

**FUNDING AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND
COMMUNITY CHILD CARE CENTER OF DELRAY BEACH, INC.
FOR OUT-OF-SCHOOL SERVICES PROGRAMS
AT PINE GROVE ELEMENTARY AND VILLAGE ACADEMY**

THIS AGREEMENT ("Agreement") is made on this _____ day of _____ 2018, by and between the **CITY OF DELRAY BEACH ("CITY")**, and **COMMUNITY CHILD CARE CENTER OF DELRAY BEACH, INC.**, a Florida not-for-profit corporation d/b/a **ACHIEVEMENT CENTERS FOR CHILDREN AND FAMILIES ("ACCF")**.

WITNESSETH:

WHEREAS, contemporaneous with this Agreement, the CITY has approved an agreement ("Tripartite Agreement") between the School Board of Palm Beach County, Florida, the CITY, and the ACCF to provide for the funding of and operation of programs at Pine Grove Elementary and Village Academy; and

WHEREAS, Article 2 of the Tripartite Agreement addresses funding for the services and suggests that the CITY shall provide funds for the ACCF, though such funds are not specifically enumerated in the Tripartite Agreement; and

WHEREAS, the CITY and the ACCF wish to enter this Agreement to memorialize the CITY'S desire to provide funding to ACCF; and

WHEREAS, the School Board of Palm Beach County, Florida has advised that it does not object to the parties entering this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, stipulations and agreements herein contained, the parties agree as follows:

1. **Recitals**. The recitals set forth above are incorporated herein.

2. **Funding.** The CITY shall provide funding to the ACCF on an annual basis in an amount not to exceed Sixty Two Thousand dollars (\$62,000.00) per year for the term of this Agreement for the express purpose of supporting the programs more specifically detailed in the "Agreement between the School Board of Palm Beach County, Florida, the City of Delray Beach, Florida, and Community Child Care Center of Delray Beach, Inc. for Funding and Operation of Programs at Pine Grove Elementary and Village Academy", attached hereto as Exhibit A. Payment of the annual amount for the initial year shall be made within 90 days of execution of this Agreement. Payment of the funding amount for subsequent years shall be made July 1, 2019, and July 1, 2020. The annual funding provided by this Agreement must be utilized by the ACCF prior to the issuance of the annual funding amount for the subsequent year. Notwithstanding anything in Section 2.03 of Exhibit A to the contrary, the ACCF acknowledges that the aforementioned funding shall be in full satisfaction of any and all funding obligations of the CITY as provided in Exhibit A.

3. **Term.** This Agreement shall terminate on June 30, 2021.

4. **Financial Report.** At least thirty (30) days prior to issuance of the annual funding amount for each of the subsequent years and again thirty (30) days prior to termination of this Agreement, the ACCF shall submit to the CITY a full financial report, detailing how the annual funds provided herein were utilized by the ACCF to support its out-of-school programs as provided in Exhibit A.

5. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and shall supersede all prior oral and written agreements as to the funding by the CITY to the ACCF for the operation of out-of-school programs as provided in Exhibit A.

6. **Modification.** This Agreement may be amended or modified by written addendum or amendment signed by the parties.

7. **Assignment.** This Agreement may not be assigned without the express written consent of the parties.

8. **Indemnification.** The ACCF, shall at all times hereafter indemnify, hold harmless, and at the CITY Attorney's option, defend or pay for an attorney selected by the CITY Attorney to defend the CITY, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, the ACCF, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement or Exhibit A including, without limitation, any and all claims, losses, liabilities, expenditures, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against the CITY by reason of any such claim, cause of action, or demand, the ACCF shall, upon written notice from the CITY, resist and defend such lawsuit or proceeding by counsel satisfactory to the CITY or, at the CITY'S option, pay for an attorney selected by the CITY Attorney to defend the CITY. The obligations of this section shall survive the expiration or earlier termination of this Agreement. Nothing contained herein is intended nor shall be construed to waive the CITY'S rights and immunities under the common law or Section 768.28, Florida Statutes, as amended from time to time.

9. **Insurance.** The ACCF shall provide certificates of insurance to the CITY

evidencing its insurance coverage and naming the CITY as an additional insured. Such insurance shall be in an amount and form that is acceptable to the CITY and shall be delivered to the CITY prior to the distribution to the ACCF of any funding as referenced herein. If the ACCF fails to provide the certificates of insurance in a form acceptable to the CITY, the CITY may immediately terminate this Agreement.

10 (a) **IF ACCF HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ACCF DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH, FLORIDA, (561) 243-7050, E-MAIL: publicrecordsrequest@mvdelaybeach.com.**

(b) ACCF shall comply with all public records laws in accordance with Chapter 119, Florida Statutes. In accordance with state law, ACCF agrees to:

- (1) Keep and maintain all records that ordinarily and necessarily would be required by the CITY.
- (2) Provide the public with access to public records on the same terms and conditions that the CITY would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
- (4) Meet all requirements for retaining public records and transfer, at no cost, to the CITY all records in possession of the ACCF at the termination of the contract and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY. All records shall be transferred to the CITY prior to final payment being made to the ACCF.

- (5) If ACCF does not comply with this section, the CITY shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this Agreement in accordance with state law.

11. **Inspector General.** ACCF is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract, and may demand and obtain records and testimony from the ACCF and its subcontractors and lower tier subcontractors. ACCF understands and agrees that in addition to all other remedies and consequences provided by law, the failure of ACCF or its subcontractor or lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the CITY to be a material breach of this Agreement justifying its termination.

12. **Force Majeure.** CITY shall not be responsible for its failure to make the premises available or to provide the facilities and services described herein, where such performance is rendered impossible and impractical due to strikes, walk-outs, acts of God, inability to obtain labor, materials or services, government restriction (other than CITY), enemy action, civil commotion, fire, unavoidable casualty, utility disruptions or blackouts, or similar causes or any other causes beyond the control of CITY.

13. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

14. This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction

of such court.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first written above

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

By:

Shelly Petrolia, Mayor

Katerri Johnson, City Clerk Approved as

to Form:

R. Max Lohman, City Attorney

(Remainder of page intentionally left blank)

COMMUNITY CHILD CARE CENTER
OF DELRAY BEACH, INC. d/b/a
ACHIEVEMENT CENTER FOR
CHILDREN & FAMILIES, a Florida not-
for-profit corporation.

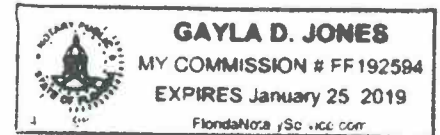
WITNESSES:

Jessie Spive
Jessica Gregoire
(print or type name)

Berthanie A. Pierre
(print or type name)

By: Stephanie Seibel
Stephanie Seibel
(print name and title)

(SEAL)



STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 20 day of June, 2018 by Stephanie Seibel (name of officer or agent, title of officer or agent) of Community Child Care Center of Delray Beach, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He/She is personally known to me or has produced NA (type of identification) as identification and did (did not) take an oath.

Gayla D. Jones
Signature of Notary Public-State of Florida