROTECTION, REMOVAL, AND RELOCATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami Springs (the "City") finds it periodically necessary to amend its Code of Ordinances (the "Code") in order to update regulations and procedures to implement municipal goals and objectives; promote the health, safety, order, convenience, comfort, and general welfare of the public; and promote and preserve the character and quality of the City as articulated in the City's Comprehensive Plan; and

WHEREAS, the City Council desires to update and revise Chapter 54, "Tree Protection Program," of the City's Code to address revise the procedures, regulations, and penalties related to tree protection, relocation, and removal within the City, all as set forth in Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, on _____, 2024, the City Council conducted a duly noticed public hearing as required by law and approved the ordinance on second reading; and

WHEREAS, the City Council finds that this Ordinance is in the best interest and welfare of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That the above recitals are confirmed, adopted, and incorporated herein and made a part hereof by reference.

Section 2. Amending Code. That Chapter 54, "Tree Protection Program," of the Code of Ordinances of Miami Springs, Florida, is hereby amended to read as set forth in Exhibit "A" attached hereto and incorporated herein.

Section 3. Conflicts. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 4. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but

they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Codification. That it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City Code, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 6. Effective Date. That this Ordinance shall become effective immediately upon adoption on second reading.

PASSED ON FIRST READING on the __ day of _____, 2024, on a motion made by _____ and seconded by _____.

PASSED AND ADOPTED ON SECOND READING this ___ day of _____, 2024, on a motion made by _____ and seconded by _____. Upon being put to a roll call vote, the vote was as follows:

Vice Mayor Dr. Walter Fajet, Ph.D.	_____
Councilmember Jacky Bravo	_____
Councilmember Jorge Santin	_____
Councilmember Dr. Victor Vazquez, Ph.D.	_____
Mayor Maria Puente Mitchell	_____

MARIA PUENTE MITCHELL
MAYOR

ATTEST:

ERIKA GONZALEZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF MIAMI SPRINGS ONLY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
CITY ATTORNEY

1 EXHIBIT A¹

2 Chapter 54 TREE PROTECTION PROGRAM

3 Section 54-01. Intent.

4 It is the intent of the regulations contained herein to provide guidelines, controls, and
5 standards for the planting, maintenance, removal and protection of trees within the city.
6 The goal of these regulations is to enhance and ~~insure~~ ensure the continuance of the
7 existing tree canopy within the city so as to provide the community with the health, safety,
8 conservation of energy, general psychological, aesthetic and economic benefits that can
9 be derived therefrom.

10 Section 54-02. Authority to supervise, enforce, modify and supplement
11 regulations.

12 (A) ~~Staff forester/pPublic wWorks Ddepartment.~~ It shall be the duty of the ~~staff forester~~
13 ~~or a designated representative of the public works Ddepartment~~ Director or his/her
14 designee to supervise compliance with the regulations contained herein and to
15 cooperate with, and assist, the code enforcement department in the prosecution of
16 ~~any regulation violations~~ cases.

17 (B) *Code enforcement department.* It shall be the duty of the code enforcement
18 department to prosecute violations of the regulations contained herein ~~before the~~
19 ~~Code Enforcement Board~~. The code enforcement department may prosecute
20 violations in conjunction and cooperation with the ~~staff forester, public works~~
21 Ddepartment, or on its own initiative.

22 (C) *Board of Parks and Parkways.* In accordance with the authority granted to this board
23 by §§ 32-30—32-35 of this Code of ordinances, the board shall have the
24 responsibility to study, investigate, develop and recommend to the City Council, at
25 least annually, any modified or supplementary regulations regarding the care,
26 preservation, pruning, planting, replanting, removal, or disposition of trees in the City.
27 In addition, the board shall consider, investigate, make findings of fact, report, and
28 make recommendations regarding any special matter or question referred to it by the
29 City Council.

30 (D) *City Council.* The City Council will receive and review all recommendations referred
31 to it by the Board of Parks and Parkways for modification of existing regulations or
32 the addition of supplementary regulations. Any decision to enact regulation
33 modifications or supplementary regulations shall remain within the sole and exclusive
34 legislative jurisdiction of the City Council.

35 Section 54-03. Definitions.

36 The following words and phrases shall have the meanings ascribed to them in this
37 section:

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes recommended by the Board of Parks and Parkways are in teal highlight.

38 Arborist. Any person certified by the International Society of Arboriculture (ISA) in
39 the field of arboriculture or a Florida licensed landscape architect

40 Branch collar. Trunk tissue that forms around the base of a branch.

41 Crown. Main part of the branching of a tree.

42 Department. The City's Public Works Department.

43 Developed property. Any parcel of land that contains an impervious area.

44 Diameter at breast height (DBH). The diameter of a tree's trunk measured at a
45 height four and one-half feet above grade. In the case of multiple-trunk trees, the DBH
46 shall be determined using the following formula which produces the diameter of a circle
47 of equivalent cross-sectional area to the smaller circles of the multiple trunks: (square
48 root of (for all trunks, the sum of (the circumference of each trunk squared)) divided by pi
49 (3.14).

50 Drip line. An imaginary vertical line extending from the outermost horizontal
51 circumference of a tree's branches to the ground.

52 Drop-crotch pruning. A specific type of pruning designed to properly reduce the
53 size of trees within the current national arborist association standards, or any subsequent
54 amendments thereto.

55 Effectively destroy. Causing, permitting, or allowing any act that will cause a tree
56 to die or go into a period of unnatural decline within one year from the date of the act.
57 Acts that may effectively destroy a tree include, but are not limited to, girdling or damaging
58 of a tree's trunk, branch, or root system; cutting, pruning, or trimming that is not done in
59 accordance with the most recent American National Standards (ANSI) A-300 Standard
60 Practices for Tree Care Operations; changing the natural grade above the root system or
61 around the trunk; applying herbicides or other chemical agents to a tree; intentionally
62 setting a tree on fire; permitting a tree to remain infected; allowing a tree to remain infested
63 with pests; inflicting tree trunk wound(s) that cumulatively equal or exceed 20 percent or
64 greater of the circumference of the trunk; or removing sufficient tree canopy to cause the
65 unnatural decline of the tree.

66 Equivalent replacement. A tree or trees, which due to condition, size and value, is
67 determined by the Department to be equivalent to the tree to be removed.

68 Equivalent value. An amount of money which reflects the replacement cost of a
69 tree, including transportation, planting, and initial maintenance to ensure survival, based
70 on its size, condition, and location.

71 Hatracking or Topping. A process to flat-cut the top of a tree or to remove more
72 than one-third of the tree crown.

73 Maintenance or Protection. Includes all operations of: watering, pruning, spraying,
74 injecting, fertilizing, treating, bracing, doing surgery work, cutting above or below the
75 ground.

76 Nonviable. Not capable of existing and continuing to provide the biological or
77 aesthetic qualities associated with a healthy functioning tree resource.

78 Person. Any natural person, business, corporation, limited liability company,
79 partnership, limited partnership, association, club, organizations, and/or any group of
80 people acting as an organized entity.

81 Protective Barrier. Protective barrier shall mean a temporary fence or structure
82 built to restrict passage into an area surrounding a tree or stand of trees for the purpose
83 of preventing any disturbance to the roots, trunk, or branches of the tree(s).

84 Pruning. The removal of plant parts, dead or alive, in a careful and systematic
85 manner so as not to damage other parts of the plant. The American National Standards
86 Institute (ANSI) A 300 Pruning Standards shall be utilized to perform this work.

87 Public way. ~~Includes all public streets, roads, boulevards, alleys and sidewalks.~~

88 Public area. Includes all public ways, parks and other lands owned or leased by
89 the City.

90 Public nuisance. Any tree or shrub or part thereof growing upon private or public
91 property which is determined by the Department to endanger the health, safety and
92 general welfare of the City.

93 Public way. Includes all public streets, roads, boulevards, alleys and sidewalks.

94 Root ball. A group of roots extending from the base of a tree trunk that must be
95 intact when relocating a tree in order to promote survival of the tree.

96 Tree. Any self-supporting woody plant, usually having a single woody trunk; a
97 potential caliper DBH of two inches or more, and a more or less distinct and elevated
98 head with many branches.

99 Tree, Large. A tree with a mature height of 40 feet or more in height and mature
100 canopy wider than 22 feet. Examples of large tree species include, but are not limited to,
101 Live Oak, Mahogany, Black Olive 'Shady Lady', Royal Poinciana, Verawood, Floss Silk,
102 Wild Tamarind, Gumbo Limbo, Ficus Aurea, Ficus benghalensis.

103 Tree, Medium. A tree with a mature height of between 26 feet and 39 feet and
104 mature canopy between 15 feet and 22 feet. Examples of medium tree species include,
105 but are not limited to, Bridal veil, Leopard tree, Satin Leaf, Pigeon Plum, Orange Geiger,
106 and Green Buttonwood.

107 Tree, Protected. A tree with a minimum DBH of four inches in diameter, one foot
108 above the ground of the species Live Oak, Laurel Oak, Gumbo Limbo, Royal Poinciana,
109 and Mahogany.

110 Tree Removal. Directly or indirectly cutting down, destroying, removing or
111 relocating or effectively destroying any tree.

112 Tree, Small. A tree with a mature height of 25 feet or smaller and a mature canopy
113 smaller than 15 feet. Examples of small tree species include, but are not limited to,
114 Simpson Stopper, Spanish Stopper, Silver Buttonwood, Cassia species, Tabebuia
115 Species, Lignum Vitae, Crabwood, Jamaican Caper, Crape myrtle, and Ligustrum
116 Lucidum.

117 Tree, Specimen. A tree with any individual trunk which has a DBH larger than 12
118 inches. All nuisance trees listed in section 54-06(B)(5) are specifically determined to not
119 to be specimen trees.

120 ~~Protected tree.~~ A tree with a minimum caliper of four inches in diameter, one foot
121 above the ground of the species Live Oak, Laurel Oak, Gumbo Limbo, Royal Poinciana,
122 and Mahogany.

123 ~~Maintenance and protection.~~ Includes all operations of: pruning, spraying,
124 injecting, fertilizing, treating, bracing, doing surgery work, cutting above or below the
125 ground.

126 ~~Staff forester.~~ The individual appointed to assist the City staff and departments
127 assigned to administer this program by the City Council.

128 ~~Pruning.~~ The removal of plant parts, dead or alive, in a careful and systematic
129 manner so as not to damage other parts of the plant.

130 ~~Specimen tree.~~ A tree with any individual trunk which has a caliper larger than 12
131 inches. All nuisance trees listed in section 54-06(B)(5) are specifically determined to not
132 to be specimen trees.

133 ~~Tree service/arborist.~~ Any person, company, corporation or service which, for
134 compensation or a fee, performs tree maintenance and protection.

135 ~~Developed property.~~ Property containing a structure which has a valid certificate
136 of occupancy.

137 ~~Equivalent replacement.~~ A tree or trees, which due to condition, size and value, is
138 determined by the public works Department to be equivalent to the tree to be removed.

139 ~~Equivalent value.~~ An amount of money which reflects the replacement cost of a
140 tree, (including transportation, planting and initial maintenance to insure survival) based
141 on its size, condition and location, following the international society of arborers tree
142 evaluation formula and the market value.

143 ~~Topping.~~ A process to flat cut the top of a tree or to remove more than one-third of
144 the tree crown; hatracking.

145 ~~Public nuisance.~~ Any tree or shrub or part thereof growing upon private or public
146 property which is determined by the staff forester or public works department
147 representative to endanger the health, safety and general welfare of the City.

148 ~~Large tree.~~ A tree with a mature height of 40 feet or more in height, a mature
149 canopy wider than 22 feet, and a mature root system wider than 15 feet.

150 ~~Medium tree.~~ A tree with a mature height of between 26 feet and 39 feet, a mature
151 canopy between 15 feet and 22 feet, and a mature root system between ten feet and 15
152 feet.

153 ~~Small tree.~~ A tree with a mature height of 25 feet or smaller, a mature canopy
154 smaller than 15 feet, and a mature root system smaller than ten feet.

155 ~~Drop-crotch pruning. A specific type of pruning designed to properly reduce the~~
156 ~~size of trees within the current national arborist association standards, or any subsequent~~
157 ~~amendments thereto.~~

158 ~~Branch collar. Trunk tissue that forms around the base of a branch.~~

159 ~~Shade tree. Any tree with a mature crown width that is at least two-thirds of the~~
160 ~~tree's mature height.~~

161 ~~Crown. Main part of the branching of a tree.~~

162 ~~Crown width. The width of the crown at its widest point measured on a plane~~
163 ~~parallel to the ground.~~

164 ~~Caliper. A tree measurement that takes the diameter of the tree at 12 inches above~~
165 ~~the rootball.~~

166 ~~Root ball. A group of roots extending from the base of a tree trunk that must be~~
167 ~~intact when relocating a tree in order to promote survival of the tree.~~

168 ~~Nonviable. Not capable of existing and continuing to provide the biological or~~
169 ~~aesthetic qualities associated with a healthy functioning tree resource.~~

170 ~~Effectively destroyed. The cutting, trimming, or damaging of a tree's trunk, branch~~
171 ~~or root system to the extent that the tree is no longer viable.~~

172 ~~Tree removal. Directly or indirectly cutting down, destroying, removing or relocating~~
173 ~~or effectively destroying (through damaging, trimming, authorizing or allowing the cutting~~
174 ~~down, destroying, removing, moving or damaging of) any tree.~~

175 **Section 54-04. Tree planting standards.**

176 The following standards shall be applicable to the planting of all trees within the City,
177 including but not limited to on any City owned or controlled property or right-of-way, and
178 residential or non-residential properties.

179 (A) All trees to be planted shall have symmetric crown form, a single trunk or leader,
180 good crown color, no insect damage, well spaced branches, healthy new leaves,
181 healthy well attached bark, strong crotches, adequate root space, and be of at
182 least Florida No. 1 quality.

183 (B) All large trees and palm trees to be planted in the swale will be not less than a
184 three-inch caliper DBH and 12 feet tall with one main trunk free of branches
185 between five and six feet above ground. All small trees to be planted will be not
186 less than two inches in diameter measured six inches above the ground, and six
187 feet tall.

188 (C) All trees shall be planted in line or in an aesthetically ordered manner, except as
189 may be delineated on a landscape plan authorized and approved by the City
190 Council. Large trees shall be planted at a spacing of between 25 and 35 feet
191 from each other; small trees and palm trees shall be planted at a spacing of
192 between ten and 20 feet from each other.

193 (D) No tree shall be planted under pre-existing utility lines that will grow to a mature
194 height of more than 24 feet or within 20 feet of such line.

195 **Section 54-05. Tree pruning standards.**

196 The following standards shall be applicable to the pruning of all trees within the City.

- 197 (A) The pruning practices established by the current national arborist association
198 standards, or any subsequent amendments thereto, which are specifically
199 incorporated herein. Copies of these pruning standards shall be maintained by
200 the ~~public works~~ Department and made available for inspection, review and
201 copying.
- 202 (B) All branches too large to be supported by one hand shall be precut to avoid
203 splitting or tearing of the bark. Where necessary, proper equipment should be
204 used to lower large branches or stubs to the ground.
- 205 (C) All cuts shall be made as close as possible to the trunk or parent limb without
206 cutting into the branch collar or leaving a protruding stub. Drop-crotch pruning
207 for overhead utility lines shall be followed.
- 208 (D) All cut limbs shall be removed from the crown upon completion of the pruning.
- 209 (E) Not more than one-quarter of the total crown area should be removed at a single
210 operation. A cutting exceeding this standard will be considered to have rendered
211 the tree nonviable, and shall be presumed, subject to rebuttable evidence to the
212 contrary, to be effective destruction of the tree.
- 213 (F) All trees located on property which are adjacent to any City roadway, alley or
214 other vehicular right-of-way shall have their branches pruned to a clearance
215 height of between ~~12 and 16~~ 8 to 12 feet, so that no branches shall interfere with
216 the vehicular use of said areas.

217 **Section 54-06. Tree removal standards.**

218 The following standards shall be applicable to the removal of trees within the City.

- 219 (A) Tree Removal Permit Required. It shall be unlawful for any person, directly or by
220 direction, to cut down, destroy, remove or move, or to effectively remove or
221 destroy, through the infliction of damage, any tree within the City without first
222 obtaining a permit from the Building and Zoning Department. Tree stumps must
223 be ground with a stump grinder to a minimum of 8 inches below grade or
224 removed and filled.
- 225 (B) Tree Removal Permit Exceptions. The following tree removal activities are
226 specifically exempted from the permit, relocation, replacement, and mitigation
227 requirements of this chapter, but may only be undertaken following inspection
228 and confirmation in writing by the City that tree removal is appropriate:
- 229 (1) Removal of trees within the property boundaries of developed property
230 which are not specimen or protected trees.
- 231 (2) Removal of trees for the construction of a new principal single-family
232 residence for an owner-builder so long as the trees are not specimen or
233 protected.

- 234 (3) Removal of any dead tree on developed property, excluding the public
 235 rights-of-way.
- 236 (4) ~~Removal of trees in emergency situations. (See § 54-09 of this chapter for~~
 237 ~~applicable guidelines and provisions).~~ Removal of any tree on developed
 238 property, excluding the public rights-of-way, that is supported by photos and
 239 documentation from an arborist certified by the ISA or a Florida landscape
 240 architect to pose an unacceptable risk to persons or property pursuant to
 241 F.S. § 163.045. Tree removals performed pursuant to F.S. § 163.045 shall
 242 not require inspection and confirmation by the City.
- 243 (5) Removal of any of the following nuisance tree species:

244 Table 54-1 – Nuisance Tree Species

	SPECIES	COMMON NAME
(a)	Acacia auriculiformis	Earleaf Acacia
(b)	Albizzia lebeck	Woman's Tongue
(c)	Araucaria heterophylla	Norfolk Island Pine
(d)	Bambusa vulgaris	Tree Bamboo
(e)	Bischofia javanica	Bischofia
(f)	Brassaia actinophylla	Schefflera
(g)	Casuarina spp	Australian Pine
(h)	Cupaniopsis anacardiodes	Carrotwood
(i)	Enterolobium cyclocarpum	Ear Tree
(j)	Eucalyptus spp	Eucalyptus
(k)	Ficus spp <u>(except those noted as</u> <u>specimens)</u>	Ficus
(l)	Grevillea robusta	Silk Oak
(m)	Hibiscus tiliaceus	Mahoe
(n)	Melaleuca quinquenervia	Melaleuca
(o)	Metopium toxiferum	Poison Wood
(p)	Psidium quajava/littorale	Guava
(q)	Ricinus communis	Castorbean
(r)	Sapium sebiferum	Chinese Tallow Tree
(s)	Schinus terebinthifolius	Brazilian Pepper
(t)	Syzygium cumini	Java Plum
(u)	Thespesia populnea	Mahoe

245 The list of nuisance trees also includes the prohibited plant species listed under
 246 Section 24-49.9 of the Miami-Dade County Code of Ordinances, as amended.
 247 Furthermore, the list of nuisance trees listed above may be amended from time
 248 to time by resolution of the City Council.

- 249 (6) Removal of any tree which has been destroyed or effectively destroyed by
 250 an act of God, or by acts outside the control of the legal, beneficial or

251 equitable owner of the real property in which the tree is located, and which
252 acts could not have been prevented by the exercise of reasonable care.

253 (7) Removal of any tree by the City in accordance with the authority and
254 administrative discretion provided in § 54-08 of this chapter.

255 (8) Removal of specimen f **mango and avocade fruit** trees.

256 (9) Removal of any tree located under or within 20 feet of an overhead utility
257 line. Such removals shall be exempt from excess bulk trash fees.

258 (C) After inspection and confirmation by the City, where applicable, All of the
259 aforesaid trees listed in division (B) of this section which that are dead or
260 effectively destroyed, shall be removed by the property owner, without any
261 permit, relocation, replacement or mitigation requirement, so as to protect
262 adjacent properties from damage that may be caused by the dead or effectively
263 destroyed trees.

264 (D) Application for Tree Rremoval permits. Tree removal permits are required for the
265 removal of any tree with a DBH of 2 inches or larger and specimen trees not
266 specifically exempted under division (B) of this section. The City shall provide
267 permit application forms which shall be used by permit applicants.

268 (1) Applicant. An owner, agent of the owner, or lessee of a property may apply
269 for a tree removal permit. If the permit applicant is a lessee, or agent of the
270 owner, a statement from the owner of the property, indicating that the owner
271 has no objection to the proposed tree removal, shall be submitted with the
272 application.

273 (2) Application Form. The permit applicant shall submit to the City Department a
274 completed application form which shall include:

275 (a) the reasons for the requested removal, the tree size and tree DBH
276 caliper, and the common name of the tree to be removed.

277 (b) ~~Permit application forms shall be accompanied by two diagrams site~~
278 ~~plans, showing the location of the tree to be removed~~ which are subject
279 to review and approval by the Building and Zoning Department. ~~The~~
280 ~~diagrams shall include~~ showing the location of the tree to be removed or
281 relocated the locations of all existing tree resources, information
282 detailing the size (DBH), type, location, and canopy spread of all existing
283 tree resources, and all proposed structures or utilities which may require
284 removal or relocation of trees. Site plans must show the location of tree
285 barricades to indicate how the existing trees will be protected during
286 construction.

287 The City may require that said plans be prepared by either a landscape
288 architect, architect, or an engineer registered in the state. If the submitted
289 diagrams site plans do not provide sufficient information to determine which
290 trees will be affected by proposed development, the department may require
291 that a tree survey of the site be prepared and submitted to the department
292 for review.

293 ~~(E) Permit fees. The City shall, by resolution, establish a fee schedule for all matters~~
294 ~~relating to tree removal, relocation, replacement, monetary contribution, and all~~
295 ~~administrative reviews necessitated thereby. Applications for removal of any tree~~
296 ~~located under or within 20 feet of an overhead utility line will be exempt from~~
297 ~~permitting and any excess bulk trash fees.~~

298 (F E) *Review and evaluations of Tree Rremoval Ppermit aApplications.* A review
299 of each completed tree removal permit application shall be conducted by the
300 ~~Public Works~~ Department. This review and all actions taken by the ~~d~~Department
301 shall be conducted under a standard of reasonableness using the best available
302 practices from biology, botany, forestry, landscape architecture, and other
303 relevant fields.

304 (1) *Specimen trees standards.*

305 (a) Specimen trees application. Specimen trees shall be preserved
306 whenever reasonably possible. Upon receipt of an application to
307 remove a specimen tree, the ~~d~~Department shall consider the following
308 factors in evaluating said application.

- 309 1. Size and configuration of the property.
- 310 2. Size and configuration of any proposed development.
- 311 3. Location of the tree relative to any proposed development.
- 312 4. Whether or not the tree can be preserved under the proposed
313 plan or any alternative plan.
- 314 5. Health, condition and aesthetic qualities of the tree.
- 315 6. Whether the tree poses a threat to persons or property, as
316 determined by an Arborist.
- 317 7. Location of utility systems.
- 318 8. Whether the tree impedes on the visibility triangle
319 requirements of the City Code.

320 (b) Alternate plans. If, upon review of the aforesaid factors set forth in
321 subsection (a) above, the ~~d~~Department determines that a specimen
322 tree cannot reasonably be preserved under the proposed plan, then the
323 applicant shall provide an alternate plan which shall include
324 preservation of the specimen tree and design alterations consistent
325 with the scope and intent of the initially proposed plan. Alterations
326 consistent with the scope and intent of the initially proposed plan may
327 include, but shall not be limited to:

- 328 1. An adjustment of building orientation on a site.
- 329 2. An adjustment of lot lines within a site proposal for more than
330 one lot when said adjustment will not cause an unreasonable
331 loss of usable space. An applicant shall have the burden of

332 proof in the determination of what constitutes an
333 unreasonable loss of usable space.

334 (c) Specimen tree relocation. If preservation of the specimen tree and any
335 alternate design consistent with the scope and intent of the initial plan
336 are mutually exclusive, then the Department may issue a permit to
337 relocate the specimen tree. If the tree removal permit requires
338 relocation, then the applicant shall be required to relocate the tree in a
339 manner that will maintain the canopy within the general vicinity of the
340 removal on the same property or to relocate the tree to a location within
341 the City designated by the Public Works Department. Tree barricades
342 must be inspected and approved by the Department before and after
343 root pruning and temporary irrigation of the relocated tree.

344 (d) Removal of specimen trees. If relocation of the specimen tree is not
345 feasible, due to the size, health, location, species or any other factor,
346 then a permit may be issued for removal, and tree replacement shall
347 be required. The Public Works Department shall determine the total
348 number and type of replacement trees required for the issuance of a
349 tree removal permit according to the following procedures: designate
350 an equivalent replacement tree or trees and a location within the city
351 for its planting.

352 ~~(e) Replacement requirements for specimen trees. In the event that~~
353 ~~replacement is not feasible on-site, then alternative off-site~~
354 ~~replacement shall be required, or, as a last alternative, there shall be a~~
355 ~~contribution made to the City tree trust fund for the full equivalent value~~
356 ~~of the replacement tree or trees. This trust fund shall be administered~~
357 ~~by the City Council so as to insure the prompt planting of replacement~~
358 ~~trees in an area as closely adjacent as is reasonably possible to the~~
359 ~~area from which a specimen tree was properly removed.~~

360 Step 1: Determining existing tree canopy coverage on-site. The area
361 of existing tree canopy coverage of a site shall be determined by the
362 Department, using one or any combination of the following methods:
363 review of aerial photography; on-site inspection; and review of a tree
364 site plan and/or tree survey. The Department may require the
365 applicant to submit a tree survey for the purpose of this
366 determination.

367 Step 2: Determining impact area of proposed project. The area of
368 existing canopy coverage which will be affected (impact area) by the
369 applicant shall be determined by the Department based on a site plan
370 and completed tree removal permit application.

371 Step 3: Determining number of replacement trees required to be
372 planted. The total number of trees required for replacement shall be
373 based on canopy loss as reviewed and confirmed by the Department
374 and the category of replacement tree selected by the applicant. Each
375 replacement tree shall compensate for a portion of the tree canopy

376 lost in the impact area. The following table shall be used as a
 377 standard for determining the required number of replacement trees.
 378 If the calculation of canopy credit results in a fraction of 500 square
 379 feet, the canopy credit shall round up to the next 500 square feet.
 380 For a specimen tree of DBH of 18 inches or larger, the Department
 381 may require up to twice the amount of tree canopy replacement, or
 382 replacement trees of equal environmental value.

383 **Table 54-2 Replacement Tree Canopy Credits**

Replacement Tree	Minimum Height (At Time of Planting)	Canopy Credit
Large tree species*	15 feet in overall height	500 sq. ft
Medium tree species	12 feet in overall height	300 sq. ft
Small tree species	10 feet in overall height	200 sq. ft
Large palm tree species	10-foot clear trunk	300 sq. ft
Medium palm tree species	6-foot clear trunk	200 sq. ft
Small palm tree species	6-foot clear trunk	100 sq. ft

384 Additional canopy credits for replacement trees may be granted at
 385 the discretion of the Department for large tree species exceeding 20
 386 feet in overall height. If tree canopy cannot be determined, the
 387 applicant may use a DBH calculation method at a 6:1 ratio as
 388 demonstrated in the following example: an 18-inch DBH tree may be
 389 replaced with three trees. Such replacement trees shall be at a
 390 minimum four-inch DBH and minimum of 15 feet overall height. If a
 391 calculation of required replacement trees results in a fractional tree,
 392 the number of required trees shall be rounded up to the next whole
 393 number.

394 **Table 54-3 Example Tree and Palm Tree Types in Each Category**

Replacement Tree	Examples of Tree/Palm Tree Types
Large tree species	Live Oak, Mahogany, Black Olive 'Shady Lady', Royal Poinciana, Verawood, Floss Silk, Wild Tamarind, Gumbo Limbo, Ficus Saurea, Ficus Citrifolia
Medium tree species	Bridal veil, Leopard tree, Satin Leaf, Pigeon Plum, Orange Geiger, Green Buttonwood
Small tree species	Simpson Stopper, Spanish Stopper, Silver Buttonwood, Cassia species, Tabebuia Species, Lignum Vitae, Crabwood, Jamaican Caper, Ligustrum Lucidum
Large palm tree species	Royal palm, Canary Island Date palm, Medjool Date palm, Bismarck palm, Coconut palm

Medium palm tree species	Sabal palm, Satakentia palm, Copernica alba, Latania Palm
Small palm tree species	Florida Thatch palm, Solitaire palm, Montgomery palm, Christmas palm, Teddy Bear palm

395 Step 4: Location of replacement tree. Specific placement of
396 replacement trees on-site shall be determined by the applicant. If the
397 site cannot accommodate the required replacement trees because
398 of insufficient planting area, as determined by the Department, then
399 the applicant shall be required to plant replacement trees at an off-
400 site location subject to the Department approval, or, as an
401 alternative, shall provide an equitable contribution to the City Tree
402 Trust Fund to compensate for those replacement trees which cannot
403 be accommodated on-site, as set forth in further detail under Section
404 54-06(F).

405 Step 5: Minimum species diversity standards. When more than ten
406 trees are required to be planted in accordance with the provisions of
407 this Chapter, a diversity of species shall be required. The number of
408 species to be planted shall be based on the overall number of trees
409 required. The number of species to be planted shall be based on the
410 overall number of trees required. The applicant shall be required to
411 meet the following minimum diversity standards:

Required Number of Trees	Minimum Number Species
11—20	2
21—50	4
51 or more	6

412 Permittees shall not be required to plant in excess of six species. The
413 number of trees of each species planted shall be proportional to the
414 number of species required. A minimum of 50 percent of all
415 replacement trees planted shall be native to Miami-Dade County,
416 and no more than 30 percent of the replacement trees shall be
417 palms. However, when native trees are removed, the native tree
418 must be replaced with another native species. As an alternative to
419 the minimum species diversity required herein, an applicant may
420 propose an alternative species diversity in an alternative landscape
421 enhancement plan described in these tree regulations.

422 All replacement trees shall have a minimum quality of a Florida No.
423 1 grade or better.

424 (f e) Black olive tree removal and replacement. The following policies,
425 standards, and requirements shall be applicable to the removal and
426 replacement of black olive trees in the City.

427 1. *Private property removal.* If a property owner wishes to
428 remove a black olive tree from a private property site, the
429 existing tree removal procedures in this ordinance must be
430 followed. Mitigation will be in accordance with existing rules
431 and standards if the tree is not causing damage to the subject
432 property. However, the amount of mitigation required ~~may~~
433 ~~shall~~ be reduced by one-half if, ~~in the sole discretion of as~~
434 ~~determined by~~ the Public Works Department, the subject tree
435 is causing ~~structural~~ damage to the subject property. In all
436 cases, the property owner shall bear the full cost of removal
437 and disposal of the removed tree. As a condition of removal,
438 the property owner and the City must reach an agreement for
439 the replacement of the removed black olive tree with a City
440 approved tree or for the payment of the required mitigation
441 amount into the City Tree Fund prior to the removal of the
442 specimen tree.

443 2. *Public property removal.* If a property owner requests the
444 removal of a black olive tree from the City swale or right-of-
445 way property, the decision regarding the removal shall be at
446 the sole and exclusive discretion of the ~~Public Works~~
447 Department. If removal is permitted, the City shall pay for the
448 cost of removal and disposal of the removed tree, and the
449 adjacent property owner shall be required to pay ~~one half of~~
450 the ~~full amount~~ required ~~to mitigate~~ ~~ion for~~ the ~~removed~~
451 ~~removal~~ prior to the removal of the tree. In addition to the
452 foregoing, the established policy of the City in regard to the
453 removal of black olive trees from public property mandates
454 that no more than 20 such trees shall be removed during any
455 fiscal year of the City and that the City will replace all removed
456 trees during its annual Black Olive Tree Replacement
457 Program.

458 (f) Requirements for a tree removal and mitigation plan. A tree removal
459 and mitigation plan shall be submitted to the Department by the
460 applicant whenever replacement canopy is required. A tree removal
461 and mitigation landscape replacement plan shall meet the following
462 minimum standards:

463 1. Number, species, and size of trees. The number of trees by
464 species, number of species of trees, and size of trees (i.e. overall
465 tree height and canopy) proposed for planting shall be consistent
466 with provisions of these regulations.

467 2. Site plan. The applicant shall submit a site plan that includes the
468 proposed location of all replacement plantings, all property lines, and
469 all proposed and existing structures, drain fields, driveways and
470 utility easements. Site plans must show the location of tree

471 barricades to indicate how the existing trees will be protected during
472 construction.

473 3. *Canopy.* The canopy spread of any tree that is proposed for
474 preservation shall be shown on the plan. Where a portion of the
475 canopy of a tree or trees will be removed without removal of the
476 trees, a notation shall be made on the plan. Where applicable, the
477 Department may require an elevation that depicts the positioning and
478 proximity of tree limbs in relation to the proposed development.

479 4. *Tabulation.* A table showing the total area of lost canopy, total
480 canopy required to be replaced as may be determined by the
481 Department, and the total canopy area of proposed replacement
482 trees.

483 (g) *Illegal tree relocation, removal or modification.* The relocation, removal
484 or modification of a tree without a tree permit shall be a violation of this
485 section and is subject to a fine pursuant to sections 54-12 and tree
486 mitigation in accordance with this section up to twice the tree coverage.

487 (g h) Exemption from relocation replacement and contribution
488 requirements. Subject to approval and confirmation by the Department
489 in writing, Aan applicant may be exempt from the relocation,
490 replacement and contributions previously set forth herein under the
491 following conditions:

492 1. Subject to the review and approval of the ~~City Public Works~~
493 Department, and upon the submittal of a statement from a
494 landscape architect registered in the state, or from an
495 accredited graduate forester, which indicates that a specimen
496 tree, due to disease, condition, growth habit or any other
497 reasonable botanical factor, does not provide the aesthetic or
498 environmental contribution associated with the specimen tree.
499 Said statement shall include the specific reason(s) for the
500 claimed exemption.

501 2. When preservation of the specimen tree would cause an
502 unreasonable risk to existing property, as determined by the
503 Department.

504 3. When a site contains more than one specimen tree, and 50
505 percent or more of the existing specimen trees and at least 50
506 percent of the existing specimen tree canopy area is
507 preserved.

508 4. When a specimen tree is determined by the ~~Public Works~~
509 Department to be undesirably located or that it may pose a
510 threat to other adjacent specimen trees.

511 (2 3) Tree Permit Close-out~~Compliance~~. If the application for a tree
512 removal permit is filed in conjunction with the construction and development
513 of real property within the City, no Certificate of Occupancy shall be

514 provided to the subject property until all applicable provisions of this chapter
515 have been met.

516 (F) Permit fees and City Tree Trust Fund.

517 (1) The City Council shall establish a fee schedule by resolution for all matters
518 relating to tree removal, relocation, replacement, monetary contribution
519 (including the method of determining equivalent value), and all
520 administrative reviews necessitated thereby.

521 (2) City Tree Trust Fund.

522 (a) Creation of City Tree Trust Fund. There is hereby created a City Tree
523 Trust Fund, the purpose of which is to acquire, protect and maintain the
524 City's tree canopy and to plant trees on public property. If a site cannot
525 accommodate required replacement trees because of insufficient planting
526 area as determined by the Department, and an acceptable location for
527 replacement trees at an off-site location cannot be identified or approved by
528 the administrative official, then as an alternative, the applicant shall provide
529 an equitable contribution to the City Tree Trust Fund equal to the equivalent
530 value of the replacement tree(s) which cannot be accommodated on-site.

531 (b) Disbursement and Maintenance of Funds. Monies obtained for the City
532 Tree Trust Fund shall be disbursed for the acquisition, maintenance,
533 management, and protection of the City's tree canopy, or for planting trees
534 on public property. Disbursement from the City Tree Trust Fund shall require
535 approval by resolution of City Council, provided, however, that any funds
536 received pursuant to the conditions of any tree removal permit shall be used
537 as required by the permit conditions without the necessity of approval,
538 appropriation, or action of any kind by the City Council. The City Manager
539 is hereby authorized to receive and disburse monies in accordance with this
540 provision.

541 (G) ~~Tree protection requirements during construction.~~ During site development,
542 ~~protection requirements for trees designated for preservation shall include, but~~
543 ~~not be limited to, the following:~~

544 (1) ~~Protective barriers shall be placed around each tree, cluster of trees, or the~~
545 ~~edge of the preservation area no less than six feet (in radius) from the trunk~~
546 ~~of any protected tree cluster or preservation area unless a lesser distance~~
547 ~~is specified by the Public Works Department. Protective barriers shall be a~~
548 ~~minimum of four feet above ground level and shall be constructed of wood,~~
549 ~~plastic or metal, and shall remain in place until development is completed~~
550 ~~and the Public Works Department has authorized their removal. Protective~~
551 ~~barriers shall be in place prior to the start of any construction.~~

552 (2) ~~Understory plants within protective barriers shall be protected.~~

553 (3) ~~No oil, fill, equipment, building materials or building debris shall be placed~~
554 ~~within the areas surrounded by protective barriers, nor shall there be~~
555 ~~disposal of any waste materials such as paints, oils, solvents, asphalt,~~

556 concrete, mortar or any other materials harmful to trees or understory plants
557 within the areas surrounded by protective barriers.

558 ~~(4) Trees shall be braced in such a fashion as to not scar, penetrate, perforate~~
559 ~~or otherwise inflict damage to the tree.~~

560 ~~(5) Natural grade shall be maintained within protective barriers. In the event~~
561 ~~that the natural grade of the site is changed as a result of site development,~~
562 ~~such that the safety of the tree may be endangered, tree wells or retaining~~
563 ~~walls are required.~~

564 ~~(6) Underground utility lines shall be placed outside the areas surrounded by~~
565 ~~protective barriers. If said placement is not possible, disturbance shall be~~
566 ~~minimized by using techniques such as tunnelling.~~

567 ~~(7) Fences and walls shall be constructed to avoid disturbance to any protected~~
568 ~~tree. Post holes and trenches located close to trees shall be dug by hand~~
569 ~~and adjusted as necessary, using techniques such as discontinuous~~
570 ~~footings, to avoid damage to major roots.~~

571 (GH) Tree relocation standards. The relocation of any tree shall be conducted in
572 accordance with the minimum standards of the American National Standards
573 Institute (ANSI) and the tree relocation standards promulgated by Miami-Dade
574 County. Additionally, tree relocations must adhere to consistent with the
575 following minimum standards:

576 (1) Trees other than palms:

577 (a) Tree roots shall be severed in such a manner as to provide a root ball
578 which is sufficient to ensure survival of the tree when relocated. A
579 sufficiently-sized planting hole shall be provided at the relocation site
580 to ensure successful regrowth.

581 (b) After root severing, adequate time shall be allowed prior to replanting
582 to ensure survival of the tree(s). After root severing and prior to
583 relocation, tree(s), shall be watered a minimum of twice weekly. After
584 relocation, tree(s) shall be watered a minimum of four times each week
585 until the tree(s) are established.

586 (c) During removal and transportation of the tree, the root ball and
587 vegetative portion of the tree shall be protected from damage from wind
588 or injury. Any tree that dies or becomes nonviable within 12 months of
589 relocation shall be replaced.

590 (2) Palm trees.

591 (a) A ball of earth at least one foot from the base of the tree shall be moved
592 with the tree.

593 (b) All fronds on Sable Palms shall be trimmed around the bud prior to
594 relocation.

595 (c) The bud shall be protected from damage or injury during relocation.

596 (d) Any palm that dies or becomes nonviable within 12 months of
597 relocation shall be replaced.

598 **Section 54-07. Tree abuse prohibited.**

599 It shall be unlawful to abuse any protected or specimen trees located within the City
600 of Miami Springs or any other trees located on City owned or controlled property or
601 right-of-way.

602 (A) The following acts shall constitute tree abuse:

603 (1) Damage inflicted upon any part of a tree, including its root system, by
604 machinery, mechanical devices, soil compaction, excavation, vehicle
605 accidents, chemical applications, changes to the natural grade, fire, storage
606 or disposal of toxic or hazardous substances, acts of animals.

607 (2) Damage inflicted to or cutting upon a tree which permits infection or pest
608 infestation.

609 (3) Cutting upon any tree which destroys its natural shape.

610 (4) Topping; hatracking.

611 (5) Girdling or Bbark removal of more than one-third of the DBH of a tree
612 caliper.

613 (6) Tearing and splitting of limb ends or peeling and stripping of bark.

614 (7) Use of climbing spikes.

615 (8) Fastening any sign, rope, wire or object by nail, staple, chemical substance,
616 or other adhesive means to, through or around any tree.

617 (9) Any pruning in violation of the practices established by the national arborist
618 association.

619 (10) Any act that would cause a tree to become nonviable.

620 (B) Any act of tree abuse that renders a protected or specimen tree to be nonviable
621 or effectively destroyed shall constitute "effective removal" and require full
622 compliance with § 54-06 of this article.

623 **Section 54-08. Public property planting and maintenance standards.**

624 Notwithstanding anything contained in this section to the contrary, the city shall have
625 the sole and exclusive right to plant, prune, maintain and remove trees, plants and shrubs
626 within the lines of all streets, alleys, avenues, lanes, squares and public areas, as may
627 be necessary to ~~insure~~ ensure public safety or to preserve or enhance the symmetry and
628 beauty of all public grounds. The city may remove or cause to be removed, any tree or
629 part thereof which is in an unsafe condition or which by reason of its nature constitutes a
630 public nuisance or is injurious to sewers, electric lines, gas lines, water lines or other
631 public improvements, or is afflicted with any injurious fungus, insect or pest. This section
632 does not prohibit the planting of trees adjacent to any public ways by adjacent property
633 owners provided that the trees are properly placed and maintained in accordance with
634 the tree planting and maintenance standards contained herein.

635 **Section 54-09. - Applicability to utility companies.**

636 Except as may be provided in the "Booklet of Minutes and Agreements"
637 established jointly by Florida power and light company and the ad hoc tree committee on
638 September 23, 1991 (a copy of which is permanently maintained in the public works
639 department and is available for review and inspection), the provisions of this chapter are
640 applicable to all utility companies.

641 **Section 54-10. - Emergency provisions.**

642 In the event that it is believed that any tree in the City is in such a hazardous condition so
643 as to endanger the public health, safety and general welfare unless it is immediately
644 removed, the City Manager, or his designee, may verbally authorize the removal of such
645 tree following a personal inspection of the subject tree without the securing of a removal
646 permit as required by this chapter. In addition, the provisions and requirements of this
647 chapter may be temporarily stayed by a majority vote of the City Council following the
648 occurrence of a hurricane, tornado, flood, or other natural disaster.

649 **Section 54-11. Tree protection standards.**

650 The following standards shall be applicable to the protection of all trees within the City
651 during development and construction:

652 (A) *Tree Protection During Construction.* A photographic record of the trees within
653 the proposed barrier area shall be made by the Department before any permit,
654 including a demolition permit, is issued. Trees shall be protected during
655 development and construction through the use of protective barriers in
656 accordance with the Miami Dade County Landscape Manual or other nationally
657 recognized arboricultural standards approved by the city manager or designee.

658 (B) Trees that are to remain on site or to be relocated, shall be clearly identified
659 with a tag, including an identification reference to the tree survey required as
660 part of the landscape plan or tree permit. A protected area within the drip line
661 of the tree or within a radius of ten (10) feet measured from the tree trunk,
662 whichever is greater, shall be maintained around trees in accordance with the
663 Miami-Dade County Landscape Manual, unless the Department otherwise
664 determines in writing that a smaller or larger protected area is required for each
665 tree, or an alternative tree protection method is approved.

666 (C) During demolition and/or development, including installation of irrigation
667 systems or any other underground installations, protective barriers shall be
668 placed around each tree and shall remain in order to prevent the destruction or
669 damaging of roots, stems or crowns of such trees, and to prevent deposits of
670 any fill or compaction to the drip zone of the tree. The barriers shall remain in
671 place and intact until such time as approved landscape operations begin;
672 however, barriers may be removed, subsequent to written permission from the
673 City after an onsite inspection, or temporarily to accommodate construction
674 needs, provided that the manner and purpose for such temporary removal will
675 not harm the trees. The trees shall be properly irrigated throughout the building
676 process. Persons who cause tree damage during construction shall be subject

677 to the penalties set forth in the provisions of this Code. Understory plants within
678 protective barriers shall be protected.

679 (D) *Barriers required.* Prior to clearing, demolition, or other development or
680 construction activities, the Department shall determine which trees, if any,
681 require protection. Protective barriers shall be constructed, as necessary, to
682 prevent the destruction or damaging of regulated trees that are located within
683 50 feet of any construction activity or storage of equipment and materials. Trees
684 identified for preservation which are destroyed or severely damaged shall be
685 mitigated in accordance with this section prior to issuance of a certificate of
686 occupancy or use. To avoid conflicts between barrier placements and
687 demolition and construction activities, barriers shall be drawn to scale on the
688 demolition, grading and paving sheets of the development plan.

689 (E) *Barrier zones.* All regulated trees in areas of demolition, development, and/or
690 construction that have not been permitted nor designated for removal by either
691 the terms of the permit or approved development order shall be protected by
692 barrier zones erected and inspected prior to construction of any structures,
693 road, utility service or other improvements. Barricades shall comply with the
694 following:

695 (1) Protective barriers shall be plainly visible and shall create a continuous
696 boundary around trees or vegetation clusters in order to prevent encroachment
697 by machinery, vehicles, or stored materials. To further protect tree roots, a layer
698 of wood chips at least eight inches thick shall cover the soil within the barricade.
699 Barricades must be at least three feet tall and must be constructed of either
700 wooden corner posts at least two by four inches buried at least one foot deep,
701 with at least two courses of wooden side slats at least one by four inches with
702 colored flagging or colored mesh attached, or constructed of one-inch angle
703 iron corner posts with brightly colored mesh construction fencing attached.
704 Protected trees shall be preserved by galvanized chain link fencing a minimum
705 of 48 inches high, 11-gauge wire, two-inch mesh size secured with 17/8 inch
706 line posts no further than 10 feet apart secured at a depth of three feet below
707 soil line. Corners shall be secured with 23/8 inch line posts secured to a depth
708 of four feet below soil line.

709 (2) Barriers shall be placed at the greater of the following:

710 (i) At or outside the dripline for all regulated pine and palm trees;

711 (ii) At a minimum of two-thirds of the area of the dripline for all other
712 regulated species; or

713 (iii) At the tree root plate.

714 (3) If complying with the above placement of barriers is found to unduly restrict
715 development of the property, the Department may approve alternative barrier
716 placements or methods of protection provided that at least fifty (50) percent of
717 the area under the canopy dripline remains undisturbed (no grade change or
718 root cut) and further provided that there shall be no disturbance to the tree root

719 plate. Protective barriers may not be removed or relocated without such
720 approval.

721 (4) No grade changes shall be made within the protective barrier zones without
722 prior approval of the Department. Where roots greater than one inch in
723 diameter are damaged or exposed, they shall be cut cleanly and re-covered
724 with soil within one hour of damage or exposure.

725 (5) Protective barriers shall remain in place and intact until such time as
726 landscape operations begin. If construction needs dictate a temporary removal
727 (for less than twenty-four (24) hours), the Department may approve or deny the
728 temporary removal of protective barriers.

729 (6) Landscape preparation in the protected area shall be limited to shallow
730 disking of the area. Disking shall be limited to a depth of four inches unless
731 specifically approved otherwise by the Department.

732 (F) No gas, oil, fill, equipment, building materials or building debris shall be
733 placed within the areas surrounded by protective barriers, nor shall there
734 be disposal of any waste materials such as paints, oils, solvents, asphalt,
735 concrete, mortar, or any other materials harmful to trees or understory
736 plants within the areas surrounded by protective barriers.

737 (G) Trees shall be braced in such a fashion as to not scar, penetrate,
738 perforate, or otherwise inflict damage to the tree.

739 (H) Natural grade shall be maintained within protective barriers. In the event
740 that the natural grade of the site is changed as a result of site
741 development, such that the safety of the tree may be endangered, tree
742 wells or retaining walls may be required.

743 (I) Underground utility lines shall be placed outside the areas surrounded by
744 protective barriers. If said placement is not possible, disturbance shall be
745 minimized by using techniques such as tunneling.

746 (J) Fences and walls shall be constructed to avoid disturbance to any
747 protected tree. Post holes and trenches located close to trees shall be
748 dug by hand and adjusted as necessary, using techniques such as
749 discontinuous footings, to avoid damage to major roots.

750 (K) If any preserved tree is not alive and healthy three (3) years after the
751 certificate of occupancy is granted, it shall be removed and replaced with
752 the tree or trees that originally would have been required by this Chapter
753 if it were removed. The area that was preserved to accommodate the
754 preserved tree shall be maintained in an unpaved condition and the
755 replacement trees established in this area.

756 **Section 54-44 12. Enforcement.**

757 (A) Any violations of the provisions and requirements of this chapter shall be
758 prosecuted on behalf of the City by the Code Enforcement Department before the Code

759 ~~Enforcement Board in accordance with its rules, regulations, and procedures as~~
760 ~~mandated in §§ 32-65—32-71 of this Code of Ordinances or in accordance with the rules,~~
761 ~~regulations and procedures contained within the City's Supplemental Code Enforcement~~
762 ~~Citation System codified in Code of Ordinance § 101-01.~~

763 (B) Failure to obtain a tree removal permit prior to removing or relocating any tree in
764 accordance with Section 54-06 shall constitute a continuing violation until a complete
765 after-the-fact tree removal permit application is obtained and submitted to the Department
766 for each tree removed or relocated. If the submitted application for a tree removal permit
767 is denied, fines shall continue to accrue from the date of denial until a revised or corrected
768 tree removal permit application is submitted. The City Manager or City Manager's
769 designee may bring any tree removal violation before the special magistrate for a
770 determination as to whether the tree removal violation constitutes an uncorrectable
771 violation, as defined under section 32-67 of the City Code and Section 162.09(2), Florida
772 Statutes. Upon a finding by the special magistrate that a tree removal violation is an
773 uncorrectable violation that is irreparable or irreversible in nature, the special magistrate
774 shall impose a fine of up to \$5,000 per tree in addition to requiring the violator to obtain
775 an after-the-fact tree removal permit and replace any damaged trees.

776 (C) Nothing contained herein shall in any way limit any other department of City
777 government from participating and assisting in the prosecution of violations of this
778 chapter.



AGENDA MEMORANDUM

Meeting Date: 5/13/2024

To: The Honorable Mayor Maria Puente Mitchell and Members of the City Council

Via: J.C. Jimenez, City Manager

From: Omar L. Luna, Recreation Director

Subject: Joint Use Agreement Between the COMS and the School Board of Miami Dade County

Recommendation:

Recommendation by Recreation that Council approve the Joint Use Agreement between the City of Miami Springs and The School Board of Miami Dade County to move forward with the opportunity to provide recreational and educational programs/activities using the hardcourt/basketball courts located at Miami Springs Senior High School.

Discussion:

The City is hoping that this Joint Agreement between the COMS and School Board of Miami Dade County will provide our residents with an opportunity to play basketball on outside courts during certain times of the day and/or weekend.

Submission Date and Time: 5/8/2024 6:17 PM

<u>Submitted by:</u>	<u>Approved by (sign as applicable):</u>	<u>Funding:</u>
Department: <u>Recreation</u>	 Dept. Head: _____	Dept./ Desc.: <u>Recreation Department</u>
Prepared by: <u>Omar Luna</u>	Procurement: _____	Account No.: _____
Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Asst. City Mgr.: _____	Additional Funding: _____
Budgeted/ Funded: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	City Manager:  _____	Amount previously approved: \$ _____
		Current request: \$ _____
		Total vendor amount: \$ _____

RESOLUTION NO. 2024- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, APPROVING A JOINT USE AGREEMENT WITH THE SCHOOL BOARD OF MIAMI-DADE COUNTY RELATING TO THE USE OF THE HARDCOURT/BASKETBALL COURTS AT MIAMI SPRINGS SENIOR HIGH SCHOOL FOR RECREATIONAL AND EDUCATIONAL PURPOSES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami Springs (the “City”) is interested in providing recreational and educational programs using the hardcourt/basketball courts located at Miami Springs Senior High School (the “School Property”); and

WHEREAS, the School Board of Miami-Dade County (“School Board”) owns and has jurisdiction over the School Property; and

WHEREAS, the School Board has proposed entering into the Joint Use Agreement (the “Agreement”) attached hereto as Exhibit “A” to allow the City to use the hardcourt/basketball courts at the School Property for the operation of recreational and educational programs sponsored, organized, and supervised by the City; and

WHEREAS, the City Council desires to authorize the City Manager to negotiate and execute the Agreement with the School Board in substantially the form attached hereto as Exhibit “A”; and

WHEREAS, the City Council finds that this Resolution is in the best interest and welfare of the residents of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Approval. That the City Council approves the Agreement with the School Board in substantially the form attached hereto as Exhibit “A.”

Section 3. Authorization. That the City Council hereby authorizes the City Manager to negotiate and execute the Agreement in substantially the form attached hereto as Exhibit “A” and any subsequent amendments, extensions, renewals, or related

documents necessary to implement the Agreement, subject to the approval of the City Attorney as to form, content, and legal sufficiency.

Section 4. Effective Date. That this Resolution shall be effective immediately upon adoption.

The foregoing Resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

Vice Mayor Dr. Walter Fajet	_____
Councilmember Jacky Bravo	_____
Councilmember Jorge Santin	_____
Councilmember Dr. Victor Vazquez	_____
Mayor Maria Puente Mitchell	_____

PASSED AND ADOPTED this ___ day of _____, 2024.

MARIA PUENTE MITCHELL
MAYOR

ATTEST:

ERIKA GONZALEZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF MIAMI SPRINGS ONLY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
CITY ATTORNEY

JOINT USE AGREEMENT

THIS JOINT USE AGREEMENT (“**Agreement**”) is made and entered into this _____ day of _____, 20___, by and between the CITY OF MIAMI SPRINGS, a Florida municipal corporation (hereinafter referred to as the “**CITY**”), and THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a body corporate and politic existing under the laws of the State of Florida (hereinafter referred to as to the “**BOARD**”). The CITY and the BOARD are sometimes referred to in this Agreement individually as “**Party**” and collectively as the “**Parties**”.

WITNESSETH

WHEREAS, the BOARD and CITY are mutually interested in and concerned with providing and making recreational programs, activities and facilities available for the use and benefit of the students of Miami-Dade County Public Schools (“**District**”) and the residents of the CITY; and

WHEREAS, the BOARD owns and has under its jurisdiction certain real property, known as Miami Springs Senior High School, located at 751 Dove Avenue, Miami Springs, Florida, also described as Folio #05-3013-001-0960 (“**School**”), which is used by the BOARD for recreational and educational purposes; and

WHEREAS, the BOARD and CITY are desirous of entering into this Agreement to allow designated portion(s) of the School campus to be made available to both Parties for recreational and educational services, under terms and conditions outlined within this Agreement; and

WHEREAS, the CITY has formulated a plan for opening and operating its recreational program(s) at the School, which the CITY represents to be a plan in accordance with all local, County, State, School Board, Federal and/or Centers for Disease Control (“**CDC**”) guidelines and requirements related to the COVID-19 pandemic, as such CDC guidelines may be amended from time to time (“**Operating Plan**”); and

WHEREAS, the City of Miami Springs City Council by the adoption of Resolution No. _____, at its meeting of _____, 20___, approved this

Agreement; and

WHEREAS, the School Board of Miami-Dade County, Florida, has authorized this Agreement in accordance with Board Item No. F-____, Board Action No. _____, at its meeting of _____, 20____.

NOW, THEREFORE, for and in consideration of the conditions and covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

I.

RECITALS

The Parties agree that the above recitals are true and correct and are incorporated herein by reference.

II.

TERM; CONSIDERATION

The Effective Date of this Agreement shall be the date on which the last of the Parties initials or executes this Agreement (“**Effective Date**”), which date shall also serve as the commencement date (“**Commencement Date**”). The term of this Agreement shall be for a period of forty (40) years, commencing on the Commencement Date. The CITY and BOARD, through their respective designees, shall confirm the Commencement Date in a separate written instrument, which shall be attached hereto and become a part hereof as **Exhibit “A”**.

The CITY shall pay to the BOARD as consideration for use and occupancy of the School throughout the term of this Agreement, and any renewal thereof, the sum of one dollar (\$1.00) per year in advance, without demand, beginning on the Commencement Date, and on the anniversary date of the Commencement Date each year thereafter.

III.

PREMISES TO BE JOINTLY USED; MODIFYING PREMISES

The Parties agree that, effective with the Commencement Date of this Agreement, the designated area(s) of the School to be made available for use by the CITY (the “**Demised Premises**” or “**School Site**”), shall be as set forth in **Exhibit “B”**, attached hereto and made a part hereof. The CITY acknowledges and agrees that it shall not have

use of any other portion of the School grounds, parking lots, buildings or ancillary facilities, other than as set forth in Exhibit "B". For avoidance of doubt, the Parties acknowledge and agree that the intent of the Parties is that the initial area of the School to be included as a part of the Demised Premises shall include and be limited to the existing hardcourts/basketball courts.

In the event the CITY seeks to modify the Demised Premises by increasing or decreasing the area so demised, the CITY shall make a request to the BOARD, pursuant to Article XVI hereof, at least sixty (60) days prior to the effective date of such proposed modification, for review and consideration by the Superintendent of Schools ("**Superintendent**"), in his sole authority. In the event the request to modify the Demised Premises is approved by the Superintendent, the Parties agree that any modification to the Demised Premises shall be accomplished through an amendment to this Agreement, in conformance with the provisions of Article XXXVI, and Exhibit "B" shall be modified accordingly and attached hereto and made a part hereof, and remain in effect until such time as it may be further amended. The Parties agree that each time the Demised Premises is so modified, the definition of Demised Premises shall automatically describe the revised premises.

IV.

USE OF DEMISED PREMISES; SUPERVISION

A. USE OF DEMISED PREMISES; SUPERVISION

The area described in Exhibit "B" shall only be used by the CITY for the operation of recreational programs sponsored, organized and supervised by the CITY, and for no other purpose. The CITY agrees to accept the Demised Premises in its "as-is", "where-is" condition as of the Effective Date of this Agreement, subject to all easements, covenants and other encumbrances and limitations of record.

The CITY covenants and agrees that, at all times during its daily period of use of the School Site, it shall provide proper supervision of the Demised Premises using trained and qualified CITY staff or other District approved personnel stationed at the Demised Premises, and keep the Demised Premises safe and secure. At the end of the

CITY'S daily period of use, it shall close and lock all gates, and remove, or cause to be removed, any unauthorized individuals remaining on the Demised Premises, using appropriate and lawful means. The CITY shall promptly notify the BOARD or its designee of any and all notices or communications received from any jurisdictional entity related to any incidents that occurred on or near the Demised Premises during the CITY'S daily period of use of the School Site, in relation to any health and safety issues or law enforcement incidents. Thereafter, the CITY shall provide the BOARD with all information reasonably requested by the BOARD or its designee, and shall cooperate with the BOARD in implementing any policies or procedures required to mitigate any further incidents of this nature.

Other than as specified elsewhere in this Agreement, the BOARD shall have full control, custody, right and use of the School campus, including all parking lots, buildings, ancillary and recreational facilities located thereon, including the Demised Premises, during regular school hours ("**Regular School Hours**"), as established from time-to-time by the School Principal or designee ("**School Administrator**"), on regular school days during the academic school year as established each year through the District's Elementary and Secondary School Calendar ("**School Calendar**"). In accordance with the leasehold rights afforded to the CITY under this Agreement, the CITY shall have full control, custody, right and use of the Demised Premises on weekdays beginning after Regular School Hours, as determined by the School Administrator, and ending at the CITY'S designated closing time, but in no event later than the standard closing time for CITY Parks, and on weekends and BOARD Holidays (as established in the School Calendar) beginning at 8:00 a.m., and ending at the CITY'S designated closing time, but in no event later than the standard closing time for CITY Parks, or as otherwise agreed to in writing by the Parties ("**City's Period of Use of School Site**").

Notwithstanding the foregoing, the BOARD, at its sole option, may use the Demised Premises, or portions thereof, from time-to-time, at times and days that would otherwise be within the City's Period of Use of School Site, as may be required for special events and functions, including but not limited to, community meetings, athletic or other practices, home games, pre-scheduled tournaments, intramural sports, extracurricular

athletics/activities, after care programs and summer school, during which time it shall have full control, custody, right and use of same. In that event, the School Administrator or designee shall so notify the CITY'S Recreation Director ("**Recreation Director**") or designee with a minimum of forty-eight (48) hours advance written notice.

Notwithstanding the above, the CITY acknowledges that because of the need to ensure the safety of District staff, students and faculty, maintain the security and integrity of School building and grounds, and prevent vandalism of same, the School Administrator, upon a minimum of seven (7) calendar days prior written notice, reserves the unilateral right to limit or alter the means by which the CITY may access and use the Demised Premises.

Additionally, in the event park patrons create an unsanitary or unsafe condition within the School Site or elsewhere on the School campus (e.g. as a result of park patrons seeking access to bathroom facilities or drinking water) as a result of the City's Period of Use of School Site, the CITY agrees to take all steps necessary to immediately correct this situation; failing which, the Superintendent, upon a minimum of seven (7) calendar days prior written notice, shall have the right to cancel this Agreement, without penalty.

The CITY, in addition to its own utilization of the Demised Premises, shall have the option of contracting with not-for-profit entities to provide CITY-sponsored recreational services and programs to the general public during the City's Period of Use of School Site. In that event, the CITY shall provide a minimum of fifteen (15) days prior written notice to the BOARD advising of its intention to allow such use, and seeking written approval from the BOARD or designee, and shall be responsible during such use for all maintenance, clean-up, risk management, security and supervision of the School Site and all other terms and conditions set forth in this Agreement, the same as if the CITY itself were utilizing the School Site. Further, the CITY shall require such entities or groups to provide liability insurance and other required insurance coverage as determined by the District's Office of Risk and Benefits Management, naming both the CITY and the BOARD as additional insureds, in accordance with the rules and regulations established from time to time by the District for use of the School Site. For avoidance of doubt, as a precondition to use of the School Site by such an entity, the CITY shall obtain a certificate of insurance

evidencing coverage in the required amounts, and shall provide a copy thereof to the BOARD.

In the event the CITY seeks to utilize the Demised Premises during the BOARD'S daily period of use for CITY provided or contract provided after-school services, programs and/or activities, the CITY, through its authorized designee, shall make a written request (as set forth in Article XVI) to the BOARD seeking approval for same, which request shall be approved or denied through the BOARD'S authorized designee, such approval not to be unreasonably delayed or withheld.

B. USE OF ADDITIONAL FACILITIES AT THE SCHOOL

In the event the CITY seeks to use an additional educational or recreational facility or amenity within the School, not listed in Exhibit "B", for a one-time event or on a short-term basis, and the BOARD or designee provides written approval, the CITY agrees to be bound by all terms and conditions of this Agreement, including, but not limited to, supervision, security and liability in its use of such additional facility or amenity.

C. USE OF SCHOOL SITE FOR SPECIAL EVENTS

Notwithstanding the foregoing or anything contained herein to the contrary, the BOARD acknowledges that the CITY may seek use of the Demised Premises, from time-to-time, for special CITY sponsored events and functions ("**City Event**") that require substantial advance planning and preparation. In that event, the CITY is to make written application to the BOARD pursuant to Article XVI hereof at least thirty (30) days in advance of the proposed City Event, indicating the nature of the event, event duration, impact on the School's use of the School Site and any other relevant information as may be required by the BOARD. The BOARD, acting through its authorized designee, shall respond in writing with all due haste, and approval of such City Event shall not be unreasonably withheld.

The CITY shall remove all refuse or debris generated by any City Event and shall repair all damage to the Demised Premises or elsewhere on the Schol campus that occurred during such event, and the School Site shall be made safe and usable for the School prior to the BOARD'S next period of use. In connection with the City Event, the City may charge and collect admission and concession fees, provided the fees are

utilized, in whole or in part, to offset costs associated with the City Event. The CITY will make every reasonable effort to confine the use of portable band shells or the installation of tents, portable toilets, equipment or other such facilities to adjacent or nearby Park sites or CITY-owned lands.

When using the School Site for a City Event, the CITY shall ensure that any and all vendors, operators or providers of services occupying the School Site, shall do so only with the CITY'S formal approval, and under the CITY'S supervision and control. All such vendors, operators and service providers shall be required to maintain a policy of general liability insurance from an insurance company licensed to do business in Florida and with an A.M. Best's rating of "B+" or better, with a single limit of no less than one million dollars (\$1,000,000), without interruption during the City Event, or as otherwise required by the District's Office of Risk and Benefits Management. A Certificate of Insurance shall be provided to the BOARD a minimum of ten (10) days prior to the City Event, and the Certificate of Insurance shall name "The School Board of Miami-Dade County, Florida, and its members, officers and employees" as an additional insured on all liability coverages except Worker's Compensation Insurance. The CITY shall further ensure that adequate supervision and security is provided during the City Event to address vehicular traffic, parking, security and crowd control issues.

D. ADDITIONAL RULES AND REGULATIONS FOR USE OF SCHOOL SITE

The CITY may promulgate and enforce reasonable rules and regulations governing its use of the Demised Premises during The City's Period of Use of School Site, and shall provide adequate security and supervision of the School Site at all times that it conducts or sanctions activities thereon. Any such additional rules and regulations will be in compliance with CITY and BOARD Policies, and will be reviewed by the Joint Use Committee (as hereinafter described) for recommendation purposes only.

In the event use of School facilities by the CITY creates a cost to the District, beyond that which would normally be borne by the School (e.g. bathroom paper goods, janitorial services, staff overtime, field lighting, etc.), the CITY agrees to reimburse the BOARD for the actual cost of same.

The CITY shall secure and lock all perimeter and/or parking lot gates, as required

by the School Administrator, at the completion of the City's Period of Use of School Site. If included as a part of the Demised Premises, the CITY shall remove all unauthorized vehicles remaining in the School parking lot(s) prior to the School's next period of use. The CITY shall remove said vehicles using all lawful means, and may post signs to facilitate same, after securing written approval from the District.

The sale or consumption of alcoholic beverages at any time, including City Events, is expressly prohibited on the Demised Premises or elsewhere on the School campus. Violation of this provision shall be deemed a material breach of this Agreement, and the BOARD may, in its sole discretion, cancel this Agreement without penalty.

The CITY shall not commit nor permit any violations of applicable laws, rules and regulations of the BOARD, including BOARD Policies, CITY, County, State, or Federal Government upon the Demised Premises or elsewhere on the School campus.

The CITY agree that the Demised Premises may be closed from time to time to reduce wear and tear on the facilities. In addition, play equipment, play surfaces, parking lots, ancillary facilities and buildings may be unavailable during the City's Period of Use of School Site to provide for the completion of maintenance or construction activities. The CITY acknowledges that the method, scope and scheduling of any such closure impacting CITY use of the Demised Premises shall be coordinated in a timely manner between the Parties, and the Parties shall work collaboratively in this regard.

E. COMPLIANCE WITH EMERGENCY ORDERS

Notwithstanding any other provisions of this Agreement, the CITY acknowledges and agrees that it shall comply with Miami-Dade County Emergency Orders, as each order may be subsequently modified, extended or amended, as well as any other local, County, State, School Board or Federal Orders and CDC guidelines currently in place or that may be implemented, from time to time, related to a pandemic crisis ("**Emergency Orders**") at all times in its use of the Demised Premises under this Agreement. These restrictions may include, but are not limited to, social distancing requirements, site supervision to ensure compliance, requirements for Personal Protective Equipment, sanitizing protocols, closure of facilities or restrictions on maximum capacity, inspections, licensing, permitting, etc., by all applicable jurisdictional entities. At the request of the

BOARD or its designee, the CITY shall provide sufficient documentation certifying compliance with any and all requirements set forth in the Emergency Orders (“**Certificate of Compliance**”). It is understood and agreed that, by virtue of accepting possession of the Demised Premises or continuing use and occupancy of same while under Emergency Orders and providing the Certificate of Compliance, the CITY certifies to the BOARD full compliance therewith, and further represents and certifies that it shall continue to be in full compliance with any and all requirements set forth in the Emergency Orders, until such time as the CITY notifies the BOARD otherwise in compliance with the provisions of Article XVI of this Agreement.

V.

IMPROVEMENTS TO DEMISED PREMISES BY CITY AND BOARD

A. IMPROVEMENTS BY THE BOARD

The BOARD, at its sole option, may construct additional recreational, educational or ancillary facilities on the Demised Premises or elsewhere on the School campus, and maintain equipment related to the construction of any such facilities thereon, at such time as the BOARD determines such a need. The BOARD agrees to notify the CITY in writing, with as much advance notice as possible, and in no case less than thirty (30) days prior to the start of on-site activities, or of the BOARD’S intent to construct such facilities. The Parties agree to cooperate in every reasonable way, including coordination through the Joint Use Committee, to minimize the disturbance to the peaceful possession and use of the School Site by the CITY during any such construction activities.

B. IMPROVEMENTS BY THE CITY

As set forth herein, the CITY is accepting the Demised Premises in its “as-is” “where-is” condition as of the Effective Date of this Agreement. Notwithstanding this provision, the CITY may provide a written request, pursuant to Article XVI hereof, to construct additional recreational improvements on the Demised Premises, for review and consideration by the Superintendent, in his sole authority. In the event the request to modify the Demised Premises is approved by the Superintendent, all such construction of improvements shall be at the CITY’S sole cost and expense. Prior to initiating any such

project, the Parties shall first assign, at a minimum, responsibility for Maintenance, Utilities and for Damage or Destruction for the proposed improvements, under Articles VI, VII and XVII of this Agreement. Once determined and agreed to, Exhibit "B" shall be modified as necessary (as provided for in Article III hereof), to reflect these or any other responsibilities as well as the newly constructed improvements and use thereof. The CITY shall be responsible for generating construction documents, securing any permits, zoning variances, regulatory or governmental approvals, license and/or use approvals which may be required for the construction of any improvement on the School Site. The CITY acknowledges and agrees that construction of improvements on the School Site by the CITY may require approval by the School Board, at the BOARD'S sole discretion.

The CITY acknowledges and agrees that no construction, major repairs, alterations or improvements by the CITY may be undertaken on the School Site unless the plans are first submitted to and approved by the BOARD, or designee, which the BOARD may approve or disapprove at its sole authority and discretion. Plans must be signed and sealed by a duly licensed design professional and be of sufficient detail to secure any and all permits necessary to commence the work. The plans shall be prepared in accordance with all applicable laws, rules, regulations, statutes and codes in effect at the time the plans are submitted, including, without limitation, the Florida Building Code, the State Requirements for Educational Facilities and the District's design criteria, specifications and safety codes. All work shall be performed in a good and workmanlike manner by contractors who are licensed, insured and fully bonded, and the CITY shall provide evidence of same to the District prior to commencement of any work. Unless otherwise agreed to in writing by the Parties, the District's Building Department shall be the entity responsible for reviewing and approving all construction documents, issuing construction permits and providing final acceptance of the work, and the CITY shall be responsible for payment to the BOARD of all costs borne by the District for jurisdictional plan review, permitting and inspection services prior to commencement by the District's consultant of such services.

The work shall commence only after issuance of proper permits, in conformance with the requirements of the District's Building Department or other appropriate

jurisdictional governmental entity, and shall at all times be in compliance with all applicable laws, rules and regulations, including, without limitation, the Florida Building Code, the Americans with Disabilities Act, the Jessica Lunsford Act, the State Requirements for Educational Facilities, and District design criteria and standards, as the same may be amended from time to time and as applicable. All permits shall be properly closed by the CITY upon completion of the work, and evidence of same, satisfactory to the BOARD, shall be provided. All work shall be limited to those areas designated in the plans. It is expressly understood by the CITY that construction activities may not commence on the School Site, until the BOARD, or its designee, has received all required items and has notified the CITY, in writing, as to the approved date work may commence. The CITY further acknowledges and agrees that, in compliance with BOARD Policy, all contractors must be prequalified by the District.

The CITY shall cause any contractors doing work within the Demised Premises to indemnify, defend and hold harmless the School Board, its employees and representatives from any and all liability, damages and claims, and, if required by the District, to provide a payment and performance bond. In addition, the CITY shall require its contractors to provide proof of insurance coverage in the types and amounts of coverage as may be required by the District, including but not limited to Commercial General Liability Insurance, Automobile Liability Insurance, Worker's Compensation Insurance and Property Coverage, and naming the BOARD as additional insured on the Commercial General Liability Insurance.

The CITY does hereby agree to indemnify and hold harmless the BOARD, subject to the extent of the monetary limitations included within Florida Statutes, Section 768.28, subject to the provisions in this act whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the CITY arising out of the same incident or occurrence, exceeds the sum of \$300,000, from and against any claims, liabilities, losses and causes of action arising out of or in connection with any construction costs and expenses for improvements made by the CITY on the Demised Premises.

Subject to the provisions set forth in Article XXVI, unless otherwise agreed to by the Parties, all permanent improvements or facilities installed, operated and maintained by the CITY within the School Site pursuant to this Agreement shall become the property of the BOARD, without compensation to the CITY, at such time as the BOARD accepts installation of same as being final and in compliance with all appropriate regulations.

VI.

MAINTENANCE

Unless specified to the contrary in Exhibit “B” or elsewhere in this Agreement or any amendment hereto, the BOARD shall keep all recreational facilities, ancillary facilities and equipment located on the School Site, in a safe, clean and working condition at all times. However, the CITY shall remove litter and trash generated during its Period of Use of School Site, prior to the School’s next period of use, and, as further set forth in Article XVII, shall repair those improvements to grounds, buildings, recreational improvements or any other improvements on the School Site or School campus, where the District can clearly substantiate that the improvements were damaged as a result of the actions of the CITY.

The Parties acknowledge that the BOARD shall provide routine maintenance to the School Sites and grounds in conformance with the District’s standards, operating procedures and frequency of service. In the event the CITY requires maintenance to recreational facilities and grounds at the School Site beyond what this Agreement requires of the BOARD, the CITY may provide same at its sole cost and expense, after first securing the approval of the School Administrator in writing. Any such maintenance activities on the School Site shall be provided by the CITY during the City’s Period of Use of School Site. The Parties further acknowledge and agree that if maintenance activities are required within the Demised Premises due to excessive use by the CITY under this Agreement, the Parties shall work in good faith to resolve this matter.

The CITY may apply certain herbicides and pesticides to the School Site during the City’s Period of Use of School Site, using a certified technician, after submitting specifications and environmental information to the District’s Division of Safety &

Emergency Management, and securing written approval from same to utilize the product. The CITY must coordinate and schedule use of the herbicide or pesticide with the School Administrator prior to its application. The CITY agrees to use its best efforts to schedule this, as well as all other maintenance functions on the School Site, so as to limit any impact on School operations.

In compliance with the December 1999 version of the State Requirements for Educational Facilities, or its successor document, the CITY shall conduct annual inspections of any bleachers it has placed on the School Site, to ensure they are in a safe condition and free from hazard, and shall secure a certificate from a structural engineer on a biennial basis attesting to same. A copy of the biennial certificate shall be provided to the BOARD without demand.

Notwithstanding the above, the District reserves the right to promulgate and enforce reasonable rules and regulations regarding maintenance activities on the School Site, with said rules to be reviewed by the Joint Use Committee for recommendation purposes only.

VII.

UTILITIES

Unless specified to the contrary in Exhibit "B" or elsewhere in this Agreement or any amendment hereto, the BOARD shall establish utility accounts in its name, if required, and pay for the electricity, water and sewer, garbage/trash collection and any other utilities consumed on the School Site. The Parties further acknowledge and agree that if utility usage within the Demised Premises is excessive due to use by the CITY under this Agreement, the Parties shall work in good faith to resolve this matter.

VIII.

LIABILITY FOR DAMAGE OR INJURY

The BOARD shall not be liable for any damage or injury which may be sustained by the CITY or any persons on or about the School Site, other than damage or injury resulting from the negligent performance or failure of performance on the part of the BOARD, its agents, representatives or employees, or failure of the BOARD to perform its

covenants under this Agreement, subject to the limitations included within Section 768.28, Florida Statutes. The BOARD shall not be responsible or liable for any loss of business, consequential damages or any other damages arising from acts of God.

The CITY shall not be liable for any damage or injury which may be sustained by the BOARD or any persons on or about the School Site, other than damage or injury resulting from the negligent performance or failure of performance on the part of the CITY, its agents, representatives or employees, or failure of the CITY to perform its covenants under this Agreement, subject to the limitations included within Section 768.28, Florida Statutes. The CITY shall not be responsible or liable for any loss of business, consequential damages or any other damages arising from acts of God.

The provisions of this Article shall survive the expiration or early termination or cancellation of this Agreement.

IX.

INDEMNIFICATION AND HOLD HARMLESS

The CITY does hereby agree to indemnify and hold harmless the BOARD, to the extent of the limitations included within Florida Statutes, Section 768.28, subject to the provisions in this act whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the CITY arising out of the same incident or occurrence, exceeds the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise as a result of the negligence of the CITY. However, nothing herein shall be deemed to indemnify the BOARD from any liability or claim arising out of the negligent performance or failure of performance of the BOARD or as a result of the negligence of any unrelated third party.

The BOARD does hereby agree to indemnify and hold harmless the CITY, to the extent of the limitations included within Florida Statutes, Section 768.28, subject to the provisions in this act whereby the BOARD shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgment, or portions thereof, which, when totaled with all other

claims or judgments paid by the BOARD arising out of the same incident or occurrence, exceeds the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise as a result of the negligence of the BOARD. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or as a result of the negligence of any unrelated third party.

The provisions of this Article shall survive the expiration or early termination or cancellation of this Agreement.

X.

ASSIGNMENT AND SUBLETTING

Except as otherwise provided elsewhere in this Agreement, the CITY shall not assign, transfer, or otherwise dispose of this Agreement for the term hereof, or underlet the Demised Premises or any part thereof, or permit the School Site to be occupied by other persons, firms, corporations, or governmental units during the City's Period of Use of School Site, except with the prior written consent of the BOARD.

XI.

CANCELLATION

In addition to the provisions of Articles XII and XVII, this Agreement may be cancelled by either Party by providing the other Party with a minimum of one (1) year prior written notice. If canceled by the BOARD, such cancellation shall be effective at the completion of the CITY'S recreational season then in effect. In the event of cancellation or termination, the School Site shall be surrendered in accordance with the provisions of Article XXVI.

XII.

DEFAULT

The BOARD shall notify the CITY in writing regarding CITY'S failure to perform or to comply with the terms and condition of this Agreement. If the CITY fails to cure the default within thirty (30) days after receiving written notice or does not provide the BOARD with a written response indicating the status of the CITY'S curing of the default and

providing a mutually agreeable schedule to cure the default, said approval not to be unreasonably withheld, within thirty (30) days after receiving written notice, the BOARD shall have the right to immediately terminate this Agreement, in whole or in part, at the BOARD'S discretion and without penalty, upon ten (10) days additional written notice to the CITY.

The CITY shall notify the BOARD in writing regarding the BOARD'S failure to perform or to comply with the terms and conditions of this Agreement. If the BOARD fails to cure the default within thirty (30) days after receiving written notice or does not provide the CITY with a written response indicating the status of the BOARD'S curing of the default and providing a mutually agreeable schedule to cure the default, said approval not to be unreasonably withheld, within thirty (30) days after receiving written notice, the CITY shall have the right to immediately terminate this Agreement, in whole or in part, at the CITY'S discretion and without penalty, upon ten (10) days additional written notice to the BOARD.

XIII.

NO LIABILITY FOR PERSONAL PROPERTY

The CITY agrees to insure or self-insure its interests in personal property to the extent it deems necessary or appropriate and hereby waives all rights to recovery for loss or damage of such property by any cause whatsoever. The CITY hereby waives all rights of subrogation under any policy or policies it may have.

XIV.

INSURANCE REQUIREMENTS

The CITY shall maintain and provide evidence of public liability insurance in amounts acceptable to the BOARD, or an ongoing self-insurance program covering the CITY, its officers and employees, for any activities related to this Agreement. Receipt by the BOARD of documentation acceptable to the District's Office of Risk and Benefits Management is a condition precedent to the commencement of this Agreement.

XV.

RIGHT OF ENTRY

Other than in the event of emergency, and subject to the provisions of Article XXII, after first providing a minimum of 24-hours advance notice to the Recreation Director, the BOARD, or any of its authorized agents, representatives or employees, shall have the right to enter the Demised Premises during the City's Period of Use of School Site to examine same, provided its actions do not unreasonably interfere with the CITY'S use of the School Site.

This right of entry includes, but is not limited to, the right of the BOARD, or any of its authorized agents, representatives or employees, to enter the School Site during the City's Period of Use of School Site for the purpose of examination related to the design and/or construction of recreational, educational, ancillary or parking facilities. It is agreed and understood that such examinations may include, but are not limited to, test borings and surveys which require entry by personnel on to, or leaving materials and equipment on the Demised Premises and School campus for an extended period of time. The Parties agree to work together to minimize the effect of these examinations.

XVI.

NOTICE AND GENERAL CONDITIONS

A. All notices or communications under this Agreement by either Party to the other ("**Notice**"), shall be sufficiently given or delivered if dispatched by (1) certified U.S. mail, postage pre-paid, return receipt requested, (2) hand delivery, (3) Federal Express or other comparable overnight mail service, (4) telephone facsimile transmission with transmission receipt, or (5) electronic mail, to the following addresses, or as the same may be changed in writing from time to time:

In the case of notice or communication to BOARD:

The School Board of Miami-Dade County, Florida
c/o Superintendent of Schools
School Board Administration Building
1450 N.E. Second Avenue, Room 912
Miami, Florida 33132
Fax: 305-995-1488

With a copy to:

Miami-Dade County Public Schools
Office of School Facilities
Attention: Chief Facilities Design & Construction Officer
1450 N.E. Second Avenue, Room 923
Miami, Florida 33132
Fax: 305-995-1607
E-mail: RPerez6@dadeschools.net

With a copy to:

The School Board of Miami-Dade County, Florida
School Board Office of General Counsel
1450 NE Second Avenue, Room 400
Miami, FL 33132
Attn: General Counsel
Fax: 305-995-1412
E-mail: Walter.Harvey@dadeschools.net and ACraft@dadeschools.net

In the case of notice or communication to the CITY:

City of Miami Springs
Attn: J.C. Jimenez, City Manager
201 Westward Drive
Miami Springs, FL 33166
305-805-5011 (telephone)
jimenezjc@miamisprings-fl.gov (email)

With a copy to:

Weiss Serota Helfman Cole & Bierman, P.L.
Attn: Haydee Sera, Esq.
City of Miami Springs Attorney
2800 Ponce de Leon Boulevard, 12th Floor
Coral Gables, FL 33134
305-854-0800 (telephone)
hsera@wsh-law.com (email)

B. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the Parties to this Agreement.

C. For purposes of this Agreement, the Superintendent or his/her designee shall be the party designated by the BOARD to grant or deny all approvals or waivers

required by the Agreement dealing with construction by the CITY or by the BOARD of recreational improvements on the School Site, modifying the areas or periods of use, authorizing use of the School Site by a not-for-profit entity, allowing the CITY to hold City Events on the School Site, or any other routine operational issues.

D. In addition to the above, for purposes of this Agreement, the Superintendent shall also be the party designated by the BOARD to execute amendments to this Agreement within the authority granted to the Superintendent by the BOARD in this Agreement, increase or decrease the area to be included as a part of the Demised Premises, and to grant or deny any approvals required by the Agreement, including placing the CITY in default, or renewing, extending, canceling or terminating this Agreement.

E. For purposes of this Agreement, the City Manager or his/her designee shall be the party designated by the CITY to _____. The City Manager or his/her designee, shall also be the party designated by the CITY to grant or deny any approvals required by this Agreement, including placing the BOARD in default, or renewing, extending, canceling or terminating this Agreement.

F. Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 PM (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. “Day” as used in this Agreement shall be defined as calendar day, unless otherwise provided. Counsel for the BOARD and Counsel for the CITY may deliver Notice on behalf of the BOARD and the CITY, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties of any change in name or address to which Notices shall be sent by providing the same pursuant to this provision.

XVII.

DAMAGE OR DESTRUCTION

In the event the Demised Premises should be destroyed or so damaged by fire,

windstorm or other casualty to the extent the facilities are rendered untenable or unfit for the purpose intended, the CITY may immediately discontinue such use of the impacted site on a temporary basis, by so notifying the BOARD in writing, or may cancel this Agreement, effective as of the date of the casualty. Unless set forth to the contrary in Exhibit "B" or otherwise agreed to in writing by the Parties, the BOARD shall cause the impacted recreational improvements to be repaired and placed in a safe, secure and useable condition and compatible for School and CITY recreational use, within one hundred eighty (180) days from the date of said damage or destruction, or other reasonable period of time as mutually agreed to by the Parties, which shall be determined based upon the scope and nature of the damages, necessary coordination and/or required approvals from FEMA or other governmental entities, costs of the necessary repairs and available funding for such repairs. Should the facilities not be repaired and rendered tenantable within the aforementioned time period, the CITY may, at its sole option, place the BOARD in default, as provided in Article XII.

In the alternative, and if mutually agreed to by the Parties in writing, including establishing a budget for the work, the CITY may repair the damage, and the BOARD covenants and agrees to reimburse the CITY for the cost to repair the damaged/destroyed facilities.

Notwithstanding the above, and as further set forth in Article VI, the Parties acknowledge and agree that damage or destruction to the Demised Premises caused by or through the CITY'S actions, or failure to act, shall be repaired by the CITY, at its sole cost, within a timeframe and manner as mutually agreed to by the Parties.

XVIII.

NON-DISCRIMINATION

Both Parties agree that there will be no discrimination against any person based upon race, color, sex, religious creed, ancestry, ethnic or national origin, citizenship status, mental or physical handicap, genetic information, age, political beliefs, sexual orientation, gender, gender identification, marital status, social and family background, linguistic preference, pregnancy or as otherwise provided by law, in the use of the Demised Premises . It is expressly understood that upon a determination by a court of

competent jurisdiction that discrimination in the use of the Demised Premises by a Party hereto has occurred, such event shall be treated as a Default hereunder.

XIX.

PEACEFUL POSSESSION

Subject to the terms, conditions, and covenants of this Agreement, the BOARD agrees that the CITY shall and may peaceably have, hold and enjoy the Demised Premises, without hindrance or interference by the District. Subject to the provisions of Article XXVI, at the expiration of this Agreement, the CITY shall, without demand, quietly and peaceably deliver up possession of the Demised Premises and all improvements thereon to the BOARD in good order and repair, except for normal wear and tear, or decay and damage by the elements, or other Acts of God.

XX.

SUCCESSORS AND ASSIGNS

This Agreement shall extend to and be binding upon the Parties herein, their heirs, executors, legal representatives, successors and assigns, subject to conditions set forth in this Agreement.

XXI.

EXTENSION OF TERM

If the CITY is not in default in performance of its obligations set forth in this Agreement, the Parties may extend the term, by mutual agreement, under the same terms and conditions set forth herein for two (2) additional terms of five (5) years each from the expiration of the original term or any renewal hereof, provided one Party gives written notice to the other at least ninety (90) days prior to the expiration of the then current term. The Parties acknowledge and agree that any extension of the term shall be accomplished through the execution by the Parties of an amendment to this Agreement.

XXII.

COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

The CITY shall comply with all applicable laws, rules, regulations, ordinances and codes of all governmental authorities, including, without limitation, the Florida Building Code, the Americans with Disabilities Act, the Jessica Lunsford Act, COVID-19 restrictions or any

restrictions and/or measures relating to a pandemic as may be defined by federal, state, local and/or School Board policy, as all may be further amended from time to time and to the extent required by applicable law.

XXIII.

CONSTRUCTION OF AGREEMENT

This Agreement shall be construed and enforced according to the laws of the State of Florida and the venue for any disputes shall be Miami-Dade County, Florida.

XXIV.

SEVERABILITY

In the event any paragraph, clause or sentence of this Agreement or any future amendment thereto is declared invalid by a court of competent jurisdiction, such paragraph, clause or sentence shall be stricken from the Agreement and the balance of the Agreement shall not be affected by any deletion, provided to do so would not render interpretation of the Agreement provisions ambiguous or a nullity.

XXV.

WAIVER

No waiver of any provision hereof shall be deemed to have been made unless such waiver is in writing and signed by the CITY or BOARD. The failure of either Party to insist upon strict performance of any of the provisions or conditions of this Agreement shall not be construed as waiving or relinquishing in the future any such covenants or conditions, but the same shall continue and remain in full force and effect.

XXVI.

SURRENDER OF PREMISES

Upon the cancellation, termination or expiration of this Agreement or any extension thereof, the CITY agrees to promptly and peacefully surrender and deliver possession of the Demised Premises to the BOARD in good order and repair and in as good condition as existed on the Commencement Date of this Agreement, ordinary wear and tear, or damage by fire, windstorm or other Acts of God, excepted. The CITY shall be required to promptly remove all of its personal property and other items from the Demised Premises, including any signage it installed.

Notwithstanding the provisions set forth in Article V of this Agreement, at the BOARD'S sole option, the CITY shall remove any improvements or facilities constructed by the CITY on the School Site, and restore the area to the same or better condition as existed before the Commencement Date of this Agreement, within ninety (90) days of said termination, cancellation or expiration, or other reasonable period of time agreed to by the Parties. In the event the BOARD elects to retain any or all of the improvements constructed by the CITY, the CITY agrees to convey title to said improvements, without compensation or remuneration.

XXVII.

**BACKGROUND SCREENING REQUIREMENTS AND
COMPLIANCE WITH SCHOOL CODE**

In accordance with the requirements of Sections 1012.465, 1012.32, and 1012.467, Florida Statutes, Board Policies 6320 and 8475, as amended from time to time, the CITY agrees that the CITY and all of its employees, agents, contractors, and subcontractors who provide or may provide services under this Agreement, will complete criminal history checks, and all background screening requirements, including level 2 screening requirements as outlined in the above-referenced Statutes and BOARD Policies prior to entering or providing services relating to the School Site.

Additionally, the CITY agrees that each of its employees, representatives, agents, subcontractors or suppliers who are permitted access on the School Site when students are present, who have direct contact with students or who have access to or control of school funds must meet level 2 screening requirements as described in the above-referenced Statutes and BOARD Policies.

Pursuant to the 2007 amendments to the Jessica Lunsford Act enacted by the Florida Legislature, requirements for certain fingerprinting and criminal history checks shall be inapplicable to non-instructional contracted personnel who qualify for exemption from level 2 screening requirements as provided under § 1012.468, Fla. Stat. (2007). In addition, the provisions of § 1012.467, Fla. Stat. (2007) are incorporated herein by reference, and any provisions of this Agreement that may be inconsistent with, contrary to, or determined to be in conflict with § 1012.467, will be superseded by said Statute.

A non-instructional contractor who is exempt from the screening requirements set forth in § 1012.465, § 1012.468 or § 1012.467, Florida Statutes, is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under § 943.043 and the national sex offender public registry maintained by the United States Department of Justice. The CITY will not be charged for this search. Further, upon obtaining clearance by the BOARD, if BOARD deems necessary, BOARD will issue a photo identification badge which shall be worn by the individual at all times while on the School Site when students are present.

The CITY agrees to bear any and all costs associated with acquiring the required background screening - including any costs associated with fingerprinting and obtaining the required photo identification badge. The CITY agrees to require all its affected employees to sign a statement, as a condition of employment with the CITY in relation to performance under this Agreement, agreeing that the employee will abide by the heretofore described background screening requirements, and also agreeing that the employee will notify the CITY/Employer of any arrest(s) or conviction(s) of any offense enumerated in BOARD Policies 6320 and 8475 within 48 hours of its occurrence. The CITY agrees to provide the BOARD with a list of all of its employees who have completed background screening as required by the above-referenced statutes and who meet the statutory requirements contained therein. The CITY agrees that it has an ongoing duty to maintain and update these lists as new employees are hired and in the event that any previously screened employee fails to meet the statutory standards. The CITY further agrees to notify the BOARD immediately upon becoming aware that one of its employees who was previously certified as completing the background check and meeting the statutory standards is subsequently arrested or convicted of any disqualifying offense. Failure by the CITY to notify the BOARD of such arrest or conviction within 48 hours of being put on notice and within 5 business days of the occurrence of qualifying arrest or conviction, shall constitute grounds for the BOARD, at its sole option, to place the CITY in default.

The Parties further agree that failure by the CITY to perform any of the duties

described in this Article XXVII shall constitute a material breach of the Agreement entitling the BOARD, at its sole option, to place the CITY in default.

XXVIII.

LEGAL FEES AND COURT COSTS

In the event of any litigation between the Parties under this Agreement, each Party shall be responsible for its own attorney's fees and court costs through trials and appellate levels. The provisions of this paragraph shall survive the expiration or early termination or cancellation of this Agreement.

XXIX.

SUBORDINATION

Notwithstanding any other provisions of this Agreement, this Agreement is and shall be subject and subordinate to any conveyance and ground or underlying leases, and the rights of the BOARD under those leases and to all financing that may now or hereafter affect the leases, and to all renewals, modifications, consolidations, replacements and extensions thereof. This provision shall be self-operative and no further instrument of subordination shall be necessary. However, in confirmation of this subordination, the CITY shall execute, within thirty (30) calendar days of request, any certificate that the BOARD may request.

XXX.

**FLORIDA PUBLIC RECORDS LAW; AUDITS AND INSPECTIONS &
ACCESS TO RECORDS**

This Agreement shall be subject to Florida's Public Records Laws, Chapter 119, Florida Statutes. The Parties understand the broad nature of these laws and agree to comply with Florida's Public Records Laws and laws relating to records retention. The Parties shall keep and maintain public records required by the other to perform the service. The Parties shall keep records to show their compliance with this Agreement. The Parties' contractors and subcontractors must make available, upon request of the other Party, a Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, any books, documents, papers, and records of the applicable Party or its assigns, contractors or subcontractors which are directly pertinent to this specific Agreement for the purpose of making audit, examination,

excerpts, and transcriptions. Upon request from either Party's custodian of public records, the other Party shall provide the requesting Party with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law. The Parties shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following the expiration or early termination or cancellation of this Agreement if the Parties do not transfer the records to the other Party. The Parties, their assigns, contractors and sub-contractors shall retain all records for five (5) years after final payment is made or received and all pending matters are completed pursuant to Title 34, Sections 80.36(b)(1). The Parties, upon completion of the Agreement, shall transfer, at no cost to the other, all public records in their possession or keep and maintain public records required by the other Party to perform the service. If the one Party transfers all public records to the other Party upon completion of the Agreement, the transferring Party shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If a Party keeps and maintains public records upon completion of the Agreement, the Party shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the other Party, upon request from the requesting Party's custodian of public records, in a format that is compatible with the information technology systems of the requesting Party.

The Parties shall incorporate this provision into every contract that it enters into relating to the Agreement.

IF THE CITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE BOARD'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE BOARD'S CUSTODIAN OF PUBLIC RECORDS AT 305-995-1128, pr@dadeschools.net, and 1450 NE 2 Avenue, Miami, Florida 33132.

IF THE BOARD HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CITY'S DUTY TO PROVIDE PUBLIC RECORDS

RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS, ERIKA GONZALEZ, MMC, AT (305) 805-5006; E-MAIL: GONZALEZE@MIAMISPRINGS-FL.GOV; and 201 WESTWARD DRIVE, MIAMI SPRINGS, FL 33166

XXXI.

SIGNAGE

The CITY shall be permitted to erect identification signage on or near the Demised Premises, at the CITY'S sole cost and expense and in conformance with all applicable rules and regulations governing such use, subject to the express prior written approval of the BOARD, or designee.

Upon the termination, expiration or cancellation of this Agreement, the CITY shall remove, at its expense, any signage erected by it on the Demised Premises or School campus, and restore the area to the same or better condition as existed prior to installation of the signage.

XXXII.

HAZARDOUS MATERIALS

For purposes of this Agreement, the term "Hazardous Substances" shall include, but not be limited to, flammable substances, explosives, radioactive materials, asbestos, polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, medical wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic by Environmental Law. The term "Environmental Law" shall mean any law, ordinance, rule, order, decree, judgment, regulation and guideline (present and future), of any governmental, quasi-public authority and applicable board of insurance underwriters related to environmental conditions on, under, or about the School campus, or arising from the CITY'S use or occupancy of the School Site, including, but not limited to, soil, air, surface and/or ground water conditions, or governing the use, generation, storage, transportation, or disposal of Hazardous Substances in, on, at, to or from a site.

The term “Hazardous Substances Discharge” shall mean any deposit, spill, discharge, or other release of Hazardous Substance that occurs during the term, at or from a site or that arises at any time from the CITY’S use or occupancy of the School Site.

The CITY shall not cause or permit to occur: (a) any violation of any Environmental Law on the School Site or (b) the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substances on, under, or about the School Site, or the transportation to or from the site of any Hazardous Substance.

The CITY shall comply with all applicable Environmental Laws with respect to the School Site. The CITY shall make all submissions to, provide all information required by, and otherwise fully comply with all requirements of any governmental authority arising under Environmental Laws with respect to the School Site during the term of this Agreement. If any governmental authority requires any clean-up or clean-up measures because of any Hazardous Substances Discharge demonstrated to have been caused by the CITY with respect to the School Site or elsewhere on the School campus, then the CITY shall, at its own expense, prepare and submit the required plans and all related bonds and other financial assurances and shall carry out all such clean-up plans. The CITY shall promptly notify the BOARD of any notices or communications received from any jurisdictional entity in relation to any environmental findings on the School Site, and shall promptly provide the BOARD with all information reasonably requested by the BOARD regarding its use, generation, storage, transportation or disposal of Hazardous Substances in or at the site.

The obligations and liability of the CITY under this paragraph shall survive the expiration or termination of this Agreement.

XXXIII.

TAXES AND REGULATORY COMPLIANCE

The CITY shall be responsible for the collection and payment of any taxes, fees or other assessments, including but not limited to sales tax and ad valorem tax, all licenses, permits or other taxes, which may be imposed on the School Site as a result of the leasing, use, and occupancy of the School Site by the CITY. If at any time during the term

of this Agreement, there is a requirement by any jurisdictional entity for infrastructure improvements or other regulatory compliance due to the CITY'S lease, use or occupancy of the School Site, the CITY acknowledges and agrees that it shall be responsible for compliance with all applicable requirements, including any upgrades, modifications or changes, at the CITY'S sole cost and expense.

Notwithstanding any provision contained in this Agreement, the CITY shall not allow or engage in any activity which may impact the BOARD'S immunity or exemption from the consequences of any tax whatsoever.

XXXIV.

USE OF FACILITY AS A REVENUE GENERATOR

The BOARD shall retain the exclusive right to be the sole authorizer and recipient of revenue generators, in compliance with its Policies relating to its property, including, without limitation, third party advertising or installation of wireless telecommunications facilities, provided such endeavors do not unreasonably interfere with the CITY'S right to peaceful enjoyment of the School Site.

XXXV.

REPRESENTATIONS

The CITY is duly organized, validly existing, and in good standing under the laws of the State of Florida and has full power to execute, deliver, and perform its obligations under this Agreement. The execution and delivery of this Agreement, and the performance by the CITY of its obligations under this Agreement, have been duly authorized by all necessary actions of the CITY, and do not contravene or conflict with any rules, regulations, policies or laws governing the CITY, or any other agreement binding on the CITY. The individual(s) executing this Agreement on behalf of the CITY has/have full authority to do so.

The BOARD is duly organized, validly existing, and in good standing under the laws of the State of Florida has full power to execute, deliver, and perform its obligations under this Agreement. The execution and delivery of this Agreement, and the performance by the BOARD of its obligations under this Agreement, have been duly authorized by all necessary action of the BOARD, and do not contravene or conflict with

any rules, regulations, policies or laws governing the BOARD, or any other agreement binding on the BOARD. The individual(s) executing this Agreement on behalf of the BOARD has/have full authority to do so.

XXXVI.

AMENDMENTS

In addition to an extension of the term, which shall be accomplished through the execution by the Parties of an amendment to this Agreement, as set forth in Article XXI, the BOARD and CITY, by mutual agreement, shall have the right, but not the obligation, to amend this Agreement, which shall be accomplished through the execution by the Parties of an amendment to this Agreement duly approved by the School Board and by the CITY in compliance with all applicable laws, including, without limitation, Section 1013.15(1), F.S. Such amendments shall be effective only when signed by the BOARD and CITY and shall be incorporated as part of this Agreement.

XXXVII.

MISCELLANEOUS PROVISIONS

- A. **RECORDATION:** This Agreement may not be recorded, in any form, by either Party.
- B. **EMINENT DOMAIN:** If any part of the BOARD-owned property is taken in the exercise of the power of eminent domain, this Agreement shall terminate on the date title vests in the taking authority. The CITY may pursue all available remedies for the taking, but will have no interest in the award made to the BOARD.
- C. **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.
- D. **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this

Agreement.

- E. WAIVER OF TRIAL BY JURY:** THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER WITH RESPECT TO ANY MATTER ARISING UNDER THIS AGREEMENT OR THE CITY'S USE OR OCCUPATION OF THE SCHOOL SITE.
- F. BROKERS:** Subject to the limitations of Section 768.28, F.S., as same may be amended from time to time, the CITY and BOARD represent that there are no brokers, salesmen or finders involved in the transaction contemplated by this Agreement. If any other claim for a brokerage fee or commission in connection with this transaction is made by any broker, salesman or finder claiming to have dealt by, through or on behalf of the CITY or BOARD ("**Indemnitor**"), and in consideration of the mutual promises contained in this Agreement, Indemnitor shall indemnify and hold harmless the other Party ("**Indemnitee**"), and Indemnitee's officers, directors, agents and representatives, from and against any and all liabilities, damages, claims, fees and expenses whatsoever, except attorney's fees, court costs or costs of defense, with respect to said claim for brokerage. The provisions of this Paragraph shall survive the expiration or earlier termination or cancellation of this Agreement.
- G. PROMOTION:** Other than activities undertaken to promote the CITY'S recreational programs at the School Site, the CITY shall not be permitted to use the School Site or School campus for promotion or advertising of any type or nature whatsoever.
- H. COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one Agreement.
- I. SOVEREIGN IMMUNITY:** No provision contained in this Agreement shall be deemed a waiver of either Party's sovereign immunity.

J. JOINT USE COMMITTEE: A Joint Use Committee, made up of the District's Chief Facilities Design & Construction Officer, or designee, and the Recreation Director, or designee, or their respective successors, shall be established as of the Commencement Date of this Agreement. Responsibilities of the Joint Use Committee shall include, but are not limited to: 1) reviewing staff recommendations related to site development strategies impacting the Demised Premises or School campus; 2) recommending modifications to each Party's hours and/or Period of Use; 3) recommending the establishment or modification of rules and regulations at the School Site; and 4) assisting with resolution of disputes regarding this Agreement. The Joint Use Committee shall meet on an annual basis prior to the start of each school year, as established in the School Calendar, provided there is business to discuss, or as otherwise required, to provide recommendations related to the coordination and resolution of any issues pertaining to the scheduling, use, operation, maintenance, and supervision of the School Site. A primary role of the Joint Use Committee shall be to ensure that proper communication is maintained between the Parties, particularly as concerns any activities on the School Site that may impact the health, safety and wellbeing of individuals in the use by the School Site under this Agreement.

K. DUE DILIGENCE: The Parties acknowledge and agree that, at the request of the CITY, in order to determine the viability of increasing/modifying the Demised Premises, the CITY shall have an ability to conduct limited due diligence investigations on the subject property ("**Due Diligence Investigations**"). The nature and scope of the Due Diligence Investigations shall be as established and limited by the BOARD. Such Due Diligence Investigations shall be facilitated through the use of a Due Diligence Agreement ("**Due Diligence Agreement**") to be reviewed and approved by both Parties. Once duly executed by the Parties, the CITY may access the subject site, and conduct limited inspections, investigations and tests on the site, reasonably necessary for the CITY to determine the viability of the site for its intended use.

The Parties acknowledge that all Due Diligence Investigations shall be conducted at the CITY'S sole cost and expense and must be completed in compliance with all terms and conditions of the Due Diligence Agreement.

- L. SITE SECURITY:** The Parties acknowledge and agree that, prior to the commencement of on-site activities by the CITY under this Agreement, a site analysis shall be conducted with representatives of the CITY and applicable District Departments (including, but not limited to Safety, Facilities and School Operations), to determine the potential need for the installation of fencing or other site security measures. In the event such measures are required to ensure the safety and well being of students and staff of the School, and to ensure the integrity of School buildings and ancillary facilities, the District will send written notice to the CITY advising of same, and the CITY agrees to make the necessary improvements at the CITY'S sole cost.

XXXVII.

ENTIRE AGREEMENT

This Agreement and all Exhibits attached hereto constitute the entire agreement between the Parties and supersede all previous negotiations, and it may be modified only by an agreement in writing signed by the BOARD and the CITY.

[INDIVIDUAL SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the BOARD and CITY have caused this Agreement to be executed by their respective and duly authorized officers the day and year first written above.

WITNESSES AS TO THE BOARD:

Print Name: _____

Print Name: _____

**TO THE BOARD: APPROVED AS TO
RISK MANAGEMENT ISSUES:**
Office of Risk and Benefits Management

Risk and Benefits Officer
Date: _____

**TO THE BOARD: APPROVED AS TO
TREASURY MANAGEMENT ISSUES:**
Office of Treasury Management

Treasurer
Date: _____

BOARD:
THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA

By: _____
Dr. Jose L. Dotres
Superintendent of Schools
Date: _____

RECOMMENDED:

Raul F. Perez
Chief Facilities Design & Construction
Officer
Date: _____

**TO THE BOARD: APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

School Board General Counsel
Date: _____

WITNESSES AS TO THE CITY:

CITY:
CITY OF MIAMI SPRINGS

Print Name: _____

By: _____
J.C. Jimenez, ICMA-CM
City Manager

Date: _____

Print Name: _____

ATTEST:

Erika Gonzalez, MMC
City Clerk
Date: _____

**TO THE CITY: APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

By: _____
Weiss Serota Helfman Cole & Bierman,
P.L.
Date: _____

EXHIBIT "A"

TO

**JOINT USE AGREEMENT BY AND BETWEEN THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA, AND THE CITY OF MIAMI SPRINGS**

COMMENCEMENT DATE

The CITY and BOARD, through their respective designees, shall confirm the Commencement Date of this Agreement in a separate written instrument, which shall be attached hereto and become a part hereof as Exhibit "A".

[Consisting of ___ pages (____), including this title page]

EXHIBIT “B”

TO

**JOINT USE AGREEMENT BY AND BETWEEN THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA, AND THE CITY OF MIAMI SPRINGS**

DESCRIPTION OF DEMISED PREMISES

(to be attached hereto as Exhibit “B” subsequent to approval by the Parties of the designated area of the School Site to be included in this Agreement.)

[Consisting of ___ pages (____), including this title page]