

Exhibit "1"

PARKING LICENSE AGREEMENT

THIS PARKING LICENSE AGREEMENT is made and entered into this ____ day of _____, 2017 ("License") by and between the **City of Coconut Creek, Florida**, whose address is 4800 W. Copans Road, Coconut Creek, Florida 33063 ("City") and The **School Board of Broward County, Florida** whose address is 600 SE. 3rd Ave, 11th Floor, Fort Lauderdale, FL 33301 ("SBBC").

WHEREAS, City is the owner of the property generally located at 5460-5480 Johnson Road, Coconut Creek, Florida, more particularly described in **Exhibit A** attached hereto (the "City Property"); and

WHEREAS, SBBC is the owner of the property generally located at 5400 Johnson Road, Coconut Creek, Florida, and operates a public elementary school thereon known as "Tradewinds Elementary School" (hereinafter "Tradewinds Elementary"); and

WHEREAS, SBBC has requested permission from City for Tradewinds Elementary to use the City Property for parking purposes as needed; and

WHEREAS, City has agreed to permit Tradewinds Elementary employees and/or its permitted guests as permitted by the principal to use the City Property for parking purposes upon the terms and conditions as stated in this License.

NOW THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration, the parties agree as follows.

1. **LICENSE.** City hereby grants to SBBC a temporary and nonexclusive license to utilize the City Property upon and subject to the terms and conditions set forth herein. The rights of SBBC under this License include a non-exclusive right over and across the City Property for ingress and egress.
2. **TERM.** The term of this License shall commence on the date that this License is fully executed by the last party to sign this License and shall end on June 17, 2020, unless otherwise sooner terminated in accordance with the terms hereof, or extended by SBBC's exercise of its option to renew as set forth below in Paragraph 3 of this Agreement. SBBC acknowledges that the City plans on redeveloping the City Property during the term of this License Agreement and that upon being notified by City of the commencement of construction on the City Property that SBBC shall not be permitted access of any kind to or upon the City Property for parking or any other purpose until notified by City of the completion of construction. City shall give SBBC thirty (30) days advance notice of the date of commencement of construction and SBBC shall vacate the City Property on or before that date set forth in said notice whether or not construction actually commences on that date.

Failure of SBBC to vacate the City Property within thirty (30) days after notice of commencement of construction is given shall constitute a material default hereunder and City may terminate this License without further notice to SBBC.

3. **RENEWAL OPTION.** SBBC shall have of the option to renew the term of this License for two (2) additional one (1) year periods (“Renewal Term”), subject to the following conditions: (i) SBBC shall not be in default of its obligations under this License or any other agreement with the City at the time SBBC exercises such option to renew nor at the commencement of the pertinent renewal period, and (ii) SBBC District Staff shall provide City with written notice exercising SBBC’s option to renew no less than ninety (90) days prior to the expiration of the initial term or any subsequent Renewal Term. All Renewal Terms shall be on the same terms and conditions as set forth in this License Agreement. Each Renewal Term shall run for a period of one (1) year from June 18th of the year of renewal until the following June 17th.
4. **CONDITION OF PROPERTY.** SBBC acknowledges that the City Property is un-lit and not paved or otherwise improved as a parking lot, and that City is permitting SBBC employees and/or its permitted guests as determined by the principal at Tradewinds Elementary to park on City Property in its “as is” condition, which at present is unpaved, compacted rock/dirt and or grass, and that any improvements or repairs necessary for SBBC’s use of the City Property as a parking lot shall be at the sole cost and expense of SBBC. SBBC shall not pave the City Property, construct any improvements thereon, including but not limited to lighting, or make other permanent improvements to the City Property without the express written permission of the City. SBBC shall cooperate, if requested by City, in establishing a layout of parking spaces on the City Property, including the maximum number of vehicles permitted. SBBC shall be solely responsible for maintenance of the City Property at SBBC’s expense during the term of this License with respect to keeping the lot in a mowed and trimmed condition, clear of trash and other debris.
5. **TERMINATION.** Either party shall have the right to terminate this License Agreement with thirty (30) days advanced written notice. Notwithstanding the foregoing, City shall have the right to terminate this license in the event that SBBC has not removed the eight (8) portable classroom units located on the SBBC property at Tradewinds Elementary School by September 30, 2017. Upon removal of the portables, SBBC shall restore the area with sod. In the event SBBC has not removed all of the portable units from Tradewinds Elementary by September 30, 2017, which is the end of SBBC’s 2016/17 Fiscal Year, City may terminate this License Agreement without notice to SBBC or opportunity to cure. In the event that SBBC terminates this License Agreement prior to September 30, 2017, SBBC acknowledges that it shall in no way relieve SBBC’s obligation to remove all of the portable units from Tradewinds Elementary School by September 30, 2017.

6. PERMITTED USE:

- a. The City Property shall be used by SBBC only for the purposes of employee parking by SBBC employees and/or its permitted guests parking as determined by the principal at Tradewinds Elementary, and for no other purpose whatsoever. SBBC shall not otherwise hold the property open for use by the general public and SBBC shall not collect any rate or charge for the parking of vehicles on the City Property.
 - b. SBBC shall comply with all federal, state and local laws, ordinances, codes and regulations regarding the use of the City Property and shall undertake all measures reasonably necessary to ensure to City's satisfaction that all of SBBC's employees and/or its permitted guests as determined by the principal at Tradewinds Elementary using the City Property shall do so in an acceptably safe manner and shall observe the parking organization as established by SBBC from time to time including identified entrances and driveways.
 - c. The License herein granted shall be for parking during normal school operating hours only except in the case of school sponsored special events, which may require access to the City Property after normal school operating hours, however, SBBC acknowledges that the City Property has no lighting of any kind and that SBCC shall be responsible for providing security and temporary lighting for City Property in the event it is being used by SBBC after dark. The City Property is currently enclosed on three sides by a chain link fence and has an identified gate which SBBC shall be responsible for locking and unlocking during daylight hours when the City Property is in use by SBBC employees and/or its permitted guests as determined by the principal at Tradewinds Elementary for parking. SBBC shall keep all gates to the City Property locked whenever the property is not in use by SBBC for employees and/or its permitted guests as determined by the principal at Tradewinds Elementary parking.
 - d. SBBC shall not permit any waste or damage to be done to the City Property and shall maintain the property in good condition and repair and free of any litter or other waste. Nothing contained herein shall require SBBC to make improvements to the current condition of the property other than routine mowing, trimming, and maintenance required for the safety of its employees and/or its permitted guests as determined by the principal at Tradewinds Elementary utilizing the property.
- 7. INDEMNIFICATION.** Each party agrees to be fully responsible for its acts of negligence, or its' agents' 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. Nothing herein is intended to serve as a waiver of sovereign immunity by the City or SBBC to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes.

8. **DAMAGE OR LOSS.** SBBC, as a material part of the consideration to City for the granting of this License, hereby assumes all risk of damage to its property or injury to all persons and personal property in or upon the City Property arising from SBBC's right to use the property. SBBC hereby releases and relieves City, and waives its entire right of recovery against City, for any loss or damage arising out of or incident relating to the City Property.
9. **CONDITIONS AND RESTRICTIONS.** The use of the City Property is subject to the following conditions and restrictions:
 - a. SBBC shall not alter the City Property or any improvements thereon without the express written approval of City.
 - b. SBBC hereby accepts the City Property subject to all conditions, covenants and restrictions of record, and all applicable zoning, municipal, county and state laws, ordinances, regulations and any changes thereto, governing the use and occupancy of the City Property.
 - c. SBBC shall keep the City Property in a mowed and trimmed condition, clear of all litter and debris.
 - d. SBBC shall ensure that the gates to the City Property are closed and secured at all times during the school's non-operating hours.
 - e. SBBC shall post signage in a conspicuous location on and/or at the entry to the City Property indicating that the parking on the property is restricted to the employees and/or its permitted guests as determined by the principal at Tradewinds Elementary only.
 - f. SBBC shall remove the eight (8) portable classroom units located on the SBBC property at Tradewinds Elementary School by September 30, 2017. Upon removal of the portables, SBBC shall restore the area with sod.
10. **SURRENDER.** Upon termination of this License, all right, title and interest of SBBC in and to this License shall be surrendered peaceably to the City. SBBC shall remove any personal property and restore the City Property to its condition as of the commencement of the License, normal wear and tear excepted.
11. **INSURANCE.** SBBC is self-insured for general liability under state law 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. SBBC

shall maintain in full force and effect during the term of this License, at SBBC's sole cost and expense the following:

- a. General Liability Insurance, with limits of liability not less than \$1,000,000 Each Occurrence \$2,000,000 General Aggregate. SBBC shall procure and maintain at its own expense, and keep in effect during the full term of the Agreement, a policy or policies of insurance or self-insurance under a Risk Management Program in accordance with Florida Statutes, Section 768.28 for General Liability.
- b. Self-insured 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).
- c. Automobile Liability Insurance: SBBC shall maintain Automobile Liability Insurance covering all Owned, Non-Owned and Hired vehicles in an amount of not less than One Million Dollars (\$1,000,000) per occurrence Combined Single Limit for Bodily Injury and Property Damage.

Self-insurance and/or insurance requirements shall not relieve or limit the liability of SBBC, except to the extent provided by, Section 768.28, Florida Statutes.

Such policy of insurance shall cover any accident or incident arising in connection with the presence of SBBC or its agents, employees, workers, guests or invitees on the City Property. Such insurance shall be primary and noncontributing, and shall not be cancelable or subject to reduction of coverage or other modification without 30 days prior written notice to City. SBBC shall concurrently with the execution of this License deliver to City a copy of such insurance policy, or a certificate of insurance evidencing such coverage. In the event SBBC's insurance policy is renewed, replaced or modified, SBBC shall promptly furnish City with a copy of such policy, or a certificate of insurance, as renewed, replaced or modified.

12. **DEFAULT.** In the event of a breach by SBBC of any of the terms of this License, all rights of SBBC hereunder shall cease and terminate, and in addition to all other rights City may have at law or in equity, City may reenter the City Property and take possession thereof without notice, and may remove any and all persons therefrom, and may also cancel and terminate this License; and upon any such cancellation, all rights of SBBC in and to the City Property shall cease and terminate.

13. **SECURITY MEASURES.** SBBC hereby acknowledges that City is not obligated to, nor does it, provide any security measures with respect to the City Property. SBBC assumes all responsibility for the protection of any persons, property or vehicles utilizing the City Property under the terms of this License.

14. **WAIVER.** The waiver by City of any breach of this License, or the failure on the part of City to enforce any right it may have hereunder, shall not constitute a waiver

of any other or subsequent, similar, or different breaches, or a waiver of City's power to enforce such rights.

15. ENVIRONMENTAL REPRESENTATIONS:

a. SBBC shall, at its expense comply with all laws, rules, orders, ordinances, directions, regulations and requirements of Federal, State, county and municipal authorities pertaining to SBBC's use of the Property and with any recorded covenants, conditions and restrictions, including, without limitation, all applicable Federal, State and local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials (as defined below or otherwise), waste disposal, air emissions and other environmental matters, all zoning and other land use matters, and with any direction of any public officer or officers, pursuant to law, which impose any duty upon SBBC or City with respect to the use or occupancy of the City Property.

b. SBBC shall not cause or permit any Hazardous Materials to be brought upon, kept or used in or about the City Property by its agents, employees, contractors or invitees. If the presence of Hazardous Materials on the Property caused or permitted by SBBC results in contamination of the City Property or any other property, or if contamination of the City Property or any other adjacent property by Hazardous Materials otherwise occurs for which SBBC is legally liable for damage resulting therefrom, then SBBC, shall be responsible for any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the City Property, damages for the loss or restriction on use of rentable or unusable space or of any amenity or appurtenance of the City Property, damages arising from any adverse impact on marketing of building space or land area and sums paid for reasonable attorney's fees, court costs, consultant fees and expert fees that arise during or after the Term of this License or any renewal thereof as a result of the contamination. This indemnification of City by SBBC includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial work, removal or restoration work required by any Federal, State or local government agency because of Hazardous Materials present in the soil or ground water on or under the City Property or adjacent property. Without limiting the foregoing, if the presence of any Hazardous Materials on the City Property (or any other adjacent property) caused or permitted by SBBC results in any contamination of the City Property, SBBC shall promptly take all actions at SBBC's sole expense as are necessary to return the City Property to the condition existing prior to the introduction of any such Hazardous Materials as evidenced by the Environmental Site Assessment prepared by **Kimley-Horn & Associates, Inc.** dated **May 4, 2016**, provided that City's approval of such actions is first obtained. Notwithstanding the above, nothing in this paragraph is intended to serve as a waiver of sovereign immunity to which SBBC may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes.

c. For purposes of this License, the term "Hazardous Materials" means any one or more pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, solvent or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, as amended, or any other Federal, State or local environmental law, regulation, ordinance, or rule, whether existing as of the date of this Licensee or subsequently enacted.

16. **NOTICE.** All notices, consents, requests, demands, approvals, waivers and other communications desired required to be given hereunder shall be in writing and signed by the party so giving notice and shall be effectively given or served on the date of personal service upon the person to whom it is directed, or of the date the notice is received or rejected provided it is sent U.S. First Class registered or certified mail, postage prepaid, return receipt requested, or on the date the notice is delivered by nationally recognized courier service to the address of the person to whom it is directed. For the purpose of notice, the addresses of the parties are:

CITY: City Manager
City of Coconut Creek, Florida
4800 West Copans Road
Coconut Creek, FL 33063

SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 SE 3rd Avenue – 10th Floor
Fort Lauderdale, FL 33301

With a Copy to: Director of Facility Planning and Real Estate
The School Board of Broward County, Florida
600 SE 3rd Avenue – 8th Floor
Fort Lauderdale, FL 33301

Either party may, from time to time, change its address by giving written notice thereof in the manner outlined above.

17. **GOVERNING LAW.** This License shall be interpreted, enforced and governed by the laws of the state of Florida as now and hereafter in force. The venue for actions arising out of this License is fixed exclusively in Broward County, Florida.
18. **SEVERABILITY.** In the event that any one or more of the provisions contained in this License shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the remainder of

the provisions of this License shall continue in full force and effect without impairment.

19. **NO RECORDING.** This license or a memorandum of license shall not be recorded in the official records of Broward County Florida by either party hereto.
20. **ASSIGNMENT.** No assignment of this License shall be made in whole or in part by SBBC without the express written consent of the City Commission.
21. **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, 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.
22. **CONTRACT 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.
23. **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.
24. **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.

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IN WITNESS WHEREOF, CITY and SBBC have caused these presents to be executed as of the day and year first above written.

CITY OF COCONUT CREEK, FLORIDA

By: _____
MARY C. BLASI, City Manager

ATTEST:

Leslie Wallace May, MMC, City Clerk

APPROVED AS TO LEGAL FORM AND
SUFFICIENCY

By: _____
TERRILL C. PYBURN, City Attorney

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By: _____
Abby M. Freedman, Chair

ATTEST:

Approved as to form and legal content:

Name: Robert W. Runcie
Title: Superintendent of Schools

Office of the General Counsel