

PROPERTY EXCHANGE AGREEMENT

Between

CITY OF ORLANDO, a municipality duly enacted under the laws of the State of Florida

and

**THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a body corporate and
political snbdivision of the State of Florida**

(Rock Lake Elementary School)

PROPERTY EXCHANGE AGREEMENT
(Rock Lake Elementary School)

THIS PROPERTY EXCHANGE AGREEMENT (“**Agreement**”) is made and entered into as of the Effective Date (as hereinafter defined), by and between **CITY OF ORLANDO**, a municipality duly enacted under the laws of the State of Florida, whose address is 400 South Orange Avenue, Orlando, Florida 32802 (**City**”), and **THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida, whose address is 445 West Amelia Street, Orlando, Florida 32801 (“**School Board**”).

W I T N E S S E T H:

WHEREAS, City is the fee simple owner of that certain parcel of real property consisting of approximately 8.61 acres located in Orlando, Florida and more particularly described and depicted on **Exhibit “A”** attached hereto and incorporated herein by this reference (“**City Property**”);

WHEREAS, School Board is the fee simple owner of that certain parcel of real property adjacent to the City Property consisting of approximately 14.52 acres located in Orlando, Florida commonly referred to as Rock Lake Elementary School, and more particularly described and depicted on **Exhibit “B”** attached hereto and incorporated herein by this reference (“**School Property**”);

WHEREAS, the School Property is currently utilized by the School Board as an elementary school known as Rock Lake Elementary School, and is subject to the terms and conditions of that certain School Facility and City Property Joint Use Agreement dated October 31, 2002 between the City and School Board providing for the joint use of the recreational facilities (“**Joint Use Agreement**”); and

WHEREAS, the City Property is currently utilized by the City and general public for recreational uses, and is subject to the terms and conditions of the Joint Use Agreement; and

WHEREAS, the School Board intends to redevelop the School Property and City Property jointly for the design and construction of an educational facility consisting of elementary school and all associated amenities (collectively, “**Proposed Rock Lake ES** ”); and

WHEREAS, the City must maintain a level of service for parks and recreational facilities consistent with the current level of service for this service area through the ownership of recreational facilities and acreage;

WHEREAS, in order to maintain the City’s level of service, the School Board has agreed to transfer ownership of approximately 0.505 acres of the real property consisting of a portion of

the School Property, as more particularly depicted on **Exhibit “C”** attached hereto and incorporated herein by reference (“**Additional City Property**”) to the City, and design, permit and construct basketball courts thereon; and

WHEREAS, the City has agreed to transfer ownership of approximately 0.505 acres of the real property consisting of a portion of the City Property, as more particularly depicted on **Exhibit “D”** attached hereto and incorporated herein by reference (“**Additional School Property**”) to the School Board in exchange for the Additional City Property and the School Board’s obligation to design, permit and construct basketball courts on the Additional City Property; and

WHEREAS, in order for the School Board to construct the improvements to the Proposed Rock Lake ES on the School Property and City Property collectively, the City will grant the School Board a temporary construction easement over the City Property and Additional City Property for the design, permitting and construction of the Recreational Amenities (as defined herein), and any other improvements mutually agreed to by the City and School Board to be constructed by the School Board on the Additional City Property and City Property; and

WHEREAS, as a condition to the closing of the transaction contemplated herein, the City and School Board will amend the Joint Use Agreement to provide for the joint use of the Recreational Amenities, certain school facilities, and , access and parking facilities; and

WHEREAS, the School Property is subject to that certain Easement Agreement dated October 31, 2002 and recorded November 7, 2002, in Official Records Book 6663, Page 9911, Public Records of Orange County, Florida (“**Existing Access Easement**”); and

WHEREAS, the School Board intends to design, engineer, permit and construct certain school facilities for the Proposed Rock Lake ES within the location of the Existing Access Easement; and

WHEREAS, in order to develop the School Property for the Proposed Rock Lake ES while maintaining access and parking to the City Property, the School Board intends to phase the demolition and construction of the Proposed Rock Lake ES to provide temporary parking access to the City and the public during the pendency of construction and permanent parking and access facilities to the City and public upon completion of construction of the Proposed Rock Lake ES;

WHEREAS, in order to develop the School Property for the Proposed Rock Lake ES, the School Board and City agree to amend and revise the Existing Access Easement to terminate the location of the existing access and parking easement and grant a new perpetual easement to the City from the School Board over the new location to provide access to the City Property; and

WHEREAS, during the construction of the Proposed Rock Lake ES and in exchange for suspending the Existing Access Easement, the School Board will provide grant the City a temporary easement for access and parking facilities over a portion of the School Property and Additional School Property (collectively, “**Temporary City Parking**” as more particularly

identified in **Exhibit “E”** attached hereto and incorporated herein by reference”), until such time as the School Board completes the design, permitting and construction of the permanent parking facilities serving the City recreational center on the City Property and upon completion of the improvements will grant to the City a perpetual access and parking easement over and across a portion of the School Property to provide access to the City Property and recreational facilities thereon; and

WHEREAS, City desires to enter into a transaction with School Board and School Board desires to enter into a transaction with City whereby City transfers, conveys, and assigns all of its right, title and interest in the Additional School Property to the School Board in exchange for the transfer, conveyance, and assignment to City of any right, title and interest of School Board in and to the Additional City Property and the construction obligations of School Board as provided herein; and

WHEREAS, School Board and City desire to enter into this Agreement memorializing the terms and conditions of the exchange of the Additional City Property for the Additional School Property.

NOW, THEREFORE, for and in consideration of the premises, the payment of Ten and No/100 Dollars (\$10.00) in hand paid by School Board to City, the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereto do hereby covenant and agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Definitions**. For the purposes of this Agreement, the terms provided herein shall have the following definitions:

a. **“Approval” or “Approved”** shall mean final approval by the applicable Governmental Authorities and the expiration of all appeal periods for the same without an appeal being filed, with such matter being approved containing no terms, conditions, or provisions that are unsatisfactory or objectionable to School Board in its sole, exclusive and absolute discretion.

b. **“Governmental Authorities”** shall mean the City and any and all federal, state, county, municipal, or other governmental department or entity, or any authority, commission, board, bureau, court, community development district, or agency having jurisdiction over the City Property, School Property or any portion thereof, and whose approval is required for the construction of Proposed Rock Lake ES, including without limitation, the United States Army Corps of Engineers, the City of Orlando, the Florida Department of Environmental Protection, the Florida Department of Transportation, and the South Florida Water Management District, as applicable

c. **“Permits”** shall mean all permits, approvals, licenses, authorizations, and

development entitlements of/from all Governmental Authority(ies), including the South Florida Water Management District and the Florida Department of Transportation, consents from all private parties with rights of consent or approval applicable to the Proposed Rock Lake ES, and easements from persons from whom easements may be obtained, including: (i) any required Entitlements; (ii) all subdivision, preliminary subdivision, and site plans; and (iii) all applicable South Florida Water Management District and United States Army Corps of Engineers approvals, or determinations of no jurisdiction, as applicable.

d. **“School Board’s Specifications”** shall mean the approval of School Board where herein required and the requirements and specifications.

3. **Agreement to Exchange.** City agrees to transfer, assign or convey to School Board and School Board agrees to acquire from City the Additional School Property in the manner and upon the terms and conditions set forth in this Agreement. School Board agrees to transfer, assign or convey to City and City agrees to acquire from School Board the Additional City Property in the manner and upon the terms and conditions set forth in this Agreement.

4. **Property.** For purposes of this Agreement the term “Additional School Property” shall also include all of City’s right, title and interest in, to and under: (i) all tenements, hereditaments and appurtenances relating thereto or associated therewith, (ii) all improvements, buildings and fixtures, if any, situated thereon, (iii) all permits, approvals, authorizations, development rights, entitlements, vested rights, benefits, rights, privileges, exemptions, impact and licenses relating to, associated with or affecting any such property, which School Board approves and accepts (iv) all right, title and interest of City in and to any street, road, alley or avenue adjoining such property, and (v) all of City’s right, title and interest in any strip, hiatus, gore, gap or boundary adjustment area adjoining or affecting such property. For purposes of this Agreement the term “Additional City Property” shall also include all of School Board’s right, title and interest in, to and under: (i) all tenements, hereditaments and appurtenances relating thereto or associated therewith, (ii) all improvements, buildings and fixtures, if any, situated thereon, (iii) all permits, approvals, authorizations, development rights, entitlements, vested rights, benefits, rights, privileges, exemptions, impact and licenses relating to, associated with or affecting any such property, which School Board approves and accepts (iv) all right, title and interest of City in and to any street, road, alley or avenue adjoining such property, and (v) all of School Board’s right, title and interest in any strip, hiatus, gore, gap or boundary adjustment area adjoining or affecting such property.

5. **Surveys.** School Board shall, within thirty (30) days after the Effective Date, at its cost, obtain separate and distinct surveys of the Additional City Property (“City Survey”) and Additional School Property (“School Survey”) (collectively the “**Surveys**”) prepared by a registered surveyor, licensed in the State of Florida (“**Surveyor**”). Each of the Surveys shall locate all improvements, if any, situated upon the Additional City Property and Additional School Property (collectively, the “**Exchange Properties**”) and shall locate and identify with the relevant recorded information all utility lines and access, easements, streets, rights-of-way and other man-made objects, and locate all other matters not of record which are ascertainable by a visual inspection of the Exchange Properties. The Surveys shall identify any portion of the

Properties which are within a flood plain or which is subject to the jurisdiction of the Department of Environmental Protection, the Army Corps of Engineers, the applicable Water Management District or any agency of Orange County. The Surveys shall also determine and certify within one-one hundredth (1/100th) of an acre the total acreage contained within the boundaries of the Properties. The Surveys shall be certified to School Board, City, School Board's attorney, City's attorney and the Title Company (as defined below), and shall certify that the Surveys were prepared in accordance with the ALTA/ACSM land survey requirements and the minimum technical requirements and standards promulgated by the Florida Board of Professional Land Surveyors, Chapter 61G-17 of the Florida Administrative Code and Section 427.027 of the Florida Statutes. The Surveys shall, at School Board's option, also contain such other matters as are required by the Title Company. The Surveyor's seal shall be affixed to the Surveys.

The parties acknowledge that the Exchange Properties, as stand-alone parcels, have not previously been surveyed and that, subject to written approval by both parties, the legal descriptions resulting from such Surveys shall be substituted for the depiction/description of the Additional City Property set forth in **Exhibit "C"** and Additional School Property set forth in **Exhibit "D"** and that such substituted legal descriptions shall be used in the deeds and other documents to be delivered by School Board and/or the Title Company at the Closing. School Board and City hereby waive any claim or defense that this Agreement is not binding and enforceable due to the lack of specificity in the legal description of the Additional City Property at the time the Agreement was executed.

6. **Planning and Design.** No later than July 31, 2016, School Board shall deliver to City an engineered site plan for the design, permitting and construction of the Proposed Rock Lake ES ("**Site Plan**"). School Board shall plan, design, permit and construct the replacement basketball courts on the Additional City Property to include, at a minimum, 0.505 of usable real property but not less than the amount of acreage that the Additional School Property consists of, as determined via the Surveys described in Section 5 of this Agreement.

7. **Title Insurance.** No later than twenty (20) days after Effective Date, School Board, at its cost, shall obtain and deliver to City separate, current title insurance commitments insuring title to the Additional City Property and Additional School Property and a copy of all exceptions referred to therein (individually, the "**City Title Commitment**" and "**School Title Commitment**," respectively, and collectively referred to herein as the "**Title Commitments**") from a title company reasonably satisfactory to School Board (the "**Title Company**") issued by a title agent mutually agreeable to City and School Board ("**Title Agent**"). The Title Commitments shall irrevocably obligate the Title Company to issue ALTA title insurance policies approved for issuance in the State of Florida (collectively, the "**Title Policies**"), which shall insure School Board's fee simple title to the Additional School Property, together with any appurtenant easements, and City's fee simple title to the Additional City Property, together with any appurtenant easements. School Board shall be responsible for any and all costs associated with the School Title Commitment and issuance of the corresponding title policy. School Board shall be responsible for any and all costs associated with the City Title Commitment and issuance of the corresponding title policy.

8. **Title and Survey Objection.**

a. Within ten (10) days after the receipt of the latter of the School Survey or Title Commitments, School Board shall provide City with notice of any matters set forth in the School Title Commitment or School Survey of the Additional School Property which are unacceptable to School Board (other than encumbrances of an ascertainable amount which shall be paid and released as of the date of the Closing (as hereinafter defined), which matters shall be referred to herein as "**School Title Defects**". Any matters set forth in the School Title Commitment or School Survey to which School Board does not timely object shall be referred to collectively herein as the "**School Permitted Exceptions**". City shall have ten (10) days after receipt of the aforesaid notice from School Board ("**School Cure Period**") within which to use its diligent best efforts to cure such School Title Defects to the satisfaction of School Board and the Title Company. In the event City fails or refuses to cure any School Title Defect within School Cure Period, then School Board may at its option by delivering written notice thereof to City within five (5) days after expiration of School Cure Period (i) terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder; or (ii) attempt to cure any such School Title Defect; or (iii) accept title to the Additional School Property subject to such School Title Defect. In the event School Board elects to attempt to cure such School Title Defect pursuant to item (ii) above, School Board, at its option and upon written notice to City, may extend the last day permitted for the Closing by forty-five (45) days from and after the date of the Closing ("**SB's Responsive Cure Period**"). If any School Title Defect shall not have been cured within SB's Responsive Cure Period, School Board may by delivering written notice thereof to City within seven (7) days after expiration of SB's Responsive Cure Period, exercise its option under item (i) or (iii) above.

b. Within ten (10) days after the receipt of the latter of the City Survey or the City Title Commitment, City shall provide School Board with notice of any matters set forth in the City Survey or the City Title Commitment which are unacceptable to City (other than encumbrances of an ascertainable amount which shall be paid and released as of the date of the Closing, which matters shall be referred to herein as "**City Title Defects**". Any matters set forth in the City Title Commitment or City Survey to which City does not timely object shall be referred to collectively herein as the "**City Permitted Exceptions**". School Board shall have ten (10) days after receipt of the aforesaid notice from City ("**City's Cure Period**") within which to use its diligent best efforts to cure such City Title Defects to the satisfaction of City and the Title Company. In the event School Board fails or refuses to cure any City Title Defect within the City's Cure Period, then City may at its option by delivering written notice thereof to School Board within five (5) days after expiration of City's Cure Period (i) terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder; or (ii) attempt to cure any such City Title Defect; or (iii) accept title to the Additional City Property subject to such City Title Defect. In the event City elects to attempt to cure such City Title Defect pursuant to item (ii) above, City, at its option and upon written notice to School Board, may extend the last day permitted for the Closing by forty-five (45) days from and after the date of the Closing ("**City's Responsive Cure Period**"). If any City Title Defect shall not have been cured within

City's Responsive Cure Period, City may by delivering written notice thereof to School Board within seven (7) days after expiration of City's Responsive Cure Period, exercise its option under item (i) or (iii) above.

9. **No Additional Encumbrances.** From and after the Effective Date, City and School Board shall not, without obtaining the other parties' prior written consent in each instance, create, incur, consent to or permit to exist, any easement, restriction, right-of-way, reservation, mortgage, lien, pledge, encumbrance, lease, license, occupancy agreement or legal or equitable interest, which in any way affects the Additional City Property, Additional School Property or any portion thereof (except those called for in this Agreement) other than those of record as of the Effective Date and those that will be satisfied and released of record at the Closing. The parties hereto hereby covenants that each party shall comply with and abide by all of the terms and provisions of such existing easements, restrictions, rights-of-way, reservations, mortgages, liens, pledges, encumbrances, leases, licenses, occupancy agreements and agreements through the date of Closing hereunder.

10. **Inspection Period.** School Board and City shall have thirty (30) days after the Effective Date ("**Inspection Period**"), to determine, in their sole and absolute discretion, that the Additional School Property or Additional City Property, respectively, are suitable and satisfactory. During the Inspection Period, each of the parties may, in their sole discretion and at their own expense, perform any and all Inspections (as more particularly defined below) the party desires to perform, including but not necessarily limited to the following: (i) having the Additional School Property or Additional City Property tested, surveyed and inspected to determine if the Additional School Property or Additional City Property contains any hazardous or toxic substances, wastes, materials, pollutants or contaminants and obtaining a hazardous waste report prepared by a registered engineer, including, without limitation, the right to perform appraisals, make surveys, soils tests, borings, percolation tests, compaction tests, environmental tests and tests to obtain any other information relating to the surface, subsurface and topographic conditions of the Additional School Property or Additional City Property, all of the foregoing; (ii) having the Additional School Property or Additional City Property tested, surveyed and inspected to determine if the Additional School Property or Additional City Property contains any endangered or threatened species of animal life or endangered, threatened or commercially exploited plants on or under it, including, without limitation, any jurisdictional wetlands, such that any state or federal agency, department or commission would disallow the use of the Additional School Property or Additional City Property intended by School Board or require School Board or City to relocate any such species, plants or wetlands, and obtaining an endangered species and habitat report, satisfactory to School Board in its sole discretion; and (iii) investigating the physical and economic feasibility of developing the Additional School Property or Additional City Property for development as the Proposed Rock Lake ES and Recreational Improvements (hereinafter defined), including without limitation investigation of all applicable building, zoning, environmental and other codes, ordinances, statutes, rules and regulations affecting the Additional School Property or Additional City Property, stormwater management, zoning and development standards, impact and development fees, drainage conditions, soils, other environmental factors, wastewater and water utility capacity and availability factors, and any other factors whatsoever considered appropriate by School Board in its sole and absolute

discretion. The parties covenant and agree that such activities will not cause any harm to Additional School Property or Additional City Property and that the Additional School Property or Additional City Property will be restored to the same condition as existed immediately prior to School Board's or City's inspection activities pursuant to this section. Within the limits of Section 768.28, Florida Statutes, School Board shall at all times indemnify, save harmless and defend City from and against any and all claims, liabilities, losses, costs, lawsuits, disputes, damages and expenses (including reasonable attorneys' fees whether incurred at or before the trial level or in any appellate proceedings) which City may suffer, sustain or incur by reason of the exercise of School Board's right under this section, including, without limitation, any damage to the Additional School Property or to any person or other real or personal property, and including the filing of any mechanics' or other statutory or common law lien or claims against the Additional School Property or any part thereof. This provision shall survive Closing or earlier termination of this Agreement. Within the limits of Section 768.28, Florida Statutes, City shall at all times indemnify, save harmless and defend School Board from and against any and all claims, liabilities, losses, costs, lawsuits, disputes, damages and expenses (including reasonable attorneys' fees whether incurred at or before the trial level or in any appellate proceedings) which School Board may suffer, sustain or incur by reason of the exercise of City's right under this section, including, without limitation, any damage to the Additional City Property or to any person or other real or personal property, and including the filing of any mechanics' or other statutory or common law lien or claims against the Additional City Property or any part thereof. This provision shall survive Closing or earlier termination of this Agreement.

As used herein, "Hazardous Substances" shall mean and include all hazardous and toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous components), or other similar substances, or materials which are included under or regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination or clean-up, including, without limitation, "CERCLA", "RCRA", or state superlien or environmental clean-up statutes (all such laws, rules and regulations being referred to collectively as "Environmental Laws").

In the event School Board determines, in its sole discretion, which may be exercised for any reason or no reason at all, that it is not desirable or feasible to develop the Additional School Property for the Proposed Rock Lake ES or that it is not satisfied as to any other matter set forth in Section 10 above, or any other matter(s) which School Board deems relevant, then in such event School Board may, in School Board's sole discretion, elect to terminate this Agreement by furnishing written notice thereof to City prior to the expiration of the Inspection Period and in such event the parties hereto shall thereafter be relieved of all rights and obligations hereunder except for those rights and obligations which expressly survive a termination of this Agreement. In the event School Board fails to notify City in writing within the Inspection Period that School Board is satisfied, in School Board's sole discretion, with School Board's inspections of the Additional School Property and that School Board intends to proceed with the exchange of the Additional City Property and Additional School Property, this Agreement shall automatically terminate and be null and void and neither party shall have any further liability or obligation hereunder except as otherwise provided herein.

In the event City determines, in its sole discretion, which may be exercised for any reason or no reason at all, that it is not desirable or feasible for the City to utilize the Additional City Property, then in such event City may, in City's sole discretion, elect to terminate this Agreement by furnishing written notice thereof to School Board prior to the expiration of the Inspection Period and in such event the parties hereto shall thereafter be relieved of all rights and obligations hereunder except for those rights and obligations which expressly survive a termination of this Agreement. In the event City fails to notify School Board in writing within the Inspection Period that City is satisfied, in City's sole discretion, with City's inspections of the Additional City Property and that City intends to proceed with the exchange of the Additional School Property, this Agreement shall automatically terminate and be null and void and neither party shall have any further liability or obligation hereunder except as otherwise provided herein.

11. **Conditions to Close.**

a. **School Board's Conditions to Close.** School Board's obligation to accept the Additional School Property and convey the Additional City Property shall be expressly conditioned upon the fulfillment of each of the following conditions precedent (collectively, the "**School Conditions to Close**") on or before the date or dates hereinafter specifically provided and in no event later than the date of the Closing:

i. City shall have performed and complied with all covenants and agreements contained herein which are to be performed and complied with by the City at or prior to the Closing.

ii. School Board, at School Board's expense, shall have obtained and received any and all Permits reasonably required to authorize the School Board to commence construction of an elementary school educational facility with recreational and athletic facilities and other ancillary educational uses on School Property and Additional School Property in accordance with the Site Plan, including without limitation, Approval of any request for a conditional use permit, special exception, waiver, variance, or any appeal thereof, or any other approval, permit or licenses required by the City for the development of the School Property and Additional School Property for Proposed Rock Lake ES (collectively, the "**School Entitlements**"). Approval of the School Entitlements shall include expiration of all appeal periods for the same having occurred without an appeal being filed, with such matter being approved containing no terms, conditions, or provisions that are unsatisfactory or objectionable to School Board in its sole, exclusive and absolute discretion.

City shall cooperate with School Board and shall join in all application and submissions, forms, or documents of any type that shall be required by any governmental authority, to facilitate the processing and approval of the School Entitlements. Governmental agencies may require owners' consent forms to be executed by City, appointing School Board as City's agent, in order to file applications requesting the Approvals. Within three (3) days of School Board's request, City shall execute up to six (6) duplicate originals of any owner's consent form required

by a governmental agency for that governmental agency to process School Board's application for Approvals.

iii. The Additional School Property shall not have been materially affected by any legislative or regulatory change, or any flood, accident or other materially adverse event.

iv. School Board, at School Board's expense, shall have obtained the School Title Commitment from the Title Company, subject only to the School Permitted Exceptions.

v. City and School Board shall mutually agree upon the terms and conditions of the Temporary Construction Easement (hereinafter defined) and the JU Amendment (hereinafter defined).

b. City's Conditions to Close. City's obligation to convey the Additional School Property and accept the Additional City Property shall be expressly conditioned upon the fulfillment of each of the following conditions precedent (collectively, the "**City's Conditions to Close**") on or before the date or dates hereinafter specifically provided and in no event later than the date of the Closing:

i. School Board shall have performed and complied with all covenants and agreements contained herein which are to be performed and complied with by the School Board at or prior to the Closing.

ii. The Additional City Property shall not have been materially affected by any legislative or regulatory change, or any flood, accident or other materially adverse event.

iii. City, at City's expense, shall have obtained the City Title Commitment from the Title Company, subject only to the City's Permitted Exceptions.

iv. City and School Board shall mutually agree upon the terms and conditions of the Temporary Construction Easement (hereinafter defined) and the JU Amendment (hereinafter defined).

c. Waiver of Conditions to Close. School Board or City may at any time or times on or before the Closing, at its election, subject to restrictions of law, waive any of the foregoing conditions to its obligations hereunder and the consummation of such sale, but any such waiver shall be effective only if contained in writing signed by School Board or City and delivered to the other party. Except as to the condition waived, no waiver shall reduce the rights or remedies of the parties by reason of any breach of any undertaking, agreement, warranty, representation or covenant of the other party.

12. **Temporary Construction Easement.** The School Board shall, at its sole cost and expense, design, permit, construct and access certain recreational amenities and improvements over, across and upon the Additional City Property and City Property, including, without limitation, basketball courts, a pavilion and permanent parking facilities serving the recreational center on the City Property (“**Permanent City Parking**”), all as more particularly depicted on **Exhibit “E”** and incorporated herein by reference (collectively, the “**Recreational Improvements**”). At the Closing, City shall grant to the School Board over the Additional City Property and City Property a temporary construction easement for the design, permitting and construction of the Recreational Improvements over, upon and across the Additional City Property and City Property granting the School Board the right to access and construct Recreational Improvements (“**Temporary Construction Easement**”). The terms and condition of the Temporary Construction Easement shall be mutually agreed upon by School Board and City during the Inspection Period. In no event shall the School Board be required to design, permit, construct or install any improvements or facilities, or any other improvements or facilities beyond the basketball courts, pavilion and parking spaces for the development and use of the City Property.

13. **Pre-Closing Temporary Construction Easement and Temporary Parking Easement.** In the event the transaction contemplated herein fails to close on or prior to July 1, 2016, City hereby agrees to grant to the School Board a temporary construction easement in the form and manner of the Temporary Construction Easement set forth in Section 12 hereof, for the design, permitting and construction of the bus loop and Temporary City Parking on the Additional School Property prior to the Closing. At the later of (a) the Closing or (b) the Completion of the Temporary City Parking, the School Board shall grant to the City a temporary access and parking easement over, upon and across that portion of the School Property and Additional School Property for the purpose of accessing, using and parking within the Temporary City Parking while the Permanent City Parking is completed (“**Temporary Parking Easement**”). The terms and condition of the Temporary Parking Easement shall be mutually agreed upon by School Board and City during the Inspection Period. The School Board and City, as mutually agreed upon between the City and School Board, may elect to execute and administer the Temporary Parking Easement as a revision or amendment to the Existing Access Easement or a separate document. The Temporary Parking Easement shall automatically expire upon the later of (1) the completion of the Permanent City Parking; and (2) the recording of the Revised Access Easement (hereinafter defined).

14. **Revised Access Easement.** School Board and City agree to suspend the Existing Access Easement during the pendency of the construction of the Proposed Rock Lake ES provided School Board has granted City access and parking over the School Property or Additional School Property in accordance with Temporary Parking Easement. No later than thirty (30) days from the completion of the construction of the Permanent City Parking, School Board shall deliver to City, and City shall accept from School Board, an amendment to the Existing Access Easement amending the location of the Existing Access Easement and providing a perpetual access easement over and upon a portion of the School Property immediately adjacent to the City Property and providing access to the Permanent City Parking (“**Revised**

Access Easement”). The terms and condition of the Revised Access Easement shall be mutually agreed upon by School Board and City during the Inspection Period. The School Board and City, as mutually agreed upon between the City and School Board, may elect to execute and administer the Revised Access Easement as a revision or amendment to the Existing Access Easement or a separate document.

15. **Bill of Sale.** No later than thirty (30) days from the completion of the construction of the Recreational Improvements, School Board shall deliver to City, and City shall accept from School Board, a bill of sale conveying all of the School Board’s title and interest in and to any of the Recreational Improvements located within the City Property and Additional City Property, provided; however, the School Board shall retain ownership of the parking structure or facility located on the Additional School Property for the School Board exclusive use and possession once the Temporary Parking Easement terminates.

15. **Amendment to Joint Use Agreement.** No later than thirty (30) days from the completion of the construction of the Recreational Improvements, City and School Board shall enter into an amendment to the Joint Use Agreement (“**JU Amendment**”). The terms and condition of the JU Amendment shall be mutually agreed upon by School Board and City during the Inspection Period. The JU Amendment will ensure at least the same amount of access to the outdoor recreational facilities on the City Property and School Property, including public access to the field, pavilion, courts, playground, and green space, as currently exists. In addition, the JU Amendment will provide for joint use of certain school facilities as mutually agreed to by the City and School Board.

16. **Conveyance of Title.** The closing of the Additional City Property and Additional School Property (“**Closing**”) shall occur no later than the later of (i) thirty (30) days after the receipt of the Surveys or (ii) thirty (30) days after the satisfaction of the School Conditions to Close and City’s Conditions to Close, or on such other date that is mutually acceptable to School Board and City. The Closing shall occur at the offices of the Title Agent, unless otherwise agreed to in writing by the parties hereto.

At the Closing, City shall execute and deliver to School Board a special warranty deed conveying fee simple marketable record title to the Additional School Property to School Board, free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances whatsoever, excepting only the City Permitted Exceptions (“**City Deed**”) and the Temporary Construction Easement, and School Board shall execute and deliver to City a special warranty deed conveying fee simple marketable record title to the Additional City Property to City, free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances whatsoever, excepting only the City Permitted Exceptions (“**School Board Deed**”). City and School Board agree that such documents, resolutions, certificates of good standing and certificates of authority as may be necessary to carry out the terms of this Agreement shall be executed and/or delivered by such parties at the time of Closing, including, without limitation, an owner's affidavit in form sufficient to enable the Title Company to delete all standard title exceptions other than survey exceptions from the Title Policies.

17. **Special Assessments.** City shall be responsible for payment of any special assessments applicable to the Additional School Property, including, without limitation, any assessments, debt service payments, or other applicable fees or charges of any Governmental Authorities or other entities as of the date of Closing. School Board shall be responsible for payment of any special assessments applicable to the Additional City Property, including, without limitation, any assessments, debt service payments, or other applicable fees or charges of any Governmental Authorities or other entities as of the date of Closing.

18. **Closing Costs.** Except as otherwise indicated herein, School Board shall pay all closing costs at the Closing including: (i) all real property transfer and transaction taxes and levies relating to conveyance of the Additional City Property and Additional School Property, including, without limitation, the documentary stamps which shall be affixed to the City Deed, School Board Deed and Temporary Construction Easement (collectively, the "**Conveyance Documents**"); (ii) the title insurance premium for the School Title Commitment; (iii) the cost of recording the Conveyance Documents, (iii) preparation and recordation of any instruments necessary to correct title, and (iv) all of the real estate sales commissions set forth herein, if applicable. Other than the aforementioned document preparation costs, each party shall pay its own attorneys' fees and costs.

19. **Warranties and Representations of City.** To induce School Board to enter into this Agreement and to convey the Additional City Property to the City, City, in addition to the other representations and warranties set forth herein, makes the following representations and warranties, each of which is material and is being relied upon by School Board and shall survive the Closing hereunder:

a. To the best of City's knowledge, the City owns fee simple marketable record title to the City Property, free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances other than those recorded in the public records of Orange County, Florida, and there are no tenancy, rental or other occupancy agreements affecting the City Property.

b. That City has not received any written notice and has no actual knowledge, that the City Property or any portion or portions thereof is or will be subject to or affected by (i) any special assessments, whether or not presently a lien thereon, or (ii) any condemnation, eminent domain, change in grade of public streets, or similar proceeding.

c. That City has not received any written notice and has no actual notice, there are any actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the City Property or any portion or portions thereof or relating to or arising out of the ownership of the City Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, or agency or other governmental instrumentality.

d. City has the full right, power and authority to enter into and deliver this Agreement and to consummate the exchange of real property in accordance herewith and to

perform all covenants and agreements of City hereunder.

e. City has not received any written notice and has no actual knowledge that the City Property or any portion or portions thereof is or will be subject to or affected by any property owners association, homeowners association, community development district or any other entity or organization with the right or ability to impose or assess any fees, charges, general or special assessments against the City Property.

f. City has not received any written notice and has no actual knowledge that any present default or breach exists under any mortgage or other encumbrance affecting the City Property or any covenants, conditions, restrictions, rights-of-way or easements which may affect the City Property or any portion or portions thereof and that no condition or circumstance exists which, with the passage of time and/or the giving of notice, or otherwise, would constitute or result in a default or breach under any such covenants, conditions, restrictions, rights-of-way or easements.

g. Except for matters expressly addressed in this Agreement, City has made no commitments to any Governmental Authority (other than School Board), utility company, church or other religious body, or any homeowners association or community development district, or to any other organization, group, or individual, relating to the City Property which would impose an obligation upon School Board or its successors or assigns to make any contribution or dedications of money or land or to construct, install, or maintain any improvements of a public or private nature on or off the City Property.

h. City has not received any written notice and has no actual knowledge that the City Property has ever been used by previous owners and/or operators or City to generate, manufacture, refine, transport, treat, store, handle or dispose of Hazardous Substances. City has no knowledge of the City Property having ever contained nor does it now contain either asbestos, PCBs or other toxic materials, whether used in construction or stored on the City Property, and City has not received a summons, citation, directive, letter or other communication, written or oral, from any agency or Department of the State of Florida or the U.S. Government concerning any intentional or unintentional action or omission on City's part which has resulted in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances.

i. To the best of City's actual knowledge there are no anti-pollution, environmental laws, rules, regulations, ordinances, orders or directives which would hinder, prevent or substantially obstruct the construction, access to or operation of the contemplated public school and related uses and operations.

j. To the best of City's knowledge, no portion of the City Property, is a wetlands or wetlands buffer /setback within the jurisdiction of Department of Environmental Protection, the Army Corps of Engineers, the District or any agency of the City or City in which the City Property is located, nor are there any laws, rules or regulations which will restrict or impede the development of all or any part of the City Property due to habitation of, or location

of, any species of flora or wildlife on the City Property or any surrounding property.

k. To the best of City's knowledge, no person or legal entity other than School Board has any right or option whatsoever to acquire the Additional School Property or any portion or portions thereof or any interest or interests therein.

l. To the best of City's knowledge, the execution and delivery of this Agreement and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by City of any provision of any agreement or other instrument to which City is a party or to which City may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against City.

m. City is a United States resident, not a foreign person (as such terms are defined in the Internal Revenue Code and Income Tax Regulations), for purposes of U.S. income taxation, and no withholding of sale proceeds is required with respect to City's interest in the City Property under Section 1445(a) of the Internal Revenue Code.

n. That, to the best of City's knowledge, each and every one of the foregoing representations and warranties is true and correct as of the Effective Date, will remain true and correct throughout the term of this Agreement, and will be true and correct as of the Closing.

o. In the event that changes occur as to any information, documents or exhibits referred to in the subparagraphs of this Section 19, or in any other part of this Agreement, of which City has knowledge, City will immediately disclose same to School Board when first available to City; and in the event of any change which may be deemed by School Board in its sole discretion to be materially adverse, School Board may, at its election, terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder.

20. **Warranties and Representations of School Board.** To induce City to enter into this Agreement, School Board, in addition to the other representations and warranties set forth herein, makes the following representations and warranties, each of which is material and is being relied upon by City and shall survive the Closing hereunder:

a. That School Board owns fee simple marketable record title to the Additional City Property, free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances other than those recorded in the public records of Orange County, Florida, and there are no tenancy, rental or other occupancy agreements affecting the Additional City Property.

b. That School Board has not received any written notice and has no actual knowledge, that the Additional City Property or any portion or portions thereof is or will be subject to or affected by (i) any special assessments, whether or not presently a lien thereon, or (ii) any condemnation, eminent domain, change in grade of public streets, or similar proceeding.

c. That School Board has not received any written notice and has no actual notice, there are any actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the Additional City Property or any portion or portions thereof or relating to or arising out of the ownership of the Additional City Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, or agency or other governmental instrumentality.

d. School Board has the full right, power and authority to enter into and deliver this Agreement and to consummate the exchange contemplated herein and to perform all covenants and agreements of School Board hereunder.

e. School Board has not received any written notice and has no actual knowledge that the Additional City Property or any portion or portions thereof is or will be subject to or affected by any property owners association, homeowners association, community development district or any other entity or organization with the right or ability to impose or assess any fees, charges, general or special assessments against the Additional City Property.

f. School Board has not received any written notice and has no actual knowledge that any present default or breach exists under any mortgage or other encumbrance affecting the Additional City Property or any covenants, conditions, restrictions, rights-of-way or easements which may affect the Additional City Property or any portion or portions thereof and that no condition or circumstance exists which, with the passage of time and/or the giving of notice, or otherwise, would constitute or result in a default or breach under any such covenants, conditions, restrictions, rights-of-way or easements.

g. Except for matters expressly addressed in this Agreement, School Board has made no commitments to any Governmental Authority, utility company, church or other religious body, or any homeowners association or community development district, or to any other organization, group, or individual, relating to the Additional City Property which would impose an obligation upon School Board or its successors or assigns to make any contribution or dedications of money or land or to construct, install, or maintain any improvements of a public or private nature on or off the Additional City Property.

h. School Board has not received any written notice and has no actual knowledge that the Additional City Property has ever been used by previous owners and/or operators or School Board to generate, manufacture, refine, transport, treat, store, handle or dispose of Hazardous Substances. School Board has no knowledge of the Additional City Property having ever contained nor does it now contain either asbestos, PCBs or other toxic materials, whether used in construction or stored on the Additional City Property, and School Board has not received a summons, citation, directive, letter or other communication, written or oral, from any agency or Department of the State of Florida or the U.S. Government concerning any intentional or unintentional action or omission on School Board's part which has resulted in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances.

i. To the best of School Board's actual knowledge, there are no pollutants, contaminants, petroleum products or petroleum by-products, toxins, carcinogens, asbestos, or Hazardous Substances on or beneath the surface of the Additional City Property, which School Board or any other person or entity has placed or caused or allowed to be placed upon the Additional City Property, and which have caused or which may cause any investigation by any agency or instrumentality of government, which are or may be on the Additional City Property in violation of any law or regulation of any local, state or federal government, or which are or may be a nuisance or health threat to occupants of the Additional City Property or other residents of the area.

j. To the best of School Board's actual knowledge there are no anti-pollution, environmental laws, rules, regulations, ordinances, orders or directives which would hinder, prevent or substantially obstruct the construction, access to or operation of the contemplated public school and related uses and operations.

k. To the best of School Board's knowledge, no portion of the Additional City Property is a wetlands or wetlands buffer /setback within the jurisdiction of Department of Environmental Protection, the Army Corps of Engineers, the District or any agency of the City in which the Additional City Property is located, nor are there any laws, rules or regulations which will restrict or impede the development of all or any part of the Additional City Property due to habitation of, or location of, any species of flora or wildlife on the Additional City Property or any surrounding property.

l. No person or legal entity other than the City has any right or option whatsoever to acquire the Additional City Property or any portion or portions thereof or any interest or interests therein.

m. That School Board has the full right, power, and authority to enter into and deliver this Agreement and to consummate the exchange of the Additional City Property in accordance herewith and to perform all covenants and agreements of School Board hereunder.

n. That to the best of School Board's knowledge, the execution and delivery of this Agreement and the consummation of the transactions contemplated herein shall not and do not constitute a violation or breach by School Board of any provision of any agreement or other instrument to which School Board is a party or to which School Board may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against School Board.

o. That each and every one of the foregoing representations and warranties is true and correct as of the Effective Date, will remain true and correct throughout the term of this Agreement, and will be true and correct as of the Closing.

p. That in the event that changes occur as to any of the foregoing representations and warranties of School Board contained in this Section 20 or in any other part

of this Agreement, of which School Board has knowledge, School Board will immediately disclose same to the City when first available to School Board, and in the event of any change which may be deemed by the City in its sole discretion to be materially adverse, the City may, at its election, terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder.

21. **City's Affirmative Covenants.** In addition to the other covenants and undertakings set forth herein, City makes the following affirmative covenants, each of which shall survive the Closing hereunder unless otherwise noted:

a. From and after the Effective Date and until physical possession of the Additional School Property has been delivered to School Board, City will keep and maintain all of the Additional School Property in good order and condition and will comply with and abide by all laws, ordinances, regulations and restrictions affecting the Additional School Property or its use. Prior to the Closing, City will pay all taxes and assessments prior to the due date thereof, will not commit or permit any waste or nuisance with respect thereto, and will not undertake or permit any grading or any cutting of timber thereon.

b. From and after the Effective Date until the earlier of the date of Closing or termination of this Agreement, City shall not offer to sell the Additional School Property, or any portion thereof, to any other person or entity, nor enter into any verbal or written agreement, understanding, or contract relating to the sale of the Additional School Property.

c. City shall take such other actions and perform such other obligations as are required or contemplated hereunder including, without limitation, all obligations pertaining to satisfaction of any contingencies of this Agreement or conditions precedent to performance by School Board of its obligations hereunder.

d. City shall not encumber or create any liens on the Additional School Property.

22. **School Board's Affirmative Covenants.** In addition to the other covenants and undertakings set forth herein, School Board makes the following affirmative covenants, each of which shall survive the Closing hereunder:

a. From and after the Effective Date and until physical possession of the Additional City Property has been delivered to City, School Board will keep and maintain all of the Additional City Property in good order and condition and will comply with and abide by all laws, ordinances, regulations and restrictions affecting the Additional City Property or its use. Prior to the Closing, School Board will not commit or permit any waste or nuisance with respect thereto.

b. From and after the Effective Date, School Board shall not offer to sell the Additional City Property, or any portion thereof, to any other person or entity, nor enter into any

verbal or written agreement, understanding, or contract relating to the sale of the Additional City Property.

c. School Board shall take such other actions and perform such other obligations as are required or contemplated hereunder including, without limitation, all obligations pertaining to satisfaction of any contingencies of this Agreement or conditions precedent to performance by School Board of its obligations hereunder.

d. School Board shall not encumber or create any liens on the Additional City Property.

23. **Defaults.** In the event City breaches any warranty or representation contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by City under the terms and provisions of this Agreement, School Board, in School Board's sole discretion, shall be entitled to: (i) exercise any and all rights and remedies available to School Board at law and in equity, including without limitation the right of specific performance, or (ii) terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.

In the event School Board fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by School Board under the terms and provisions of this Agreement, City, in City's sole discretion, shall be entitled to: (i) exercise any and all rights and remedies available to City at law and in equity, including without limitation the right of specific performance, or (ii) terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.

24. **Possession of Property.** City shall deliver to School Board full and exclusive possession of the Additional School Property on the date of the Closing. School Board shall deliver to City full and exclusive possession of the Additional City Property on the date of the Closing.

25. **Condemnation.** In the event the Additional City Property or Additional School Property or any portion or portions thereof shall be taken or condemned or be the subject of a bona fide threat of condemnation by any Governmental Authority or entity, other than School Board, prior to the Closing ("**Condemned Property**"), either of the parties hereto shall have the option of either (i) terminating this Agreement by giving written notice thereof to the other party, whereupon this Agreement and all rights and obligations created hereunder shall be null and void and of no further force or effect, or (ii) requiring the owner of the Condemned Property convey the remaining portion or portions of the Condemned Property to the other party pursuant to the

terms and provisions hereof and to transfer and assign to the other party at the Closing all of the right, title and interest of the fee simple owner of the Condemned Property in and to any award made or to be made by reason of such condemnation. City and School Board hereby further agree that School Board shall have the right to participate in all negotiations with any such Governmental Authority relating to the Additional School Property or to the compensation to be paid for any portion or portions thereof condemned by such Governmental Authority or other entity and that City shall have the right to participate in all negotiations with any such Governmental Authority relating to the Additional City Property or to the compensation to be paid for any portion or portions thereof condemned by such Governmental Authority or other entity.

26. **Broker.**

a. City hereby represents and warrants to School Board that City has not engaged or dealt with any agent, broker or finder in regard to this Agreement or to the exchange contemplated hereby.

b. School Board hereby represents and warrants to City that School Board has not engaged or dealt with any agent, broker or finder in regard to this Agreement or to the exchange contemplated hereby.

27. **Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of (a) the date and time the same are personally delivered or transmitted electronically (i.e., facsimile device or electronic mail); (b) within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested; or (c) within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

School Board: Orange County Public Schools
6501 Magic Way, Bldg. 200
Orlando, FL 32809
Attn: Harold E. Jenkins, Director of Real Estate
Telephone: (407) 317-3700 (ext. 2025108)
Facsimile: (407) 317-3792

Copy to: Orange County Public Schools
6501 Magic Way, Bldg. 200
Orlando, FL 32809
Attn: Laura L. Kelly, Esquire
Telephone: (407) 317-3700 (ext. 2025906)
Facsimile: (407) 317-3792

City: Real Estate Manager
City of Orlando

400 South Orange Avenue, 7th Floor
Orlando, FL 32801
Telephone: (407) 246-2653
Facsimile: (407) 246-3129

Copy to: Director of Families, Parks and Recreation
City of Orlando
595 N. Primrose Drive
Orlando, FL 32803
Telephone: (407) 246-4319
Facsimile: (407)246-4038

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided. The attorneys for the parties set forth herein may deliver and receive notices on behalf of their clients.

28. **Miscellaneous Provisions.**

a. No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

b. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect.

c. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. Neither this Agreement, nor any right or obligation of any party arising under this Agreement, may be assigned or delegated without the written consent of all parties.

d. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or holiday, such time for performance shall be extended to the next business day. For purposes of this Agreement, "holiday" shall mean federal holidays as defined in 5 U.S.C. 6103. Except as otherwise set forth herein, the last day of any period of time described herein shall be deemed to end at 11:59 p.m. local time in Orange County, Florida.

e. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph.

f. City and School Board do hereby covenant and agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at the Closing.

g. This Agreement shall be interpreted under the laws of the State of Florida, with venue for any action, suit, or proceeding brought to recover any sum due under, or to enforce compliance with, this Agreement shall lie in the court of competent jurisdiction in and for Orange County, Florida; each party hereby specifically consents to the exclusive personal jurisdiction and exclusive venue of such court.

h. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof; this Agreement shall not be construed more strongly for or against any party regardless of which party is deemed to have drafted the Agreement.

i. Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the parties or their successors in interest. Except as otherwise set forth herein, no person other than the parties shall have any rights or privileges under this Agreement, whether as a third-party beneficiary or otherwise.

29. **Survival of Provisions.** All covenants, representations and warranties set forth in this Agreement or any other provision of this Agreement which, by its terms and in order to give it full effect is intended to survive the Closing, shall survive the Closing of the transaction contemplated hereby for twenty four (24) months unless otherwise specified herein.

30. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

31. **Attorneys' Fees.** In the event of any dispute hereunder or of any action to interpret or enforce this Agreement, any provision hereof or any matter arising herefrom, the prevailing party shall be entitled to recover its reasonable costs, fees and expenses, including, but not limited to, witness fees, expert fees, consultant fees, attorney, paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses whether suit be brought or not, and whether in settlement, in any declaratory action, in mediation, arbitration, bankruptcy or administrative proceeding, or at trial or on appeal. Notwithstanding the foregoing, nothing contained herein shall be construed or interpreted (a) to alter, amend or waive the School Board's or City's sovereign immunity of the State of Florida, or its agencies, or any defenses thereto, beyond the waiver provided in Section 768.28, Florida Statutes; or (b) as the consent of the School Board or City to be sued.

32. **Counterparts and Electronic Signatures.** This Agreement may be executed in two or more counterpart copies, including facsimile and electronic mail signatures, each of which shall be deemed to constitute one original document. The parties may execute different counterparts of this agreement, and, if they do so, the signatures pages from the different counterparts may be combined to provide one integrated document and taken together shall constitute one and the same instrument.

33. **Non-Substantial Amendment to Agreement.** Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by the parties hereto. School Board does hereby confer upon the Superintendent, or Superintendent's designee, the authority to amend this Agreement, provide any consent or approval set forth herein or otherwise exercise any right or election of the School Board granted or reserved herein, without formal approval from School Board, provided such amendment or consent does not substantially alter or modify the terms herein. Further, the Superintendent, or Superintendent's designee, shall have the authority, without further approval from the School Board, to finalize the form of, and execute, all agreements, easements, contracts, documents necessary to address title issues, closing documents, escrow agreements, letters of credit, agreements and similar documents set forth in this Agreement. If, in the sole judgment of School Board, such amendment or consent does substantially alter or amend this Agreement, then School Board shall have the option of declaring the amendment or consent void *ab initio*, thus rendering the amendment or consent without any legal force and effect. The City does hereby confer upon the City Real Estate Manager, upon review and approval of the City Attorney's Office, the authority to amend this Agreement, provide any consent or approval set forth herein or otherwise exercise any right or election of the City granted or reserved herein, without formal approval from City Council, provided such amendment or consent does not substantially alter or modify the terms herein. Further, the Real Estate Manager shall have the authority, without further approval from City Council, to finalize the form of, and execute, all agreements, easements, contracts, documents necessary to address title issues, closing documents, escrow agreements, letters of credit, agreements and similar documents set forth in this Agreement. If, in the sole judgment of City Council, such amendment or consent does substantially alter or amend this Agreement, then the City shall have the option of declaring the amendment or consent void *ab initio*, thus rendering the amendment or consent without any legal force and effect.

34. **Effective Date.** When used herein, the term "Effective Date" or the phrase "the date hereof" or "the date of this Agreement" shall mean the last date that either School Board or City execute this Agreement.

IN WITNESS WHEREOF, School Board and City have caused this Agreement to be executed as of the dates set forth below.

“CITY”

Signed, sealed and delivered in the presence of:

CITY OF ORLANDO,
a municipality duly enacted under the laws of the State of Florida

Printed Name: _____

Printed Name: _____

By: _____

Print Name: _____

As: _____

Date: _____

STATE OF FLORIDA
COUNTY OF: _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by _____ as _____ of City of Orlando, a municipality duly enacted under the laws of the State of Florida, who produced _____ as identification or is personally known to me and who acknowledged that he/she signed the instrument voluntarily for the purpose expressed in it.

Notary Public
Printed Name: _____
Commission No.: _____
My Commission Expires: _____

[SEE FOLLOWING PAGE FOR SCHOOL BOARD’S SIGNATURE]

Signed, sealed and delivered in the presence of:

“SCHOOL BOARD”

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a corporate body organized and existing under the constitution and laws of the State of Florida

Print Name: _____

Print Name: _____

By: _____

Name: William E. Sublette

Title: Chairman

Dated: _____

STATE OF FLORIDA)
) s.s.:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by William E. Sublette, Chairman of The School Board of Orange County, Florida, a public corporate body organized and existing under the Constitution and the laws of the State of Florida, on behalf of The School Board. He is personally known to me or had produced _____ (type of identification) as identification and has acknowledged that he/she signed the instrument voluntarily for the purpose expressed in it.

Notary Public

Printed Name: _____

Commission No.: _____

My Commission Expires: _____

WITNESSES:

**THE SCHOOL BOARD OF ORANGE
COUNTY, FLORIDA**, a body corporate and
political subdivision of the State of Florida

Print Name: _____

By: _____
Barbara M. Jenkins, as its Secretary
and its Superintendent

Print Name: _____

Dated: _____

STATE OF FLORIDA)
) s.s.:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Barbara M. Jenkins, as Secretary and Superintendent of The School Board of Orange County, Florida, a public corporate body organized and existing under the Constitution and the laws of the State of Florida, on behalf of The School Board. She is personally known to me or had produced _____ (type of identification) as identification and has acknowledged that he/she signed the instrument voluntarily for the purpose expressed in it.

Notary Public
Printed Name: _____
Commission No.: _____
My Commission Expires: _____

Approved as to form and legality by
legal counsel to The School Board of
Orange County, Florida this ____ day
of _____, 2016, for its
exclusive use and reliance.

Reviewed and approved by Orange County
Public Schools Chief Facilities Officer this
____ day of _____, 2016.

By: _____
Laura L. Kelly, Esquire

By: _____
John T. Morris, Chief Facilities Officer

EXHIBIT "A"

LEGAL DESCRIPTION OF CITY PROPERTY

Orange County Parcel ID No. 27-22-29-0000-00-020

A parcel of land located in the NW ¼ of Section 27, Township 22 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of the NW ¼ of said Section 27, thence N 00°44'20" W, along the West line of the NW ¼ of said Section 27, a distance of 451.44 to the POINT OF BEGINNING; thence continuing along the West line of the NW ¼ of said Section 27, N 00°44'20" W a distance of 1296.20 feet to a point on the southerly right-of-way line of Amelia Avenue; thence leaving the West line of said Section 27 along a non-tangent curve to the right, being also along the southerly right-of-way line of said Amelia Avenue, an arc distance of 165.99 feet (said curve having a radius of 256.48 feet, a delta angle of 37°03'14", a chord bearing of S 71°56'41" E and a chord distance of 162.99 feet to a point; thence continuing along the southerly right-of-way line of said Amelia Avenue, S 53°25'03" E a distance of 323.39 feet to a point; thence continuing along the southerly right-of-way line of said Amelia Avenue, Southeasterly along a curve to the left, an arc distance of 32.45 feet (said curve having a radius of 316.48 feet, a delta angle of 05°52'29", a chord bearing of S 56°21'18" E and a chord distance of 32.44 feet) to a point at the Northwest corner of Lot 1, Block G, of Westchester Manor as recorded in Plat Book T, Page 62 of the Official Records of Orange County, Florida; thence leaving the southerly right-of-way line of said Amelia Avenue, S 30°43'52" W along the westerly line of said Lot 1, a distance of 181.76 feet to a point at the Southwest corner of said Lot 1; thence N 89°35'00" E along the southerly line of Blocks G and H of said Westchester Manor, a distance of 402.00 feet to a point; thence leaving the southerly line of said Westchester Manor S 00°00'00" W a distance of 332.27 feet to a point; thence N 90°00'00" E a distance of 120.34 feet to a point; thence S 00°00'00" W a distance of 136.27 feet to a point; thence S 89°35'59" W a distance of 163.00 feet to a point; thence S 00°00'00" W a distance of 57.67 feet to a point; thence S 89°41'41" W a distance of 99.38 feet to a point; thence S 00°05'11" W a distance of 44.25 feet to a point; thence N 89°54'49" W a distance of 65.07 feet to a point; thence S 00°00'00" W a distance of 93.09 feet to a point on the northerly line of Tampa Terrace First Addition as recorded in Plat Book V, Page 7, of the Official Records of Orange County, Florida; thence S 89°33'36" W along the northerly line of said Tampa Terrace First Addition and its extension westerly, a distance of 469.62 feet to a point; thence S 00°44'20" E a distance of 212.32 feet to a point; thence S 89°29'42" W a distance of 60.00 feet to the POINT OF BEGINNING.

EXHIBIT "B"

LEGAL DESCRIPTION OF SCHOOL PROPERTY

Orange County Parcel ID No. 27-22-29-0000-00-009

A parcel of land located in the NW ¼ of Section 27, Township 22 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of the NW ¼ of said Section 27, thence N 00°44'20" W, along the West line of the NW ¼ of said Section 27, a distance of 451.44 feet; thence leaving the westerly line of the NW ¼ of said Section 27, N 89°29'42" E, a distance of 395.79 feet to a point on the westerly line of Tampa Terrace First Addition, as recorded in Plat Book V, Page 7 of the Official Records of Orange County, Florida; thence N 00°43'18" W, along the westerly line of said Tampa Terrace First Addition, a distance of 211.94 feet to a point on the northerly line of said Tampa Terrace First Addition; thence leaving the westerly line of said Tampa Terrace First Addition, N 89°33'36" E, along the northerly line of said Tampa Terrace First Addition, a distance of 133.77 feet to the POINT OF BEGINNING; thence leaving the northerly line of said Tampa Terrace First Addition, N 00°00'00" E, a distance of 93.09 feet to a point; thence S 89°54'49" E, a distance of 65.07 feet to a point; thence N 00°05'11" E, a distance of 44.25 feet to a point; thence N 89°41'41" E, a distance of 99.38 feet to a point; thence N 00°00'00" E, a distance of 57.67 feet to a point; thence N 89°35'59" E a distance of 163.00 feet to a point; thence N 00°00'00" E a distance of 136.27 feet to a point; thence S 90°00'00" W a distance of 120.34 feet to a point; thence N 00°00'00" E a distance of 332.27 feet to a point on the southerly line of Westchester Manor, as recorded in Plat Book T, Page 62 of the Official Records of Orange County, Florida; thence N 89°35'00" E along the southerly line of said Westchester Manor, a distance of 544.04 feet to a point on the westerly right-of-way line of Tampa Avenue; thence leaving the southerly line of said Westchester Manor S 00°44'14" E along the westerly right-of-way line of Tampa Avenue a distance of 663.30 feet to a point on the northerly line of said Tampa Terrace First Addition; thence leaving the westerly right-of-way line of Tampa Avenue S 89°33'36" W along the northerly line of said Tampa Terrace First Addition a distance of 759.76 feet to the POINT OF BEGINNING.

EXHIBIT “C”

LEGAL DESCRIPTION OF ADDITIONAL CITY PROPERTY

SCHEDULE "A"

DESCRIPTION :

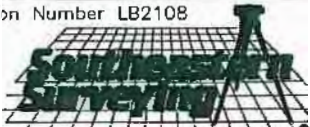
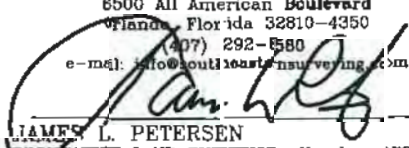
A portion of the NW 1/4 of Section 27, Township 22 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the NW 1/4 of Section 27, Township 22 South, Range 29 East, Orange County, Florida; thence North 00°44'16" West, a distance of 663.67 feet, along the West line of said NW 1/4 to a point on the South line of the North 1/2 of the SW 1/4 of the NW 1/4 of said Section 27; thence North 89°31'28" East, a distance of 529.63 feet, along said South line to the POINT OF BEGINNING, said point being on the Easterly line of lands described in Official Records Book 6663, Page 9891, Public Records of Orange County, Florida; thence along said Easterly line the following six (6) courses and distances : North 00°00'04" East, a distance of 92.90 feet; thence South 89°54'45" East, a distance of 65.07 feet; thence North 00°05'15" East, a distance of 44.25 feet; thence North 89°41'45" East, a distance of 99.38 feet; thence North 00°00'04" East, a distance of 57.67 feet; thence North 89°36'03" East, a distance of 6.74 feet; thence leaving said Easterly line, South 00°00'00" West, a distance of 133.88 feet; thence North 89°31'28" East, a distance of 18.53 feet; thence South 00°00'00" West, a distance of 60.00 feet to a point on said South line, said line being the North line of Block A, Tampa Terrace First Addition according to the plat thereof recorded in Plat Book V, Page 7, Public Records of Orange County, Florida; thence South 89°31'28" West, a distance of 189.80 feet, along said South line and along the North line of said Block A, to the POINT OF BEGINNING.

Containing 22,003 square feet, more or less.

SURVEYOR'S REPORT :

1. Bearings shown hereon are based on the West line of the NW 1/4 of Section 27, Township 22 South, Range 29 East, Orange County, Florida being North 00°44'16" West, assumed.
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Standards of Practice for Land Surveying Chapter 5J-17 requirements.

Description	Date: May 13, 2016 KR	Certification Number LB2108 597460b3
	Job Number: 59746 Scale: 1" = 40'	 SOUTHEASTERN SURVEYING AND MAPPING CORPORATION 6500 All American Boulevard Orlando, Florida 32810-4350 (407) 292-5580 e-mail: info@southeasternsurveying.com
	Chapter 5J-17, Florida Administrative Code requires that a legal description drawing bear the notation that THIS IS NOT A SURVEY.	
ORANGE COUNTY PUBLIC SCHOOLS	SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH	 JAMES L. PETERSEN REGISTERED LAND SURVEYOR Number 4791

SKETCH OF DESCRIPTION



EASTERLY LINE OF LANDS DESCRIBED IN
OFFICIAL RECORDS BOOK 6663, PAGE 9891

ROCK LAKE PARK COMMUNITY CENTER
OFFICIAL RECORDS BOOK 6663, PAGE 9891

EASTERLY LINE OF LANDS
DESCRIBED IN OFFICIAL RECORDS
BOOK 6663, PAGE 9891

POINT OF
BEGINNING

NORTH LINE OF BLOCK A, TAMPA TERRACE
FIRST ADDITION PLAT BOOK V, PAGE 7

N 89°31'28" E 529.63'

S 89°31'28" W 189.80'

SOUTH LINE OF THE NORTH 1/2 OF THE SW 1/4 OF THE NW 1/4 OF SECTION 27-22-29

BLOCK A
TAMPA TERRACE FIRST ADDITION
PLAT BOOK V, PAGE 7

LOT 2

LOT 3

LOT 4

LOT 5

LOT 6

POINT OF COMMENCEMENT
SW CORNER OF THE NW 1/4
OF SECTION 27-22-29

N 00°44'16" W 663.67'
WEST LINE OF THE NW 1/4
OF SECTION 27-22-29

N 00°00'04" E 92.90'

S 89°54'45" E 65.07'

N 00°05'15" E 44.25'

N 89°41'45" E 99.38'

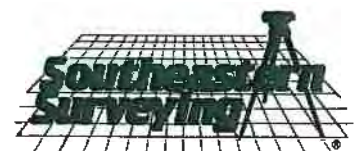
N 00°00'04" E 57.67'

S 00°00'00" W 133.88'

N 89°36'03" E 6.74'

N 89°31'28" E 18.53'

S 00°00'00" W 60.00'



SOUTHEASTERN SURVEYING
AND MAPPING CORPORATION
6500 All American Boulevard
Orlando, Florida 32810-4350
(407) 292-8580

Certification Number LB2108
e-mail: info@southeasternsurveying.com

Drawing No. 59746003
Job No. 59746
Date: May 13, 2016
SHEET 2 OF 2
See Sheet 1 for Description



THIS IS NOT A SURVEY.
NOT VALID WITHOUT SHEET 1

EXHIBIT “D”

LEGAL DESCRIPTION OF ADDITIONAL SCHOOL PROPERTY

SCHEDULE "A"

DESCRIPTION :


A portion of the NW 1/4 of Section 27, Township 22 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the NW 1/4 of Section 27, Township 22 South, Range 29 East, Orange County, Florida; thence North 00°44'16" West, a distance of 663.67 feet, along the West line of said NW 1/4 to a point on the South line of the North 1/2 of the SW 1/4 of the NW 1/4 of said Section 27; thence North 89°31'28" East, a distance of 529.63 feet, along said South line to a point on the Easterly line of lands described in Official Records Book 6663, Page 9891, Public Records of Orange County, Florida; thence along said Easterly line the following six (6) courses and distances : North 00°00'04" East, a distance of 92.90 feet; thence South 89°54'45" East, a distance of 65.07 feet; thence North 00°05'15" East, a distance of 44.25 feet; thence North 89°41'45" East, a distance of 99.38 feet; thence North 00°00'04" East, a distance of 57.67 feet; thence North 89°36'03" East, a distance of 6.74 feet to the POINT OF BEGINNING;; thence leaving said Easterly line thence North 00°00'00" East, a distance of 97.23 feet to a point of curvature of a curve concave Southeasterly, having a radius of 109.38 feet and a central angle of 47°48'24"; thence Northeasterly along the arc of said curve a distance of 91.26 feet to a point on said Easterly line; thence along said Easterly line the following four (4) courses and distances : South 00°00'04" West, a distance of 40.91 feet; thence South 89°59'56" East, a distance of 120.34 feet; thence South 00°00'04" West, a distance of 136.27 feet; thence South 89°36'03" West, a distance of 156.26 feet to the POINT OF BEGINNING.

Containing 21,951 square feet, more or less.

SURVEYOR'S REPORT :

1. Bearings shown hereon are based on the West line of the NW 1/4 of Section 27, Township 22 South, Range 29 East, Orange County, Florida being North 00°44'16" West, assumed.
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Standards of Practice for Land Surveying Chapter 5J-17 requirements.

Description	Date: May 13, 2016 KR		Certification Number LB2108 59746034
	Job Number: 59746	Scale: 1" = 40'	 <p>SOUTHEASTERN SURVEYING AND MAPPING CORPORATION 6500 All American Boulevard Orlando, Florida 32810-4350 (407) 292-8580 e-mail: info@southeasternsurveying.com</p> <p><i>[Signature]</i></p> <p>JAMES L. PETERSEN REGISTERED LAND SURVEYOR Number 4791</p>
	<p>Chapter 5J-17, Florida Administrative Code requires that a legal description drawing bear the notation that</p> <p>THIS IS NOT A SURVEY.</p>		
	<p>SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH</p>		
<p>ORANGE COUNTY PUBLIC SCHOOLS</p>			

SKETCH OF DESCRIPTION

LEGEND :

Δ = CENTRAL ANGLE
 R = RADIUS
 L = ARC LENGTH
 CD = CHORD DISTANCE
 CB = CHORD BEARING
 PC = POINT OF CURVATURE

$\Delta = 47^{\circ}48'24''$
 $R = 109.38'$
 $L = 91.26'$
 $CD = 88.64'$
 $CB = N 23^{\circ}54'12'' E$



ROCK LAKE PARK COMMUNITY CENTER
OFFICIAL RECORDS BOOK 6663, PAGE 9891

EASTERLY LINE OF LANDS
DESCRIBED IN OFFICIAL RECORDS
BOOK 6663, PAGE 9891

40.91'
S 00°00'04" W

S 89°59'56" E 120.34'

PC

N 00°00'00" E 97.23'

EASTERLY LINE OF LANDS
DESCRIBED IN OFFICIAL RECORDS
BOOK 6663, PAGE 9891

S 00°00'04" W 136.27'

N 89°36'03" E 6.74'

S 89°36'03" W 156.26'

POINT OF BEGINNING

N 00°00'04" E 57.67'

N 89°41'45" E 99.38'

N 00°05'15" E 44.25'

S 89°54'45" E 65.07'

N 00°00'04" E 92.90'

N 89°31'28" E 529.63'

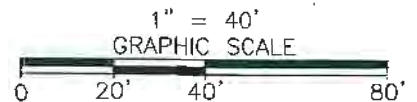
N 00°44'16" W 663.67'

SOUTH LINE OF THE NORTH 1/2 OF THE SW
 1/4 OF THE NW 1/4 OF SECTION 27-22-29
 SW CORNER OF THE NW 1/4
 OF SECTION 27-22-29

POINT OF COMMENCEMENT

WEST LINE OF THE NW 1/4
OF SECTION 27-22-29

EASTERLY LINE OF LANDS
DESCRIBED IN OFFICIAL RECORDS
BOOK 6663, PAGE 9891



SOUTHEASTERN SURVEYING
 AND MAPPING CORPORATION
 6500 All American Boulevard
 Orlando, Florida 32810-4350
 (407) 292-8580

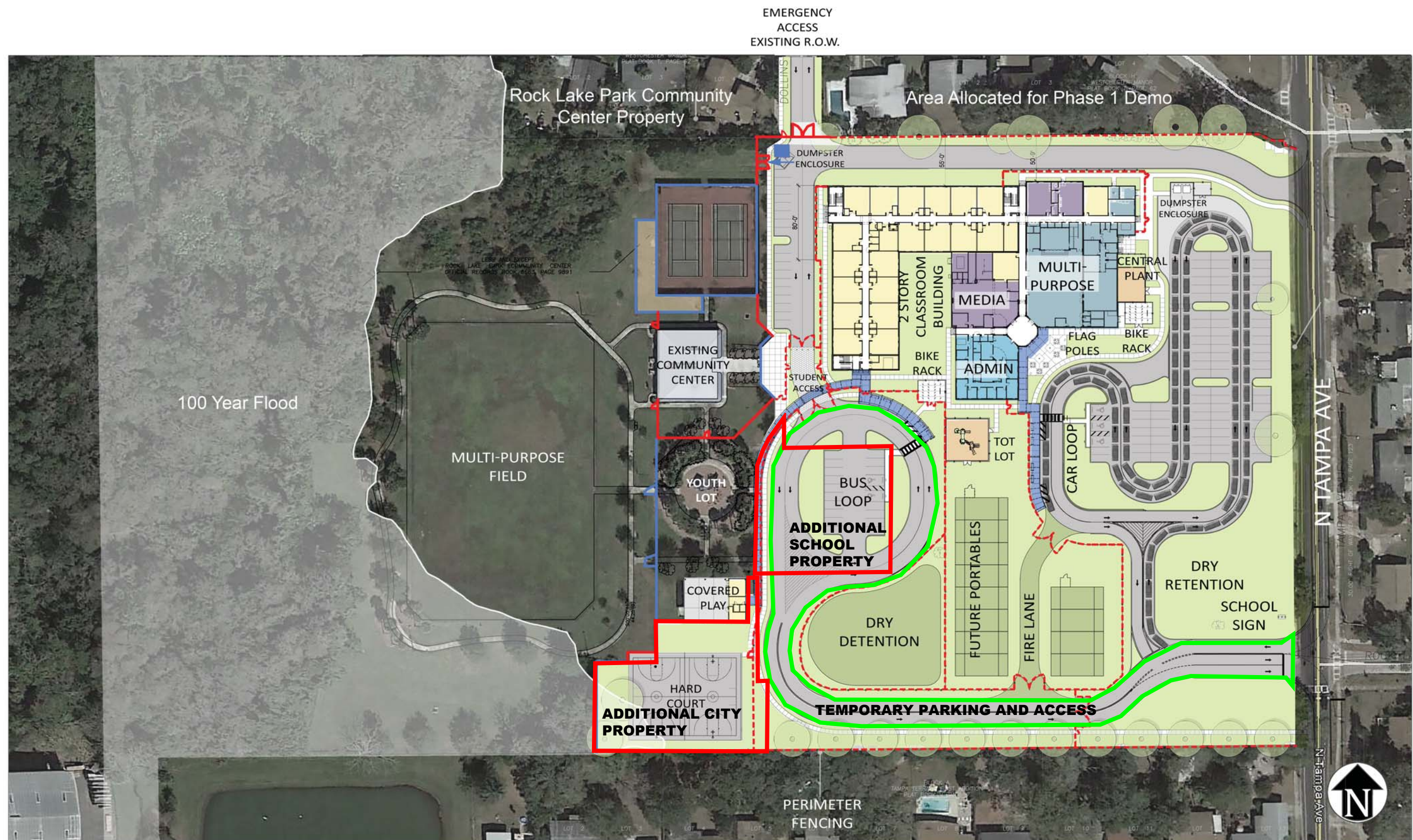
Certification Number LB2108
 e-mail: info@southeasternsurveying.com

Drawing No. 59746004
 Job No. 59746
 Date: May 13, 2016
 SHEET 2 OF 2
 See Sheet 1 for Description

THIS IS NOT A SURVEY.
 NOT VALID WITHOUT SHEET 1

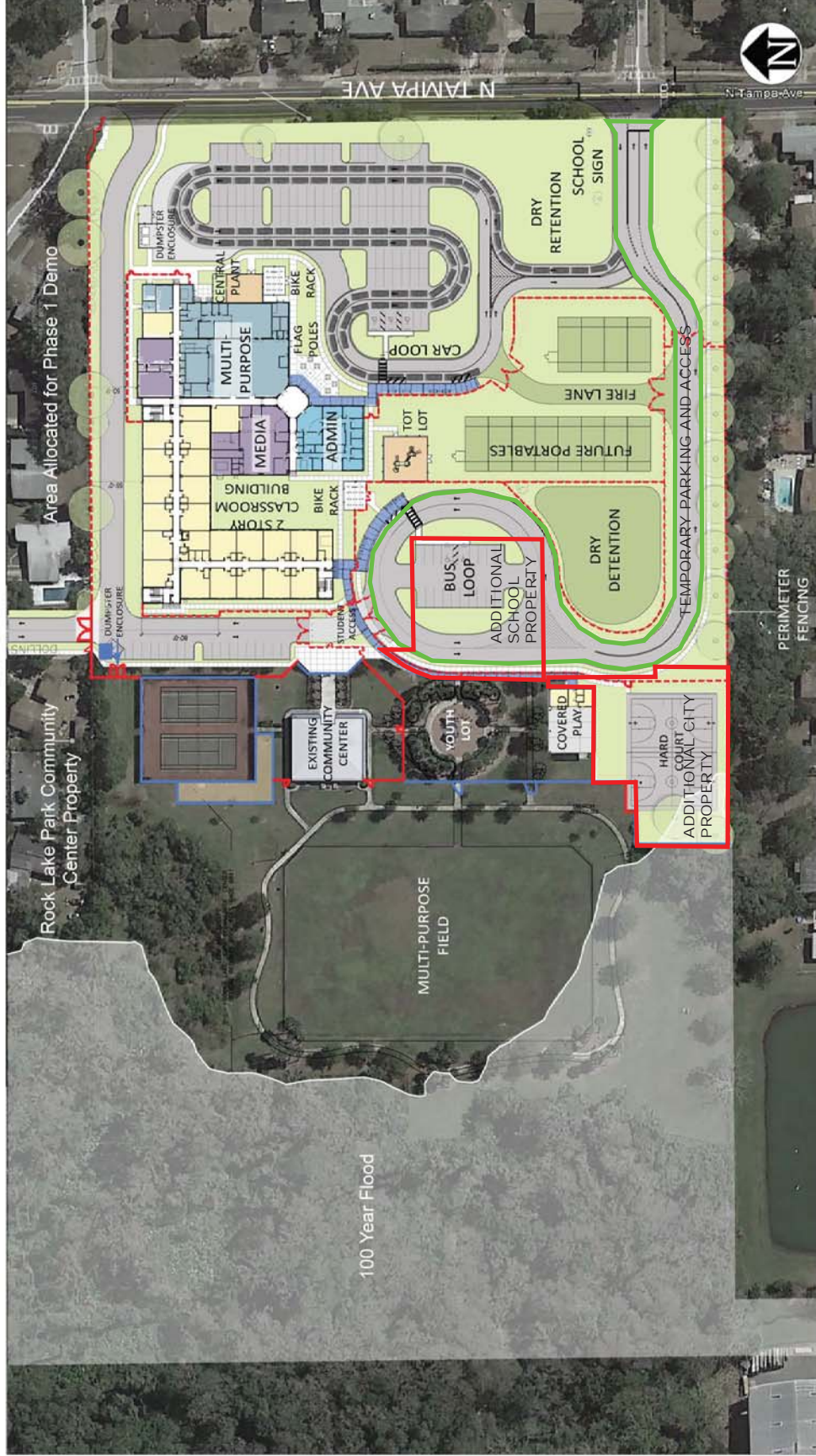
EXHIBIT “E”

DEPICTION OF RECREATIONAL IMPROVEMENTS





EMERGENCY
ACCESS
EXISTING R.O.W.



BRPH Orlando
2420 Lakemont Avenue |
Suite 300
Orlando, 32814
407.896.5301
407.896.5304
www.brph.com



Site Plan B.7

Rock Lake Elementary School

OCPS Project No. 50068

- PROPOSED FENCING
- EXISTING FENCING TO BE UTILIZED
- EXISTING FENCE ALSO LOCATED AROUND PERIMETER OF PARK
- CITY PROPOSED REVISED FENCING

School Capacity: 650 Student Stations
Total Queuing: 104 Cars
Percent Stacking: 16 %
Total Parking: 106 Cars
Community Parking: 18 Cars
Phase 1 Parking: 76 Cars