

**AGREEMENT
BETWEEN
THE CITY OF JACKSONVILLE
AND
DUVAL COUNTY SCHOOL BOARD**

THIS AGREEMENT ("AGREEMENT"), is made and entered into this ^{6th}~~31st~~ day of ~~MARCH~~^{MAY}, 2003, by and between the **CITY OF JACKSONVILLE**, a municipal corporation in the State of Florida ("City") and the **Duval County School Board**, an agency existing under the laws of the State of Florida ("Recipient").

WITNESSETH:

WHEREAS, the City has made certain funds available to Recipient to construct certain improvements at Alimacani Park, 2051 San Pablo Road, Jacksonville, Florida 32224, which is the property of the the Duval County School Board, description of such improvements ("improvements") is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, such improvements' appropriation, in the amount of \$250, 000.00, is provided through Ordinance 2001-1333, referenced hereto and made a part hereof; and

WHEREAS, it is in the City's best interest to provide such improvements so that the community's residents may have a safe, diverse and wholesome recreational environment ;

NOW THEREFORE, in consideration for the mutual promises contained herein and for other good and sufficient consideration, the parties agree that:

1. **Incorporation of Recitals.** The above stated recitals are true and correct and, by this reference, are incorporated herein and made a part hereof.
2. **Effective Date.** This Agreement shall become effective on the day and year first written above and shall continue in full force, unless terminated earlier as provided in this Agreement.
3. **Assistance with Purchasing Improvements.** The City shall assist Recipient in the funding of certain improvements, as more particularly described in Exhibit A. The City shall give a total contribution in the amount of \$250,000.00 ("contribution") for such improvements. The City will not maintain or support such improvements at such site.
4. **Improvements.** Recipient shall comply with the standards and priority schedule as stated in Exhibit A. For purposes of this Agreement, "Additive Alternative" shall be defined as the final stage of improvements commenced by the Recipient. Such an "Additive Alternative" improvement shall only be commenced when it

is reasonably concluded that sufficient residual contribution funds remain to fully complete the Additive Alternative improvement.

5. **Payment on Draw or Reimbursement Basis.** The City's contribution for said improvements, pursuant to this Agreement, shall be on a draw for work done basis or on a cost for reimbursement basis. Such payment will be made within seven (7) days of Recipient's submittal to the City of documentation, including bills, invoices and other documents satisfactory to the City's General Accounting Division, to justify withdrawal or reimbursement payment to the Recipient.

6. **Recipient Compliance.** Recipient shall comply with all federal, state and local laws, rules, regulations and ordinances.

7. **City Representative.** The City's Parks, Recreation and Entertainment Department, in conjunction with the Department of Public Works, shall be responsible for overseeing, administering and implementing this Agreement. The City shall by subsequent written notice advise Recipient of the contact person in the Parks, Recreation and Entertainment Department.

8. **Accounting/Report.** Recipient shall provide the Parks, Recreation and Entertainment Department and the Council Auditor with a full accounting/report. Such accounting/report shall be once form approved by the Council Auditor and shall include, but not be limited to, copies of all invoices and checks. Such accounting/report shall be submitted thirty (30) days after the day and year first above written and shall continue at thirty (30) day intervals until the funds are spent in their entirety.

9. **Maximum Indebtedness.** The City shall be indebted to the maximum amount of \$250,000.00. The Recipient shall be responsible for any and all costs in excess of \$250,000.00.

10. **Indemnification.** Recipient shall hold harmless, indemnify and defend the City, its officers, employees and elected officials against any claim, action, loss, damage, injury, liability, cost and expense, of whatever kind or nature (including, but not by way of limitation attorneys fees, expert witness fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property, arising out of or incidental to any negligent act or omission of the Recipient in its performance under this Agreement.

11. **Recipient Operations.** Recipient shall, at no additional cost or expense to the City, operate and maintain the Premises as a public park for recreational purposes and such premises shall be open and available to all residents and visitors to the City of Jacksonville, with no discrimination on the basis of race, creed, color, sex, religion, national origin, marital status, age, disability or residence.

12. **Recipient Responsibilities.** Recipient shall be solely responsible for all maintenance and repairs to the Premises at no additional cost to the City including, but not limited to:

(a) Recipient shall maintain and keep the Premises in good repair and shall provide all maintenance and repair of whatsoever kind of nature, mowing, yard upkeep, litter, trash and garbage pickup and disposal, and general park and building supervision.

(b) Recipient shall promptly pay and be responsible for all gas, water, sewer, power and electric, rates or other charges which may become due and payable during the term of this Agreement for any gas, water sewer service, power and electricity used on the Premises.

13. **Recipient Insurance Requirements.** Recipient will maintain a public liability self-insurance program as defined by Section 768.28, Florida Statutes. During the construction term, Recipient will require contractor to carry and maintain all risk builders' risk insurance equal to the replacement cost value of the project which at no time will be less than the contribution as defined in Section 3 of this Agreement, naming the City as an additional insured. Upon completion, Recipient will maintain all risk property insurance at replacement cost value which at no time will be less than the contribution as defined in Section 3 of this Agreement.

14. **Non-Waiver.** The waiver, by either party, of any breach of this Agreement, by the other party, shall not be construed as a waiver of any subsequent breach of duty or covenant imposed by this Agreement.

15. **Right of Entry.** The City, at reasonable times, has the right to enter into and upon the Premises for the purposes of viewing the same and for the purpose of having Recipient make any such repairs as Recipient is required to make under the terms of this Agreement.

16. **City Breach.** Except as otherwise provided in this Agreement, if the City shall neglect or fail to perform or observe any requirement or violate any provision of this Agreement and such breach shall continue for a period of thirty days after written notice thereof is given by the Recipient to City, then Recipient lawfully may immediately, or at any time thereafter and without further notice or demand, enter into and upon the Premises, or any part thereof, and repossess the same as of its former estate and expel the City and remove its effects forcefully, if necessary, without being taken or deemed to be guilty of any manner of trespass and thereupon this Agreement shall terminate, but without prejudice to any remedy which might otherwise be used by the Recipient to recover any breach of City's covenants herein contained. If the City does so breach, it shall remove the tennis courts and running track.

17. **Recipient Breach.** If the Recipient shall neglect or fail to perform or observe any requirement or violate any provision of this Agreement and such breach shall continue for a period of 30 days after written notice thereof is given by the City to the Recipient, then the City lawfully may, immediately, or at any time thereafter, and without further notice or demand, remove all City property and terminate this Agreement without prejudice to any remedy which might otherwise be used by the City to recover for any breach of Recipient's covenants herein contained.

18. **Taxes/Insurance Premiums.** The Recipient shall pay all real estate taxes and other taxes and fire insurance premiums on the Premises. Recipient shall not be liable to carry fire insurance on the person or property of the City or any other person or property which may now or hereafter be placed in the Premises.

19. **Notices.** All notices, as required under this Agreement shall be by certified mail return receipt requested:

As to the City:

Debra J. Igou
Director
Parks, Recreation, and Entertainment
801 North Market Street
Jacksonville, Florida 32202

As to the Recipient:

McGlade L. Holloway
Facilities Division
Duval County School Board
1701 Prudential Drive
Fifth Floor
Jacksonville, Florida 32207

20. **Termination for Convenience.** The City shall have the absolute right to terminate this Agreement without cause upon giving sixty (60) days advance written notice to the Recipient.

21. **Actions of Mayor and Corporation Secretary.** The Mayor and Corporation Secretary shall have the authority to terminate this Agreement under any circumstances in which the City has a legal right to terminate this Agreement in accordance with the provisions hereof.

22. **Construction.** The parties agree that they have had meaningful discussion and/or negotiations of the provisions, terms and conditions contained in this Agreement. Therefore, doubtful or ambiguous provisions, if any, contained in this Agreement, shall not be construed against the party who physically prepared this Agreement. The rule commonly referred to as "*Fortius Contra Proferentium*" shall not be applied to this Agreement or any interpretation thereof.

23. **Entire Agreement.** This Agreement represents the entire agreement by and between the parties concerning the receipt and expenditures of the funds specified herein. No agreement, statement, representation, course of action or course of statement,

representation, course of action or course of conduct by either of the parties hereto, or by their authorized representatives, shall be binding if it is not in writing and contained in this Agreement. This Agreement may be amended by written instrument signed by the parties or their lawfully authorized representatives.

24. **Severability.** If any section, paragraph, sentence or other part of this Agreement is declared to be unenforceable or unlawful by a court of competent jurisdiction, then, in such event, such section, paragraph, sentence or other part shall be severed from this Agreement and shall not affect other terms and conditions herein.

25. **Section/Paragraph Headings.** All section/paragraph headings herein are provided for convenience only and shall not be used in the interpretation or construction of the Agreement.

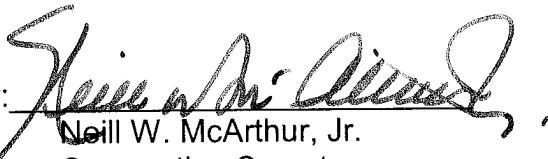
26. **Governing Law/Venue.** This Agreement shall be governed by the law of the State of Florida. Venue for litigation of this Agreement shall be in a court of competent jurisdiction in Jacksonville, Florida.

27. **Construction Inspection.** The Recipient will perform project construction inspections for compliance with local and State Regulations for Educational Facilities ("SREF") requirements and any City **land** development requirements and permits.

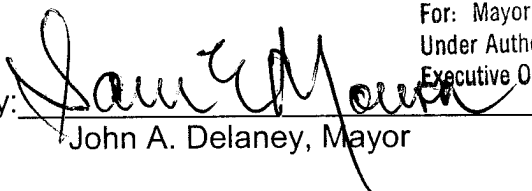
28. **Time of the Essence.** Time is of the essence with regard to the completion of the Agreement.

IN WITNESS WHEREOF, the parties, by and through their lawfully authorized representatives have executed this Agreement on the day and year first above written.

ATTEST:

By: 
Neill W. McArthur, Jr.
Corporation Secretary

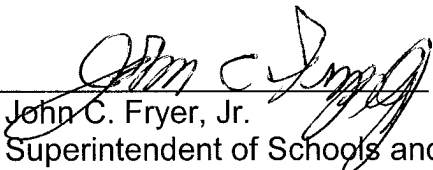
CITY OF JACKSONVILLE

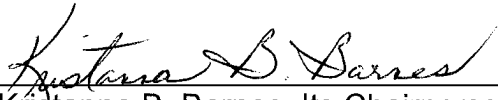
By: 
John A. Delaney, Mayor

Sam E. Mousa
Chief Administrative Officer
For: Mayor John Delaney
Under Authority of
Executive Order No. 00-10

KBB



DUVAL COUNTY SCHOOL BOARD

Attest: 
John C. Fryer, Jr.
Superintendent of Schools and Ex
Officio Secretary

By: 
Kristanna B. Barnes, Its Chairperson

APPROVED BY BOARD
ON March 4, 2003
F.C.

In compliance with the Charter of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement, and provision has been made for the payment of the monies provided therein to be paid.


Director of Finance
7391-42 

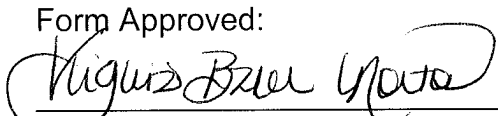
Form Approved:

Assistant General Counsel
2 APR 1 2003

EXHIBIT A

(page 1 of 4)

Guidelines

All improvements are to be constructed according to plans and specifications prepared by Abbey Civil Engineers, Inc., as approved by the Duval County School Board and other regulatory agencies, as applicable.

Site Preparation (\$12,000)

1. Remove 27 pine trees by the roots or stumps ground one foot below grade.
2. Fill holes created by removal of trees, level ground and sod over.
3. All shingle strip material not used will be properly disposed of.
4. Remove wooden border around existing sand volleyball courts and remove 4 wooden volleyball standards.
5. Move bench and concrete by proposed tennis courts to opposite corner by soccer goal and replace concrete if damaged.

Handicap Access to the Track (\$3,000)

5' wide sidewalk leading from parking lot to the gate. (approximately 135 feet long)

10" of extra shingle strips put from the gate to the sod buffer that will be between the playground and the track. Extra care in making this level. (Shingle strips will be taken from the northeast corner of the existing track) This area is approximately 83' long and 10' wide.

Replace existing shingle strip track with asphalt track (\$110,000)

Inside edge of track diameter will be approximately 1272', at the 7' mark or centerline the track will be 1320' and the outside diameter will be approximately 1390'. The track width will be 14' with yellow lines painted as shown on survey. This track will have a minimum of a 6" stone base with 1 and 1/2" of S-3 asphalt.

There are two drain grates on the north side of the track. Every effort needs to be made to lie out the track around this obstacle. Contractor would have to replace existing grates with safer ones if avoiding them is not possible. (Grates should be painted yellow)

The edge of the track must be level with the grass. New sod will be placed between the playground border and the track. It may be necessary to remove black plastic border and reinstall it closer to the playground area in order to have enough space for the track. The reason for the sod is to provide a buffer between the track and the border that will stop any spillage of the "rubberstuff" on to the track.

Double Tennis Courts (\$50,000)

Court fence area will be 108'x120'. Fence made of top grade material with an outer coating of green. There will be a gate on each side at the net. (two gates)

The asphalt slab will actually be 110'x122' to allow for a 2 foot apron around the court to protect fence from mowers.

Four benches (two on each side) will be placed in asphalt as court is built. These 4 benches will be the same types as on the playground only green with brown bottoms.

Tennis court will have at least a 6" stone base with 1 and 1/2" of S-3 Virgin Mix asphalt as determined by the soil sample.

Two electric outlets should be added to each end of the courts.

Bathroom (\$60,000)

Roof should match the Aluminum one on the pavilion (manufactured by Poligon) and the block should be painted the same beige as the trim on the school.

Electricity should be extended from the bathroom to the large pavilion (2-outlets) and the tennis courts (2-outlets)

Sidewalk out of men's and ladies sides that is handicap accessible to the water fountains, pavilion. There must also be a sidewalk that surrounds the bathroom structure to tie all pathways together as noted on plans.

The storage side of the bathroom building will have two 3' steel doors that can be opened with no center post. There will be an 8' sidewalk leading to the large existing sidewalk toward the building.

The irrigation in this area will be changed as necessary and grading will allow for maximum drainage. New bahaia sod will be laid in damaged areas around this construction site.

80'' of trees added (due to trees eliminated during construction) (\$9,600)

There will be 16 (3'') laurel oaks placed along the front fence alternating with the existing crape myrtles. Then 4 (4'') laurel oaks and 4 (4'') drake elms added to playground area and around pavillion. All of these trees will be irrigated so some adjustments will need to be made to the existing system and extra heads or bubblers added.

Upgrade Baseball Diamond and Soccer Field (\$1,400)

Break up existing clay and add 6'', level, check irrigation in this area and add stationary bases for first second and third. Reset home plate once new clay added.

Level and re-sod soccer goal area with bermuda sod. Sand and paint soccer goals and add new nets. At least two coats of rust preventative and two coats of white paint.

Add Benches to Playground Area (\$1,000)

Four benches will be added to playground area. No cement will be needed under these benches.

Two 30'X60' grass volleyball courts and Benches (\$3,000)

Once trees have been removed in this area, ground should be leveled and graded toward existing drainage. Then add irrigation to this area and install 4 posts (two standards with nets for each court placed 34' apart). The court size is 30'x60'. Then sod this area with bahaia grass.

Add two benches (like those already existing near tennis wall) with concrete bases in this area.

Small Pavilion, Picnic Table, and Trash Receptacle (Additive Alternate - \$10,000)

Build new pavilion (same type as large one - manufactured by Poligon) and place on concrete slab that is 20'X20'.

Put picnic table (8-adults) with same anchor system and color. Also install a trash receptacle on outer small slab.

Items to be ordered

- 1 - pavilion on a 20'x20' slab (this should match the existing shelter)
- 1 - picnic table to seat 8 for under pavilion
- 1 - trash receptacle with lid to be placed by the pavilion
- 4 - green 8' benches with backs for tennis courts (signature series)
- 4- blue benches with backs on playground
- 2- blue benches with backs with concrete underneath near volleyball courts
- 4 - volleyball standards
- 2 - outdoor volleyball nets
- 2 - soccer nets
- 3 permanent softball bases to be installed on diamond

In order to continue with same color and type that already exists in the park:

- The picnic tables, benches and trash receptacles should be Wabash Valley (no substitute).
- The new small pavilion should be the same model as the one already on site. The manufacturer was Poligon (no substitute).