

LEASE AGREEMENT

THIS LEASE is made and entered into by and between the **CITY OF DELRAY BEACH**, Lessor, and **BDBBS, Inc.**, Lessee, this 13 day of Feb, 2003.

1.01 Lessor, for and in consideration of the rents, covenants and conditions herein contained to be kept, performed and observed by **Lessee**, does non-exclusively lease and demise to **Lessee** and **Lessee** does rent and accept from **Lessor** the real property referred to as the leased land, known as the Miller Field Complex, and the adjoining land area, all more particularly described on attached Exhibit "A", made part of this lease.

1.02 Lessor hereby represents and warrants that **Lessor** is the owner in fee simple absolute to certain portions of those grounds subject to this lease and in possession of the remaining portions of said grounds by virtue of a ground lease, subject only to covenants, conditions, restrictions, easements and other matters of record and of said ground lease.

1.03 Lessor hereby represents that those portions of said grounds held by virtue of a ground lease may be sublet by **Lessor** subject to the conditions thereof and the terms and conditions of the ground lease are incorporated herein. A copy of said ground lease is attached hereto and made a part hereof as Exhibit "B".

1.04 Lessor further represents that **Lessor's** municipal charter and municipal code authorize, grant authority and otherwise permit **Lessor** to lease the leased land, and that **Lessor** has conformed with all provisions relating to public notice and hearing and has otherwise complied with all requirements for the leasing of City property.

1.05 Lessor covenants and agrees that Lessee, upon complying with and keeping the covenants, conditions and terms of this lease to be performed or kept by Lessee, shall lawfully and quietly hold, occupy and enjoy the leased land without hindrance or molestation of Lessor or any person claiming under Lessor, except as provided below.

2.01 This lease shall be for a term of ten (10) years, referred to as the lease term, commencing _____ and expiring _____. Three five (5) year renewals may be effected automatically unless terminated by either party in writing pursuant to sections 5.02 and 5.03. Lessee shall have the right of first discussion for any baseball school at the Miller Field complex should the City Council desire to so utilize Miller Field Complex at the expiration of this lease.

3.01 Lessee shall be responsible for the maintenance of fields 1,2,3,4 and 7 at Miller Park at no cost to Lessor. Lessor shall contract with Lessee for the maintenance of fields 5, 6 and 8 as indicated in the diagram attached as Exhibit "C". At such time when the Lessor determines through examination of Lessee's records that Lessee has sufficient funds available, the parties agree that they will renegotiate the terms for maintenance of the fields.

3.02 During the lease term, and in accordance with the reasonable requests or schedule of Lessor, including any extensions thereof, Lessee shall perform, pay for and otherwise provide the following:

(a) Mow, edge, drag, lime, repair bases, fertilize, irrigate, treat for insects and weeds, and such other associated general maintenance which is commonly performed to render and maintain a baseball field in playing condition on those fields now included on the leased land. Lessee shall add clay as may be

required for regular maintenance and the cost of such clay shall be shared equally with Lessor.

(b) Replace all sod on the baseball fields; provided, however, if it is clearly shown that damage to the grass surface is from an athletic event or program not contemplated in this lease or under the control of Lessee, Lessee shall not be responsible for said sod replacement.

(c) Replace batting cage nets as necessary. The cost of replacing batting cage nets shall be shared equally between Lessor and Lessee.

(d) Maintain and/or replace windscreen as necessary with costs to be shared equally between Lessor and Lessee.

3.03 Lessee shall not construct, alter or otherwise modify the leased property without Lessor's authorization and consent and approval as to design, to be given in a manner consistent with Lessor's charter, code and common practices. Lessor shall approve the design of such improvements and/or modifications as it desires.

3.04 Lessee shall not be responsible for the maintenance, upkeep or repair of the common areas (those areas that have St. Augustine grass) meant to include the permanent structures, bleachers, parking lot, toilet facilities, fences, lights, poles and unplanted/unsodded areas (except the baseball diamonds or other clay surfaces) and the pumps/ irrigation system.

In the event that Lessee or any person acting under the authority of Lessee herein shall damage any of the above-mentioned common areas, excluding ordinary wear and tear, Lessee shall repair such damage or replace such, if necessary, at Lessee's cost, within a reasonable period of time not to exceed ninety (90) days.

3.05 Lessee shall be responsible for providing and maintaining the mowers and related equipment necessary for the maintenance of the fields as above-set forth.

This machinery may be stored at the **Lessor's** storage facility or at such other storage facility as **Lessor** shall provide for this purpose.

3.06 Lessee shall pay to **Lessor**, as a contribution to utilities, the sum of one hundred and fifty dollars (\$150.00) per month. Lessee shall also be responsible for all applicable state sales tax.

3.07 Lessee may construct and/or place, upon the approval as to location and design by the Director of Parks and Recreation and City Manager, a sign on the Miller Field Complex designating such as its site of operation; provided, however, Lessee must follow all permit procedures and zoning and sign regulations as set forth in the Code of Ordinances of the City of Delray Beach and in accordance with any other applicable governmental entity's laws, regulations, rules and procedures.

4.01 Lessee shall have the primary use of the baseball fields on the leased land between the hours of 8:00 A.M. through 3:00 P.M. on weekdays. Lessor shall continue to have primary use of the leased land from 3:00 P.M. through 8:00 A.M. and during all hours on weekends and holidays. Lessee may be permitted the use of such facility on weekends between the hours of 8:00 A.M. through 3:00 P.M. upon thirty days notice and the consent of the Director of Parks and Recreation. Lessee shall have the right to use the leased land for purpose of operating a baseball training school. Lessee shall permit the use of fields by other persons which it is not using during those periods when it has primary use of the fields. If Lessor desires to permit the use of said unused fields by persons other than Lessee, it may. In its permitting process, Lessor shall, on a

request basis, establish which fields are not being used by Lessee and are available for the use of others.

4.02 Lessor reserves the right to use any or all of Lessee's fields during the times above-indicated for a maximum of five (5) days; provided, however, that in consideration of the scheduling requirements of Lessee, Lessor shall give Lessee three (3) months prior notice of Lessor's intent to utilize the fields and Lessor shall provide Lessee with alternate facilities. The notice of intent to utilize the fields shall contain the number of fields to be used by Lessor and the specific alternate available fields.

4.03 Lessee shall have non-exclusive use of the common areas and toilet facilities during the periods set forth above.

5.01 If Lessee shall fail to perform under the terms and conditions of this lease, or shall fail to maintain the leased land as set forth above, Lessor shall notify Lessee of such failure and Lessee shall have a reasonable time, not to exceed 14 days, to correct the failure. If Lessee does not or is unable to correct such failure, then Lessor, at its option, may cancel this lease or the remaining term thereof.

5.02 Lessor may not terminate this lease without just cause, and then only upon sixty (60) day's notice if said just cause results from Lessee's action or inaction, and no less than one (1) year if said just cause results from events beyond the control of Lessor or Lessee.

5.03 Lessee may terminate this lease upon eighteen (18) months notice to Lessor.

5.04 Notice of termination shall be in writing, delivered by certified mail, return receipt requested, respectively sent to:

(Lessee)	BDBBS, Inc.	(Lessor)	City of Delray Beach
	B. Michael Wiggins, President		Department of Parks & Recreation
	490 Dotterel Rd.		100 N.W. 1st Avenue
	Delray Beach, Florida 33444		Delray Beach, Florida 33444

It is the obligation of the parties hereto to provide the other with current mailing addresses.

5.05 In the event that there is an act of God, war or terrorism that renders one or both parties unable to perform in accordance with the terms of this lease, then the lease shall be terminated by both parties in writing.

6.01 ~~Lessee~~ shall procure and maintain bodily injury liability and property insurance in the amount of \$1,000,000.00 combined single limit. Proof of insurance shall be filed with ~~Lessor's~~ City Manager or his designee. The conditions of this paragraph are conditions precedent to the effectiveness of this agreement. The City of Delray Beach shall be named as an additional insured by the terms of such insurance policy, and shall be notified thirty (30) days prior to the cancellation or modification of such. The terms of the policy shall provide that failure to so notify the ~~Lessor~~ shall render any cancellation or modification ineffective. Failure of ~~Lessee~~ to comply with the terms and conditions of this paragraph shall immediately render this agreement null and void notwithstanding any other provision to the contrary.

6.02 ~~Lessee~~ shall, to the extent allowed by law, hold ~~Lessor~~ harmless and indemnify ~~Lessor~~ and its employees against loss, claims, costs, and charges, including attorney's fees, from judgment or settlement in lieu of judgment or proceeding which

arise from injury to person or property, which injury is a consequence of the use or maintenance of the leased land, or the activity of Lessee with respect to the leased land or performed by Lessee or any person acting under the authority of Lessee pursuant to this agreement.

7.01 Lessor shall perform all maintenance to the common areas of the leased land. Lessor shall provide at its cost the fill necessary to keep the fields at the grade quality as determined by its engineers. Lessee shall perform at its cost the actual grading labor if and when it is necessary.

7.02 Lessor may, but shall have no duty to, inspect the leased land and notify Lessee of any defects in maintenance or upkeep required under this lease.

7.03 Lessee shall be responsible for any taxes or assessments levied against the leased land under any law now in effect or later enacted during the lease term. Notwithstanding the provisions contained in paragraph 5.03 above, should Lessee's tax liability exceed one thousand (\$1,000.00) dollars, annually, Lessee may cancel this lease upon sixty (60) days notice.

7.04 Lessor reserves the right to install lighting on any fields constructed by Lessee.

7.05 Lessor shall not impose any taxes or franchise fees on Lessee's operation of school sessions during the term of this lease.

7.06 Lessee agrees not to discriminate on the basis of race, creed, sex, age, religion or national origin.

8.01 Lessee shall not assign or otherwise transfer this lease without the written consent of **Lessor**. A transfer of the operation and/or control of the **Lessee's** corporation shall be deemed to be an assignment of this lease for purposes of this lease.

8.02 Lessor shall not permit the use of the leased land by any other baseball training school for so long as this lease is in effect.

9.01 Lessor reserves the right to examine, audit, and inspect all books, records and documents regarding the operation of the **Lessee's** business with reasonable notice. Notwithstanding any provision to the contrary, should **Lessee** become insolvent, file for bankruptcy or reorganization, become inactive, or dissolve during the period of this lease, this lease shall be immediately null and void.

9.02 Lessee shall convey to **Lessor** any and all interest in any leasehold improvements upon the ineffectiveness of this lease.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

ATTEST:



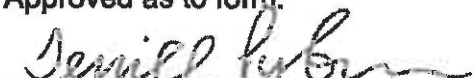
City Clerk

CITY OF DELRAY BEACH, FLORIDA

By: 

David W. Schmidt, Mayor

Approved as to form:



Atty. City Attorney 2/10/03

WITNESSES:

[Signature]

THE BDBBS, INC.

By: [Signature]
B. Michael Wiggins, President

STATE OF FLORIDA

COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this date before me, an officer duly authorized in the state and county named above to take acknowledgements, personally appeared B. Michael Wiggins known to me to be the person described in and who executed the foregoing instrument as President of a corporation organized under the laws of the state of Florida. He acknowledges before me that he executed the foregoing instrument as such officer in the name and on behalf of the corporation and that he also affixed thereto the official seal of the corporation.

SWORN TO AND SUBSCRIBED before me this 26 day of February, 2003.

[Signature]
Notary Public

My Commission Expires:



Carole M. Golubchik
Commission #DD179264
Expires: Jan 22, 2007
Bonded Thru
Atlantic Bonding Co., Inc.

EXHIBIT "A"

That. part of Lot 6, lying West of the Florida East Coast Railroad right-of-way, FLORIDA EAST COAST SUBDIVISION, of Section 29 Township 46 South, Range 43 East, and recorded in Plat Book 1, at Page 4, of the Public Records of Palm Beach Florida said lands situate, lying and being in Palm Beach County, Florida

Subject to conditions, limitations, restrictions and easements of record, applicable zoning ordinances, and taxes for the year 2001 and subsequent years, and outstanding mineral rights.

Lots 14 thru 27, Bloc 3, LESS the North 7.0 feet thereof; together with Lots 15 thru 28, Block 7, together with Lots 1 thru 26, Block 8; together with Lots 1 thru 24, Block 9; together with that portion of McLain Street, Meyers Street and S. W. 14th Street lying east of the east right-of-way line of S.W. Fourth Avenue; together with that portion of Swinton Avenue lying south of the North line of said Block 7 extended easterly; together with that portion of Swinton Avenue lying South of a line 7.0 feet south of and parallel to the north line of said Lot 14, Block 3, extended westerly and lying north of said north line of Block 7 extended easterly and lying east of the centerline of said Swinton Avenue. All of the above being a portion of the plat of West E1 Be according to the plat thereof recorded in Plat Book 15, Page 22 of the Public Records of Palm Beach County, Florida; AND ALSO that portion of Lot 5 lying west of the F.E.C. Railroad right-of-way subdivision of Section 29, Township 46 South, Range 43 East, according to the plat thereof recorded in Plat Book 1, Page 4 of the Public Records of Palm Beach County, Florida.

LESS Lots 20 thru 27, Block 3, Lot 14 thru 18, Block 8, Lots 9 thru 16, Block 9; that part of Meyers Street lying adjacent to Lots 9 thru 12, Block 9; that part of S.W. 14th Street lying adjacent to Lots 13 thru 16, Block 9; and that part of Swinton Avenue lying adjacent to Lots 20 thru 27, Block 3; all being in Subdivision of West E1 Be, Delray Beach, Florida, as recorded in Plat Book 15, Page 22. Public Records of Palm Beach County, Florida.

A G R E E M E N T

THIS AGREEMENT dated this 29th day of January, 1980, between PALM BEACH COUNTY, a political subdivision of the State of Florida, Post Office Box 1989, West Palm Beach, Florida 33402, telephone (305) 837-2225, and the CITY OF DELRAY BEACH, 100 Northwest 1st Avenue, Delray Beach, Florida 33444, telephone (305) 278-2841, hereinafter referred to as the "CITY," a municipal corporation organized under the laws of the State of Florida.

W I T N E S S E T H:

WHEREAS, the COUNTY and the CITY desire to cooperate in the purchase and development of a public recreational facility.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THIS AGREEMENT AND MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. PALM BEACH COUNTY shall lease to the CITY and the CITY shall lease from the COUNTY the following described real property at a rent of One Dollar (\$1.00) per year:

SEE EXHIBIT "A"

2. The term of this lease shall be for 99 years.

3. The CITY agrees that it shall, with due diligence, develop the property at its own expense for public recreational use.

4. The CITY agrees to use this property in conjunction with the adjoining Miller Park for public recreational purposes only, and that any other use of this property not approved beforehand in writing by PALM BEACH COUNTY shall constitute a breach of this lease.

5. The CITY agrees that the Park shall be open to the general public of Palm Beach County, Florida on a non-discriminatory basis and, in particular, that no fees higher than any charged to city residents shall be charged to non-city residents.

6. The CITY agrees that from the effective date of the lease onward the CITY will be responsible for development, operation, maintenance, insurance, and any future capital improvements to the property at the cost of the CITY.

7. The CITY agrees that after the effective date of the lease, the CITY will hold the COUNTY harmless from any and all claims for damages which may arise out of the operation or use of this property since control of the activities on the property will be with the CITY.

8. This agreement is subject to the acquisition of the property by PALM BEACH COUNTY and if PALM BEACH COUNTY does not obtain this land for any reason this agreement shall be null and void.

IN WITNESS WHEREOF, the undersigned parties have signed this agreement on the date first above-written.

ATTEST:

John B. Dunkle, Clerk

By [Signature]
Deputy Clerk

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By [Signature]
Chairman

(SEAL)

ATTEST:

City Clerk

By [Signature]
Asst. City Clerk

(SEAL)

CITY OF DELRAY BEACH, FLORIDA

By [Signature]
Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By [Signature]
County Attorney

APPROVED

By [Signature]
John Dance, Director of
Parks and Recreation

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Subject to conditions, limitations, restrictions and easements of record, applicable zoning ordinances, and taxes for the year 1979 and subsequent years, and outstanding mineral rights.

EXHIBIT 2

