

CLAY COUNTY AGREEMENT/CONTRACT #11/12-167 RN1

**FIRST RENEWAL TO LEASE AGREEMENT BETWEEN CLAY COUNTY, FLORIDA
AND THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA**

[Re: Neptune Park]

This First Renewal to the Lease Agreement (“First Renewal”) is made and entered into this ____ day of August, 2022, by and between Clay County, a political subdivision of the State of Florida (the “County”), and the School Board of Clay County, a body corporate and political subdivision of the State of Florida (“School Board”).

RECITALS

WHEREAS, on September 20, 2012, the parties entered into a Lease Agreement, Clay County Agreement/Contract #11/12-167 (“Lease”), a copy of which is attached hereto and incorporated herein as **Attachment A**, wherein the School Board agreed to lease the Premises to the County as described in the Lease known as Neptune Park located at 2070 Thunderbolt Rd, Fleming Island, FL 32003; and

WHEREAS, the Lease provides for an initial ten (10) year term that ends on September 19, 2022 with the option for the parties to enter into an additional ten year term upon execution of a renewal agreement; and

WHEREAS, during the initial ten (10) year term the County worked with a contractor to make improvements to the Premises to include the construction of recreational facilities and athletic fields on the Premises; and

WHEREAS, the County currently subleases the Premises to Fleming Island Athletic Association, Inc., a Florida Non-Profit Corporation, for the purpose of the athletic association providing a location for members of its organization and teams to engage in organized youth sports, recreational activities, and events in Clay County; and

WHEREAS, the County desires the continued use of the Premises for organized youth sports, recreational activities, and events in Clay County which promote community interest; and

WHEREAS, the parties wish to enter into this First Renewal to renew the Lease for an additional ten (10) year term commencing September 20, 2022 and continuing through September 19, 2032.

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.

2. The Lease is hereby renewed for an additional ten (10) year term commencing September 20, 2022 and continuing through September 19, 2032.

3. Except as expressly provided herein, all other terms and conditions of the Lease not affected by this First Renewal are incorporated herein and shall remain in full force and effect.

4. The parties agree to utilize electronic signatures and that the digital signatures of the parties set forth below are intended to authenticate this First Renewal and have the same force and effect as manual written signatures. Each person signing on behalf of the parties represents and warrants that he/she has full authority to execute this First Renewal on behalf of such party and that the First Renewal will constitute a legal and binding obligation of such party.

IN WITNESS WHEREOF, the parties hereto have executed this First Renewal as of the date and year first written above.

**Clay County, a political subdivision of the
State of Florida**

By: _____

Wayne Bolla
Its Chairman

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

The School Board of Clay County, Florida

By: _____

Mary Bolla
Chairperson

ATTEST:

David Broskie
Superintendent of Schools

ATTACHMENT A LEASE AGREEMENT

LEASE AGREEMENT #11/12- 167

THIS LEASE made and entered into this 20th day of September, 2012, by and between The School Board of Clay County, Florida **hereinafter called School Board or the Lessor**, and Clay County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, **hereinafter called the Lessee**.

WHEREAS, the School Board promotes school/community interaction and provides for the use of school property by outside agencies which comply with School Board Policy.

WHEREAS, in consideration of the covenants hereinafter contained in this Lease to be performed by the Lessee, the Lessor does hereby let, lease, and demise unto the Lessee, the following described property lying and being in Clay County, Florida, and hereinafter referred to as "the Premises" to-wit:

A part of Section 8, lying in Township 5 South, Range 26 East, Clay County, Florida, being more particularly described as follows: For a point of reference commence at the corner common to said sections 5 and 8 with section 6 and 7, said Township and Range; thence south 06 degrees 25 feet 27 inches west, along the line dividing said Section 7 from said Section 8, a distance of 2,029.71 feet; thence north 88 degrees 34 feet 03 inches east, a distance of 1,999.07 feet; thence continue north 88 degrees 34 feet 3 inches east, a distance of 139.42 to the easterly line of a 66 foot unrecorded Clay Electric easement; thence North 02 degrees 43 feet 18 inches east, along said easterly line of the Clay Electric easement, a distance of 1,018.40 feet to the point of beginning. From the point of beginning thus described continue north 02 degrees 43 feet 18 inches east along said easterly line of the Clay Electric easement, a distance of 824.93 feet; thence north 90 degrees 00 feet 00 inches east, a distance of 355.64 feet; thence south 0 degrees 38 feet 40 inches east, a distance of 824.05 feet; thence south 90 degrees 0 feet 0 inches west, a distance of 404.11 feet to the point of beginning.

WHEREAS, it is the intention of the Clay County Board of County Commissioners to partner with an athletic association, **hereinafter called Sublessee**, through a Sub-Lease Agreement, to make improvements to the above described premises consisting of practice fields, and other support infrastructure for use in tournaments, and other organized sports activities for the citizens of Clay County, and the School Board approves of this use.

NOW, THEREFORE IT IS AGREED:

1. **Lessor leases** the premises aforesaid unto the said Lessee for a term of ten (10) years, commencing on September 20, 2012 and ending on September 20, 2022. Said Lessee shall pay to the Lessor \$1.00 per year as rent for the said premises, the receipt of which is hereby acknowledge, and deemed sufficient consideration. Additionally, in addition to the aforementioned rent the Lessee shall be responsible for the payment of any utility bills, taxes, municipal, county or state fees or assessments of any kind or nature whatsoever as they accrue and become payable.
2. The Lessee is authorized by the terms of this lease to sublease the Premises to an athletic association (the Sublessee) which will clear the land, build three fields, construct a

parking lot, and install fencing to separate the leased premises from the Thunderbolt school site. All improvements to the land which is the subject of this lease must be pre-approved by the Lessor. The Lessor acknowledges and approves the intended use of the premises by the Lessee and the Sublessee for public and organized athletics and play. The Lessee's Sublessee shall control the use of and schedule the organized activities on said premises. The Lessee and the Sublessee shall permit the public use of the facilities on said premises at such times as organized activities are not previously scheduled by the Sublessee. School Board employees may, through timely notice to the Sublessee, schedule the use of said leased facilities at such times as organized activities of Clay County and/or the Sublessee of Clay County are not previously scheduled by the Sublessee. Any sublease shall provide that sublessee shall be bound by all of the terms of this lease and shall state that the sublease shall immediately terminate upon the termination of this lease.

3. The term of this lease shall be for ten years. This Lease may be renewed for an additional ten year term on the same conditions upon execution of a renewal agreement by the parties hereto.
4. On expiration of this Lease, the property shall be surrendered to the Lessor in as good condition in all respects as it now is tendered, reasonable wear and tear excepted.
5. The said Lessee shall make no unlawful, improper, or offensive use of said premises: **Intoxicants, narcotics and tobacco products shall not be permitted on the leased Premises; no alcoholic beverages or liquor is to be brought on the leased premises, consumed, displayed or discarded thereon (Clay County Code, Chapter 3, Article I, Ordinance 79-15, as amended by Ordinance 91-54). Failure to report immediately alcohol use on said premises to the Clay County Sheriff's Department by the Lessee will be a violation of the Lease. Continued lack of enforcement of this section will serve as grounds for the immediate termination of this Lease by the Lessor. Any sublessee will also be required to sign a sublease containing this provision.**
6. Lessee shall require any Sublessee to be responsible for insuring that appropriate background investigations are conducted on all individuals, to include coaches, volunteers, directors, etc., that are in any way involved with the children participating in recreational activities on the Premises during the term of this Lease.
7.
 - (a) The Lessee shall at all times during the Lease Term have a leasehold estate in the Premises with full right to the use, enjoyment and possession of such leasehold estate therein.
 - (b) Possession and the use of the Premises, together with all improvements and fixtures thereon, shall, upon the last day of the Lease or earlier termination of this Lease, automatically revert to the Lessor free and clear of liens and encumbrances. Upon such termination of this Lease, the Lessee shall peaceably and quietly surrender the Premises to the Lessor, together with any associated improvements and fixtures located in or upon the Premises.

- (c) Any personal property of the Lessee or of any natural person, corporation, partnership, trust, or other legal entity (hereinafter referred to as "Person") which shall remain on the Premises after the expiration or earlier termination of the Lease and for thirty (30) days after the request by the Lessor for removal, shall at the option of the Lessor, be deemed to have been abandoned and may be retained by the Lessor and the same may be disposed of, without accountability, in such manner as the Lessor may see fit.
 - (d) All such improvements hereinafter made shall be and become the property of the Lessor at the end of the lease term unless written agreement between the parties provides otherwise.
- 8. Lessee agrees that its Sublessee shall bear the cost for labor, materials and other items in connection with any improvements hereinafter authorized; and the said Lessee shall not permit any lien to be placed upon the said premises by reason of such improvements, as necessitated by their use of the premises. The Lessee shall be responsible for the payment of all utility charges, janitorial services, water, sewer and garbage collection, as well as the proper disposal of any and all hazardous, or biohazardous waste generated on the Premises, in accord with all applicable laws therefor. The Lessee shall be responsible for the maintenance and repair for the Premises.
- 9. Lessee shall keep the grounds in a sanitary condition as well as conforming to all laws affecting said premises.
- 10. This Lease shall be binding upon the parties hereto, their successors and assigns.
- 11. The School Board prohibits the use of school property by any outside agency or organization which uses the school name and/or mascot in connection with its activities.
- 12. The Lessee agrees to accept the Premises in its presently existing condition, "as is". Lessor makes no warranties regarding the condition of the Premises or the suitability of the Premises for the construction of three sports fields and a parking lot thereon.
- 13. (a) Each of the following events shall be deemed a material default by the Lessee hereunder and a breach of this Lease:
 - (i) If the Lessee fails to pay, when due, any sum which the Lessee is obligated to pay under the terms and provisions of this Lease, including any taxes or fees due under Section 11 herein and any insurance premiums or charges due under Section 14 and such sum remains unpaid for a period of ten days after receipt of written notice thereof to the Lessee from the Lessor; or,
 - (ii) If the Lessee uses the Premises or associated improvements and fixtures for any purpose not permitted by this Lease or in violation of the laws of Clay County, the State of Florida or the United States of America, and such use shall continue for a period of thirty days after the Lessor has given written notice to the Lessee to desist from such use; or,

- (iii) If the Lessee or Sublessee uses the Premises in violation of Section 4 of this Lease.
 - (iv) This list of events of default (i)--(iii) is not exclusive.
 - (b) In the event that any item of default set forth above is of such a nature that it cannot be remedied within the time limits therein set forth, then the Lessee shall have such additional time as is reasonably necessary to cure such default, provided the Lessee diligently commences the curing of such default within said time limits and proceeds to completely cure the same in a timely and diligent manner.
 - (c) This Lease is subject to cancellation by either party only for cause by virtue of the events of default described above which are left uncured after a reasonable time to cure is provided to the party at fault. The determination as to what constitutes a "reasonable time to cure" shall lie solely within the discretion of the School Board. Any party wishing to terminate this lease for cause shall deliver written notice of any default to the other party and provide a minimum of 30 days or a reasonable time under the circumstances to cure, whichever is more.
- 14. Upon the occurrence of any default by the Lessee as set forth in Section 12 which has not been cured (and is not in the process of being cured) under Section 12(b), but not otherwise, the Lessor may take or bring whatever action as may be allowable at law or in equity and as may appear necessary or desirable to enforce its rights hereunder, which shall include the right to declare this Lease terminated and initiate eviction proceedings. Said remedies are cumulative and the exercise of one shall not be deemed an abandonment of any other remedy.
- 15. The Lessee and/or any Sub-Lessee must furnish annually, certificates of insurance which specify the following insurance requirements: \$300,000.00 coverage for Commercial General Liability per occurrence, \$300,000.00 coverage for Automobile Liability per occurrence, and 100,000.00/\$100,000.00/\$500,000.00. Employers Liability and Statutory Workers Compensation. Commercial General Liability limits of \$500,000.00 to \$1,000,000.00 may be required for certain events. Certificates of Insurance must be original documents, must name the School Board of Clay County as an additional insured, must provide for a 30-day Notice of Cancellation, and must be sent directly from the insurance agent to the School Board representative.
- 16. Firearms, explosive devices, firecrackers and other such items may not be brought on the leased Premises without specific Lessor approval, except by persons allowed under Florida Statutes, sections 790.25(3)(a) and 790.52.
- 17. The Lessee and/or Sub-Lessee shall not permit any toxic materials or other similar substances to be used on the leased Premises and shall be responsible for the supervision of all participants involved in its sponsored activities and shall be responsible for the care of the grounds while in use.

18. Subject to and within the limitations of Section 768.28, Florida Statutes, Lessee agrees to defend, indemnify and save harmless the Lessor and all its employees, officers, agents, and servants against all suits and costs and damages, including reasonable attorney's fees, to which the Lessor or any of its employees, officers, agents, or servants may be put by reason of injury to the person or property of others resulting from the activities of the Lessee or any Sublessee on the Premises, either through the negligence of the Lessee or Sublessee or through any act or omission on the part of the Lessee or its Contractor, their agents, employees, servants, or subcontractors.
19. Lessee is responsible for insuring appropriate background investigations have been conducted on all individuals, to include Non-Clay County employees and volunteers that are in any way involved with the children participating in the activities at the facility during the term of this said Lease.
20. Any revisions to this Agreement must be made in writing and shall be signed by the Lessor and the Lessee. The terms of any extension of an agreement shall be incorporated in any extension document, in writing, and reflect changes in School Board policy as to rental fees, insurance limits, usage limits, and all other contract terms.
21. The parties acknowledge that Lessee intends, through the use of a Sublessee, to construct three sports fields and a parking lot on the Premises. Lessee agrees to defend, indemnify and save harmless the Lessor and all its employees, officers, agents, and servants against all suits and costs and damages, including reasonable attorney's fees, to which the Lessor or any of its employees, officers, agents, or servants may be put by reason of injury to the person or property of others resulting from the construction on the Premises, either through the negligence of the Lessee or its Contractor or through any defective machinery or through any act or omission on the part of the Lessee or its Contractor, their agents, employees, servants, or subcontractors.
22. This Agreement shall be effective when it is fully executed by both parties.

THE SCHOOL BOARD OF
CLAY COUNTY, FLORIDA

Carol Y. Studdard
Chairman

Date: 20 Sep 12

CLAY COUNTY, a political subdivision of
the State of Florida, by and through its
Board of County Commissioners

David P. Leahy
Chairman, Board of County Commissioners

Date: September 25, 2012

ATTEST:
Stephanie C. Kopelousos
Stephanie C. Kopelousos
County Manager