

**AMENDED AND RESTATED  
CITY/SCHOOL BOARD PARKING AGREEMENT**

This Amended and Restated City/School Board Parking Agreement (“Agreement”) is made and entered into as of the Effective Date (herein defined) by and between THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a corporate body existing under the laws of the State of Florida (herein referred to as “School Board”), and the CITY OF ORLANDO, FL, a municipal corporation existing under the laws of the State of Florida (herein referred to as “City”)

WITNESSETH:

WHEREAS, School Board and City previously entered into that certain Agreement dated October 10, 2007, providing for the shared use of School Board’s and City’s parking facilities (“Original Agreement”);

WHEREAS, School Board owns the VoTec Garage as identified on **Exhibit “A”** attached hereto and made a part hereof (“School Board Parking Facility”), which is adjacent to the Vocational-Technical School, 301 West Amelia Street, Orlando, Florida;

WHEREAS, City owns “Lot 4” as identified in **Exhibit “A”** (“City Parking Area”) located in the same general area as the School Board Parking Facility;

WHEREAS, City has in the past utilized the City Parking Area for events taking place in the former Amway Arena, which has been demolished to become part of a new development known as the “Creative Village”;

WHEREAS, the parking needs of both parties have changed since the Original Agreement; therefore, it is necessary to amend the Original Agreement to reflect current conditions and related responsibilities; and

WHEREAS, each party has agreed to continue to make the parking facilities available to the other, upon the modified terms and conditions set out herein; and

WHEREAS, the City Parking Area is subservient to a Master Development Agreement between City and Creative Village Development, LLC, a Florida limited liability company (“Developer”).

NOW, THEREFORE, in consideration of the premises, mutual covenants and agreements herein set forth, School Board and City do hereby amend and restate the Original Agreement by replacing it in its entirety so that it reads as follows:

**1. Intended Use of Facilities.** On the terms and conditions of this Agreement, School Board and City agree to allow each other to use the properties described herein for motor vehicular parking.

**2. Term of Agreement.** This Agreement shall become effective commencing upon the date when the last party hereto executes it (“Effective Date”) and shall expire five (5) years from the Effective Date hereof, or otherwise terminate as provided herein. Subsequent to the Expiration Date, the term may be renewed annually should both parties and the Developer agree to the terms and conditions thereof, in the sole and absolute discretion of each. Notwithstanding anything to the contrary otherwise contained in this Agreement, should School Board’s right to use the City Parking Area terminate in accordance with Section 10(a) hereof, City shall be allowed to continue to use the School Board Parking Facility for so long as the School Board Parking Facility is available for City’s use within the limitations and strictly in accordance with this Agreement. Once the School Board’s right to use the City Parking Area has terminated, Developer’s consent shall no longer be needed with respect to any further changes to this Agreement.

**3. Free Parking for School Board.** City hereby grants School Board sole and exclusive possession of the City Parking Area to be used exclusively for the overflow parking needs of School Board, its agents, employees and invitees. If it so desires, School Board may secure the site with perimeter fencing at its own expense. Should City need to use the City Parking Area in conjunction with an event at any time of day or night, City will provide a minimum of ten (10) days’ prior written notice to School Board, and upon such notice being given, the City Parking Area will not be available for use by School Board during that time period.

**4. Free Parking for City.** School Board grants City the right for City employees and contractors providing services during City-scheduled events (“City Events”), to park in the City Parking Area and/or the fourth (4<sup>th</sup>) and fifth (5<sup>th</sup>) levels of the School Board Parking Facility (collectively, “Parking Facilities”) free of charge, at such times upon written request by City on Saturdays and Sundays and on weekdays when the School Board is otherwise not using School Board Parking Facility. City understands and acknowledges that the use of the School Board Parking Facility must comply with the requirements of the Jessica Lunsford Act. City will provide a minimum of ten (10) days’ prior written notice to School Board, and in the event City makes such a request, but School Board has scheduled a meeting or event requiring use of the Parking Facilities, School Board shall notify City in writing within five (5) days after receipt of City’s request, which Parking Facilities, if any, will be available for City’s use. At the end of each use of the Parking Facilities by the City, City shall return the Parking Facilities to the School Board in a neat and clean condition. Approval of this Agreement by the School Board shall confer upon and authorize the School Board’s Chief Facilities Officer and his designee, the authority to approve or deny the use of the School Board Parking Facility for any City Events in accordance with the same terms and conditions as contained in this Agreement without further approval from the School Board.

**5. School Board Maintenance and Security Obligations.** At its sole cost and expense, School Board shall be responsible for maintenance, landscaping and up keep of the City Parking Area including the paved areas free of trash, garbage and other debris. School Board shall during normal hours of use, provide security for the area, including, without limitation, to the extent feasible, keeping trespassers off the City Parking Area. At the end of the term or whenever School Board shall no longer have the right to use the City Parking Area, whichever

comes first, School Board shall restore the City Parking Area to the original condition it was in when School Board first went into possession, normal wear and tear excepted. To the extent necessary, School Board shall also restore all other improvements in the City Parking Area to a good working condition. Upon completion of such work, School Board shall no longer have any responsibilities concerning the City Parking Area.

**6. School Board's Other Responsibilities and Obligations.** School Board shall diligently fulfill the following additional responsibilities and obligations under this Agreement:

- (a) Use the City Parking Area only for parking of motor vehicles;
- (b) Observe and comply with all valid and applicable requirements of duly constituted public authorities and all federal, state and local statutes, ordinances, regulations and standards applicable to School Board, City and the City Parking Area; and
- (c) Yield and surrender immediate possession of the City Parking Area to City upon expiration/termination of this Agreement.

**7. City's Other Responsibilities and Obligations.** City, its employees, agents and contractors shall diligently fulfill the following additional responsibilities and obligations under this Agreement:

- (a) Use the Parking Facilities only for parking of motor vehicles;
- (b) Observe and comply with all valid and applicable requirements of duly constituted public authorities and all federal, state and local statutes, ordinances, regulations and standards applicable to School Board, City and the Parking Facilities; and
- (c) Yield and surrender immediate possession of the School Board Parking Facility to School Board upon expiration/termination of any approved City Events.

**8. City Maintenance Obligations.** City, at its sole cost and expense, shall be responsible for the maintenance, repairs and replacement of all sidewalks and other improvements located along the perimeter of the City Parking Area, adjacent to Amelia Street, Revere Avenue, and Concord Street, except to the extent caused by the intentional misconduct or gross negligence of School Board, its contractors, employees, guests and invitees, in which case, such work shall be completed and paid for by School Board. At the end of any City Events, City shall restore the School Board Parking Facility to the original condition it was in prior to the City Events, normal wear and tear excepted. To the extent necessary, City shall also restore all other improvements in the School Board Parking Facility to a good working condition.

**9. Liability and Losses within Parking Facilities.** School Board shall be solely responsible for all liabilities and losses suffered arising out of incidents occurring in the City Parking Area arising from and out of the School Board's exclusive use of the City Parking Area; provided however, School Board shall not be responsible for any liability or loss to the extent caused by the intentional misconduct or gross negligence of City, City's employees or agents, including, without limitation, City's failure to maintain the sidewalk improvements along the perimeter of the City Parking Area. City shall be solely responsible for all liabilities and losses suffered arising out of incidents occurring in the Parking Facilities arising from and out of the City's use of the Parking Facilities; provided however, City shall not be responsible for any liability or loss to the extent caused by the intentional misconduct or gross negligence of School Board, School Board's employees or agents. Notwithstanding the foregoing, nothing contained herein shall be construed or interpreted (a) to alter, amend or waive the School Board 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 City or School Board to be sued.

**10. Termination of Agreement.** This Agreement may be terminated prior to the Expiration Date under any of the following circumstances:

(a) When development of the Creative Village has progressed to the point that it is necessary to terminate access to the City Parking Area, whether for actual construction, use as a construction staging area or as otherwise deemed necessary by Developer, in its sole and absolute discretion. City will provide ninety (90) days prior written notice to School Board; whereupon, the City Parking Area shall no longer be available for School Board's use;

(b) Upon ninety (90) days prior written notice to School Board, City, in its sole and absolute discretion, may revoke and cancel its obligation to allow School Board, its agents, contractors, employees and invitees to use the City Parking Area;

(c) Upon ninety (90) days prior written notice to City, School Board, in its sole and absolute discretion, may revoke and cancel its obligation to allow City, its agents, contractors, employees and invitees to use the School Board Parking Facility; or

(d) A termination for default by either party to the extent allowed in this Agreement.

**11. School Board Event of Default.** The occurrence of any of the events stated in this section shall be a School Board event of default ("School Board Event of Default"). A School Board Event of Default occurs whenever School Board shall do, or permit anything to be done, whether by action or inaction, contrary to any material covenant or agreement on the part of School Board herein contained or contrary to any of School Board's obligations under this

Agreement, which School Board fails to remedy within thirty (30) days after City has given School Board written demand specifying the same.

**12. City Default Remedies.** If School Board commits a School Board Event of Default, without further notice or demand City is authorized to exercise the following remedies to the extent permitted by law:

(a) City may give School Board written notice of City's intent to end the term of this Agreement on a day no less than thirty (30) days after School Board's receipt of such notice (the "City Termination Date"). This Agreement and the term and estate hereby granted shall expire and terminate upon the City Termination Date as fully and completely and with the same force and effect as if the day so specified were the expiration/termination date specified in this Agreement. At that time all rights of the parties under this Agreement shall expire and terminate; or

(b) Institute legal proceedings to specifically enforce this Agreement including but not limited to completing all conditions for returning the City Parking Area to the condition required upon expiration of this Agreement, at School Board's expense.

The right to seek damages is hereby irrevocably waived, except to the extent specifically provided herein.

**13. City Event of Default.** The occurrence of any of the events stated in this section shall be a City event of default ("City Event of Default"). A City Event of Default occurs whenever City shall do, or permit anything to be done, whether by action or inaction, contrary to any material covenant or agreement on the part of City herein contained or contrary to any of City's obligations under this Agreement, which City fails to remedy within thirty (30) days after School Board has given City written demand specifying the same.

**14. School Board Default Remedies.** If City commits a City Event of Default, without further notice School Board is authorized to exercise the following remedies to the extent permitted by law:

(a) School Board may give to City written notice of School Board's intent to end the term of this Agreement on a day no less than thirty (30) days after City's receipt of such notice (the "School Board Termination Date"). This Agreement and the term and estate hereby granted shall expire and terminate upon the School Board Termination Date as fully and completely and with the same force and effect as if the day so specified were the expiration/termination date specified in this Agreement. At that time all rights of the parties under this Agreement shall expire and terminate;

(b) Institute proceedings for injunctive relief and/or specific performance as necessary to enforce the terms and conditions of this Agreement, including but not limited to completing all conditions for returning the Parking Facilities to the condition required upon expiration of the City Events, at City's expense.

The right to seek damages is hereby irrevocably waived, except to the extent specifically provided herein.

**15. Notices.** Any notice required or permitted to be given under this Agreement shall be in writing and delivered by hand, by nationally recognized overnight air courier service (such as Federal Express) or by United States Postal Service, registered or certified mail, return receipt requested, in each case addressed to the respective party at the party's notice address. A notice shall be deemed to have been delivered and received on the earlier of the date actually received (by whatever means sent, including means not authorized by this section) or on the date of transmittal by telecopier, or the first (1<sup>st</sup>) business day after having been delivered to a nationally recognized overnight air courier service for "next business day" delivery, or on the third (3<sup>rd</sup>) business day after having been deposited with the United States Postal Service registered or certified mail, return receipt requested. Addresses for delivery of notice shall be as follows:

To City: Real Estate Division Manager  
City of Orlando  
400 S. Orange Avenue  
Orlando, FL 32801  
Telephone: (407) 246-2653  
Facsimile: (407) 246-3129  
Email: [laurie.botts@cityoforlando.net](mailto:laurie.botts@cityoforlando.net)

Copy to: Creative Village Development, LLC.  
801 North Orange Avenue, Suite 530  
Orlando, FL 32801  
Attention: Craig Ustler  
Telephone: 407-839-1070  
Facsimile: (407) 649-94121  
Email: [mckenzie@ustler.net](mailto:mckenzie@ustler.net)

To School Board: School Board of Orange County, Florida  
445 West Amelia Street  
Orlando, Florida 32801  
Attn: General Counsel  
Telephone: (407) 317-3411  
Facsimile: (407) 317-3341  
Email: [Woody.Rodriguez@ocps.net](mailto:Woody.Rodriguez@ocps.net)

Copy to: School Board of Orange County, Florida  
Real Estate Management

Attn: Harold Jenkins  
6501 Magic Way, Bldg. 200  
Orlando, Florida 32809  
Telephone: (407) 317-3700 (ext. 202-5108)  
Facsimile: (407) 317-3792  
Email: [Harold.jenkins@ocps.net](mailto:Harold.jenkins@ocps.net)

-and-

School Board of Orange County, Florida  
Facilities Services  
Attn: Laura L. Kelly, Esq.  
6501 Magic Way, Bldg. 200  
Orlando, Florida 32809  
Telephone: (407) 317-3700 (ext. 202-5906)  
Facsimile: (407) 317-375  
Email: [Laura.kelly2@ocps.net](mailto:Laura.kelly2@ocps.net)

**16. Agreement Renewals.** No amendments and/or modifications of this Agreement shall be valid unless in writing and signed by each of the parties. 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, 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.

**17. Attorneys Fees and Costs.** The prevailing party in any dispute arising out of or in any manner relating to this Agreement shall be entitled to recover from the other party reasonable attorneys' fees and costs for all pre-litigation, trial, appellate and bankruptcy proceedings, which shall be enforceable whether or not such action is prosecuted to judgment.

**18. Entire Agreement.** This Agreement constitutes the entire agreement between the parties relating to the matters set forth herein, and shall supersede all prior written or oral agreements or understandings between the parties.

**19. Sovereign Immunity.** Each party is entitled to the protection of the sovereignty authorized under Florida law. Nothing herein is intended as a waiver of the sovereign immunity of either party. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign

immunity or operation of law.

**20. Jury Waiver.** City and School Board waive trial by jury in any action, proceeding, or counterclaim involving any matter whatsoever arising out of or in any way connected with this Agreement.

**21. City's Continued Use of Parking Facilities.** Should School Board's use of the City Parking Area terminate because the Developer has need to use the City Parking Area, this Agreement shall remain in full force and effect in accordance with the remaining applicable terms and conditions not in conflict herewith. In other words among other things, City shall be allowed to continue to use the School Board Parking Facility for the remainder of the Term, which shall automatically renew on an annual basis, unless otherwise terminated by either party prior to the end of the Term or any renewal thereof. City shall be solely responsible for all liabilities and losses occurring in the School Board Parking Facility to the extent caused by City, its employees, contractors or agents.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES OF PARTIES APPEAR ON FOLLOWING PAGES.)

IN WITNESS WHEREOF, School Board and City have hereunto executed these presents the day and year written below.

**WITNESSES:**

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

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: William E. Sublette

Title: Chairman

\_\_\_\_\_  
Print Name: \_\_\_\_\_

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 has produced \_\_\_\_\_ (type of identification) as identification.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print or Type Name  
Serial Number:  
My Commission Expires:

[ADDITIONAL SIGNATURE PAGES TO FOLLOW]

**WITNESSES:**

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

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Attest: \_\_\_\_\_  
Barbara M. Jenkins, Ed.D.,  
as its Superintendent

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by Barbara M. Jenkins, Ed.D., as 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 has produced \_\_\_\_\_ (type of identification) as identification.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print or Type Name  
Serial Number:  
My Commission Expires:

[ADDITIONAL SIGNATURE PAGE TO FOLLOW]

**CITY OF ORLANDO, FLORIDA**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_  
Mayor / Pro Tem

**ATTEST:**

Executed on \_\_\_\_\_, 2016

\_\_\_\_\_  
Amy Iennaco, City Clerk

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the City of Orlando,  
Florida, only.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Assistant City Attorney

Executed on \_\_\_\_\_, 2016.

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, and Amy Iennaco, the \_\_\_\_\_ and City Clerk respectively, on behalf of the City. They are personally known to me or have produced \_\_\_\_\_ (type of identification) as identification.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print or Type Name  
Serial Number:  
My Commission Expires:

EXHIBIT "A"

# Centroplex Parking

