LYONS CREEK MIDDLE SCHOOL TRAFFIC IMPROVEMENT AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2025, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "**SBBC**"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

CITY OF COCONUT CREEK
(hereinafter referred to as "**CITY**"),
whose principal place of business is
4800 West Copans Road, Coconut Creek, FL 33063

WHEREAS, SBBC is the owner of certain real property located at 4333 Sol Press Boulevard, Coconut Creek, Florida 33073 which is currently known as the Lyons Creek Middle School (hereinafter, the "**School**") as more particularly as depicted on Exhibit "A" and attached hereto and made a part hereof ("Property"); and

WHEREAS, SBBC and CITY recognize that the parent loop currently located in the front of Lyons Creek Middle School along Sol Press Boulevard, is causing significant traffic congestion during the School's arrival and dismissal times; and

WHEREAS, due to the traffic congestion on Sol Press Boulevard, parents are using the Recreation Complex parking area as a drop off and pick up point; and

WHEREAS, SBBC and the CITY desire to work together to find a solution to reduce the traffic congestion on Sol Press Boulevard; and

WHEREAS, SBBC and CITY believe that switching the current locations of the Bus Loop and parent loop is the best solution to reduce congestion along Sol Press Boulevard during the School's arrival and dismissal times; and

WHEREAS, Both SBBC and CITY are willing to respectively expend certain funds to make improvements at Lyons Creek Middle School to reduce the traffic congestion on Sol Press Boulevard during the School's arrival and dismissal times; and

NOW, THEREFORE, to mitigate the traffic congestion on Sol Press Boulevard and enhance the safety and efficiency of student drop-off and pick-up, the SBBC and the CITY agree to

implement the solutions delineated in this Lyons Creek Middle School Traffic Improvement Agreement (hereafter, "**Agreement**").

ARTICLE 1: RECITALS

1.01 **RECITALS**: SBBC and CITY agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2: SPECIAL CONDITIONS

2.01 **Ownership.** CITY acknowledges that SBBC is the owner of the Property, as more particularly depicted on **Exhibit "A."**

2.02 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on the date that the School Board approves the project and construction costs, which is anticipated to be April 15, 2025 and be in full force and effect as long as the SBBC owns the School.

2.03 **Project Funding.**

2.03.1 SBBC Funding and Responsibilities.

1. SBBC Funding Improvements**:** SBBC will contribute funding for the required improvements to switch the bus loop and parent loop locations, including paving, fencing, and exterior canopy, as depicted on **Exhibit "B**." The estimated cost for the stated improvement is $1,465,000.

2. SBBC Security Staff Costs: The planned improvement will necessitate additional security personnel to monitor gates and access points during the school day. The annual cost for this security is estimated to be $115,000, and the SBBC will be responsible for the stated funding.

2.03.2 City Funding and Responsibilities.

City Funded Modifications. The City will fund the modifications on City Property, the Right of Way, in two locations on the southeast and southwest sides of the property, Sol Press Boulevard, as depicted on **Exhibit "B**." The estimated cost for this is $75,000.

1. City's New Fence Installation. The City will budget the funds to install, if warranted following the modification of the traffic circuit and an evaluation by the City, a new fence along the boundary of the adjacent (to the WEST) city-owned wetland/preserve area to prevent access to the city-

owned wetland/preserve area during the School's arrival and dismissal times.

2. City's Annual Costs. The City currently incurs annual costs of $200,000 for its Traffic Unit Police Officers and Public Service Aides to monitor students gathering and to prevent disruptions at the adjacent Recreation Complex and Fire Station. If needed, the City will continue to be responsible for funding such costs.

2.04 **Improvements.** The location of any and all improvements to be placed on the Property, shall first be approved in writing by SBBC, it being intended that SBBC shall have absolute control over the location of any Improvements before they are placed on the Property. However, such approval by SBBC shall not be unreasonably withheld.

(a) The authority to grant approval regarding improvements in this Agreement is hereby delegated by SBBC to the SBBC's Chief Operations and Facilities Officer and Chief Building Official. Subject to the provisions of the foregoing paragraph, the parties further agree that the City will prepare and submit plans to SBBC's Chief Operations and Facilities Officer and Chief Building Official for review and approval. Any plans must meet State of Florida Building Code Requirements, Florida Fire Protection Code, and State Requirements for Educational Facilities as applicable, and any other requirements imposed by applicable law. SBBC's Chief Operations and Facilities Officer and Chief Building Official shall have forty-five (45) calendar days from the date of receipt to review and comment. All design documents shall be approved by SBBC's Chief Operations and Facilities Officer and Chief Building Official prior to submission to the Department of Education, if applicable.

(b) The City shall be solely responsible for all contractual obligations owed to the contractor engaged to construct the Improvements.

(c) Before the commencement of the Improvements, the City shall require the engaged contractor to furnish a surety payment and performance bonds that guarantee the completion of the Improvements and the performance of the work necessary to complete the Improvements; as well as, full payment of all suppliers, material men, laborers or subcontractors employed to provide services to complete the Improvements. The contractor shall be required by contract to deliver a copy of the surety bond to the City. Such bonds shall remain in effect for one (1) year after completion of the Improvements. The contractor will cause the correction of any defective or faulty work or materials that appear after the completion of the Improvements within the warranty period of such work performed.

(d) Any Improvements placed on the Property without the prior written approval of SBBC as to location shall immediately be removed or relocated within ninety (90) calendar days of written demand by the SBBC, unless the parties agree that the Improvements should remain whereby this Agreement will be amended, in writing to reflect the use and responsibility of the Improvements.

(e) Consistent with provisions in this Agreement, all permitted Improvements made by the City, if not removed and space restored to its original condition, shall become the property of the SBBC. The City agrees that the SBBC shall not compensate the City for such improvements.

(f) As stated herein, the City shall construct all improvements its sole expense.

2.04.1 Improvements Timeline. The commencement and completion of the respective improvements by the SBBC and the City shall be governed by the following timeline, which shall take effect upon the School Board's approval of the project which is anticipated to be April 15, 2025. The project is projected to achieve substantial completion within 270 days from the date of commencement. The switched bus and parent loops are expected to be operational by the start of the 2025/2026 school year. Final approval is estimated to require an additional 30 days. The project is anticipated to reach full completion by February 9, 2026.

2.05 **Maintenance.**

2.05.1 SBBC Responsibilities. The SBBC is solely responsible for maintaining the Parent and Bus Loops at its sole cost and expense. If SBBC identifies any dangerous or unsafe condition while using the Bus and Parent Loops, it must immediately notify the SBBC's Executive Director, Physical Plant Operations (PPO) Department or designee. The SBBC must ensure that any unsafe conditions or defects in the SBBC modified areas are remedied within a reasonable time, once the SBBC has actual or constructive notice of the issue.

2.05.2 CITY Responsibilities. The CITY shall, at its sole expense, properly and appropriately maintain and repair road modifications, including, curbing, sidewalks, streetlights, and landscaping within the right of way Areas, as necessary. Any and all costs and expenses associated with the construction and operation of the right of way areas, to include, but not be limited to, liability insurance, maintenance, repair, refurbishment, replacement, and the like, shall be the sole responsibility of the CITY.

2.06 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified The place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Chief Operations and Facilities Officer
The School Board of Broward County, Florida

600 SE 3rd Avenue, 10th Floor
Fort Lauderdale, Florida 33301
Director of Facility Planning & Real Estate
The School Board of Broward County, Florida
600 SE 3rd Avenue, 8th Floor
Fort Lauderdale, Florida 33301

To CITY: Sheila Rose, City Manager
City of Coconut Creek
Government Center / City Hall
4800 West Copans Road
Coconut Creek, Florida 33063

With a Copy to: Terrill Pyburn, City Attorney
Government Center / City Hall
4800 West Copans Road
Coconut Creek, Florida 33063

2.07 **Background Screening.** The City agrees to comply with all requirements of Sections 1012.32 and 1012.465 , Florida Statutes, and all of its personnel who (1) are to be permitted access to SBBC school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by the SBBC in advance of the CITY or its personnel providing any services under the conditions described in the previous sentence. The CITY shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to the CITY and its personnel. The Parties agree that the failure of the CITY to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. To the extent permitted by law, the CITY agrees to indemnify and hold harmless the SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from the CITY's failure to comply with this section or with Sections 1012.32 and 1012.465, Florida Statutes. Nothing herein shall be construed as a waiver by SBBC or the CITY of sovereign immunity or of any rights or limits to liability existing under Section 768.28, Florida Statutes.

2.08 **Public Records.** Both parties are required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no

cost to the other party, all public records in that party's possession upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to the other party in a format that is compatible with the other party's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Easement and all attachments thereto are public records and do not constitute trade secrets.

2.09 **Indemnification.** Each party agrees to be fully responsible for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

2.10 **Insurance Requirements**. Upon execution of this Agreement, the CITY shall submit to the SBBC, copies of its certificate(s) of insurance or self-insurance evidencing the required coverage. In addition, the Parties shall comply with the following insurance requirements throughout the term of this Agreement:

(a) Each party acknowledges without waiving its right of sovereign immunity as provided by Section 768.28 Florida Statutes, that each party is self-insured for general liability under Florida Statutes with coverage limits of $200,000 per person and $300,000 per occurrence, or such monetary waiver limits that may change and be set forth by the legislature.

(b) Each party shall keep in effect during the full term of the Agreement, self-insurance under a Risk Management Program in accordance with Section 768.28 Florida Statutes, for General and Automobile Liability. Worker's Compensation Insurance with Florida statutory benefits in accordance with Chapter 440, Florida Statutes, including Employer's Liability limits not less than $100,000/$100,000/$500,000 (each accident/disease-each employee/disease-policy limit). (b) Self-insurance and/or insurance requirements shall not relieve or limit the liability of either party, except to the extent provided by Section 768.28, Florida Statutes. The Parties reserve the right to require other insurance coverage that both Parties deem mutually necessary depending upon the risk of loss and exposure to liability, subject to each party's Commission or Board approval, if necessary.

(c) Violations of the terms of this section and its subparts shall constitute a material breach of the Agreement and the non-breaching party may, at its sole discretion, cancel the Agreement and all rights, title and interest shall thereupon cease and terminate.

(d) The following wording must be included in the Certificate of Insurance's description of operations: Certificate Holder: The School Board of Broward County, 600 Southeast Third Avenue, Fort Lauderdale, Florida, 33301.

(e) No activities under this Agreement shall commence until the required proof of self-insurance and/or certificates of insurance have been received and approved by the Risk Managers of each party.

(f) The City shall maintain Owned, Non-Owned and Hired Auto Liability insurance with Bodily Injury and Property Damage limits of not less than $1,000,000 Combined Single Limit

2.11 **Restore.** The CITY covenants and agrees that if any portion of the SBBC Property is disturbed, damaged, or destroyed by the CITY, at any time, the CITY shall, at its sole expense, promptly restore the disturbed, damaged, or destroyed portion of the Property to its original condition to allow for the SBBC's use.

2.12 **Equal Opportunity Provision**. The Parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression, marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third-Party Beneficiaries.** The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the Parties intend to directly or substantially benefit a third party by this Agreement. The Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the Parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any Agreement.

3.03 **Independent Contractor.** The Parties to this Agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to the SBBC retirement, leave benefits or any other benefits of the SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. The SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days' notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.05 **Termination**. This Agreement may be canceled with or without cause by either party during the term hereof upon thirty (30) days written notice to the other party of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's property pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's Property and Easement Area after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.07 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.08 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida. Each party agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida or the United States District Court for the Southern District of Florida shall have jurisdiction over it for any dispute arising under this agreement.

3.09 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.10 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

3.11 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.12 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.13 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.14 **Preparation of Agreement**. The Parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.15 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.16 **Waiver.** The Parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.17 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, epidemics, pandemics, government regulations, and the issuance or extension of existing government orders or the United States, the State of Florida or local county and municipal governing bodies, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure. In the event any of the licenses facilities, or any part thereof, shall be destroyed by fire or any other cause, or if any other casualty or any unforeseen occurrence shall render the fulfillment of this Agreement by either party impossible, then and thereupon, this Agreement shall be modified to exclude the use of the damage licensed facility until such time as the owning party, at its direction, returns the facility to an operable condition.

3.18 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.19 **Agreement Administration**. SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement. Such actions shall include, but not be limited to, the immediate suspension of the use or occupancy of any or all SBBC Property as a result of the anticipation of imminent existence or existence of any of the conditions listed in Article 3.17 – Force Majeure – herein above.

3.20 **Counterparts and Multiple Originals**. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.21 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for

whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

*****This Space Intentionally Left Blank; Signature Pages Follow*****

SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(Corporate Seal)

The School Board of Broward County, Florida

By: _____
Debra Hixon, Chair

ATTEST

_____
Dr. Howard Hepburn, Superintendent of Schools

Approved as to Form and Legal Content:

_____
Office of the General Counsel

CITY OF COCONUT CREEK

CITY OF COCONUT CREEK, FLORIDA

ATTEST:

By: _____
Sheila N. Rose, City Manager

_____
Joseph J. Kavanagh, City Clerk

Approved as to form by:

By: _____
Terrill C. Pyburn, City Attorney