

**AGREEMENT TO LEASE AND IMPROVE THE
HUMAN DEVELOPMENT AND
RESOURCE CENTER GYMNASIUM**

THIS LEASE AGREEMENT entered into this ____ day of _____ 2020 by and between the **FORT PIERCE REDEVELOPMENT AGENCY (FPRA)**, a dependent special district of the **CITY OF FORT PIERCE, FLORIDA**, and joined by the **CITY OF FORT PIERCE, FLORIDA (CITY)**, a Florida municipal corporation, (hereafter collectively "LANDLORD") whose address is 100 North U.S. #1, Fort Pierce, Florida 34950; and the **BOYS & GIRLS CLUBS OF ST. LUCIE COUNTY, INC.**, a non-profit Florida corporation ("TENANT") whose business address is 3104 Avenue J, Fort Pierce, Florida 34947.

WITNESSETH:

WHEREAS, the LANDLORD, is the owner of an approximate 14,000 square foot gymnasium known as the Human Development & Resources Center Gymnasium, Phase 2, located at the corner of 29th Street and Avenue D in the City of Fort Pierce (the "Demised Premises") which is more fully depicted on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the TENANT has been selected by LANDLORD to lease, improve, and operate the Demised Premises for the purpose of promoting children's training and recreational programs which have a specific public benefit; and

WHEREAS, the TENANT is accepting this agreement to operate a youth training and recreational program based on accepted national standards set by its parent organization, keeping regular posted hours of operation acceptable to LANDLORD and performing a specific

public benefit, subject to the review and approval of the LANDLORD and the terms and conditions of this Lease; and

WHEREAS, the LANDLORD is desirous of leasing to TENANT the gymnasium facility in conjunction with, and subject to other entities and organizations including LANDLORD's operations on other portions of the property; and

WHEREAS, this Lease shall be subject to all existing zoning and building restrictions and regulations and provisions and clauses set forth herein.

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, LANDLORD and TENANT do hereby agree as follows:

1. **TERM.** The Term of this Lease shall be for a period of ten (10) years, commencing on the Effective Date (as defined in Section 20(i) below), unless sooner terminated pursuant to the terms set forth herein. TENANT may opt to renew this Lease for two (2) additional five (5) year terms. TENANT shall inform LANDLORD in writing of its intent to exercise the renewal option at least ninety (90) days prior to the expiration of the existing term.

2. **DEMISED PREMISES.** The Demised Premises consists of an approximate fourteen thousand (14,000) square foot gymnasium facility, being a portion of Phase 2 of the Human Development Resources Center facility located at 3002 Avenue D, Fort Pierce, Florida, as depicted on Exhibit "A", attached hereto and incorporated herein by reference. LANDLORD shall further permit TENANT to use and occupy such additional areas, such as the parking lot, sidewalks, field and other common area of the overall facility as are needed and authorized for the reasonable use of the gymnasium. TENANT acknowledges that its use and occupancy of the gymnasium

building is part of an overall complex of buildings and facilities generally known as the “Human Development Resources Center”, and that other portions of the property are or may be occupied by other entities and organizations, including, but not limited to Indian River Community College and the City of Fort Pierce, as well as the Fort Pierce Redevelopment Agency. TENANT further acknowledges that its use and occupancy of the gymnasium shall at all times be subject to the concurrent use of the ground area and surrounding property as LANDLORD may deem necessary for all uses in connection with the operation of the entire existing or future project.

3. **LEASE PAYMENTS.** TENANT in consideration of this Lease, shall pay LANDLORD, without demand, at the offices of the Director of Finance, City Hall, 100 North U.S. 1, Fort Pierce, Florida 34950, or such other place as LANDLORD may from time to time designate in writing, rent in the amount of ONE DOLLAR (\$1.00) per year.

4. **TAXES.** If ad valorem taxes are applicable, TENANT agrees to pay its proportionate share as are billed and determined by LANDLORD or the taxing authority. TENANT further agrees that should any of its use of the property be subject to sales, use, excise, or rental taxes levied by any taxing authority, TENANT similarly agrees to pay such taxes and hold LANDLORD harmless from the same.

5. **HOURS OF OPERATION.** At all times during this Lease, TENANT shall be required to operate a first-class gymnasium facility with minimum hours of operation. The hours of operation shall be agreed to and established in writing between LANDLORD and TENANT prior to the commencement of this Lease. Thereafter, if a change is required to the hours of operation or the facility is to be closed, such change in operating hours shall require the written consent of LANDLORD.

6. **COMMON AREA.** The term "Common Area" shall mean that part of the entire Human Redevelopment Resources Center property of LANDLORD located at 3002 Avenue D, Fort Pierce, Florida, designated by LANDLORD from time to time for the common use of all occupants of the facility, including, but not limited to other areas of the facility besides the gymnasium, parking areas, walkways, open field areas, landscaping, loading areas, and walkways, all of which shall be subject to LANDLORD's sole management and control. TENANT and its employees, customers, subcontractors, licensees, invitees, and concessionaires shall have the nonexclusive right and license to use the Common Area as constituted from time to time, such use to be in connection with LANDLORD, and other tenants, owners, or occupants of the property, and all other persons permitted by LANDLORD to use the same and subject to such reasonable rules and regulations governing the use thereof as LANDLORD may from time to time prescribe, including the designation of specific areas within the property or in reasonable proximity thereto in which automobiles and vehicles owned or operated by TENANT, its employees, invitees, and licensees shall travel or be parked. LANDLORD shall operate, maintain, and repair the Common Area in such a manner as LANDLORD shall in its sole discretion determine and as subject to other owners, tenants, or occupants of the property; provided, however, that this shall not operate to impose on LANDLORD the duty to maintain or repair the Common Area.

7. **INSURANCE.** LANDLORD shall obtain and maintain all risk commercial property insurance on the exterior structure of the Demised Premises. TENANT shall insure the contents of such buildings or structures. TENANT agrees to be responsible for loss or damage to any structure on the Demised Premises to the extent such loss or damage is subject to a deductible provision in the LANDLORD's provided insurance.

TENANT shall purchase and maintain Workers' Compensation insurance on a form no more restrictive than that provided by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than any endorsements required by NCCI or the State of Florida. The policy must be endorsed to waive the insurer's right to subrogate against LANDLORD. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One:	"Statutory"	
Part Two:	\$500,000	Each Accident
	\$500,000	Disease - Policy Limit
	\$500,000	Disease - Each Employee

TENANT shall purchase and maintain Commercial General Liability Insurance on a form no more restrictive than the latest edition of the standard occurrence Commercial General Liability Form (Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office (ISO), without any restrictive endorsements other than any endorsements specifically required by the ISO or the State of Florida.

In addition, LANDLORD shall be included as an "Additional Insured" on a form no more restrictive than ISO Form CG 20 11, Additional Insured-Managers or Lessors of Premises. The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be: \$1,000,000 - General Aggregate; \$1,000,000 - Products/Completed Operations Aggregate; and \$1,000,000 - Each Occurrence.

TENANT shall further furnish LANDLORD with executed Certificates of Insurance showing that such insurance is in full force and effect within thirty (30) days of the execution of this Lease, which certificate shall provide a minimum of thirty (30) day notice to LANDLORD prior to the cancellation or termination of any insurance policy. Additionally, LANDLORD from time to time may require evidence of such insurance and TENANT shall agree to promptly supply the same.

The insurance provided by TENANT shall apply on a primary basis to and shall not require contribution from, any other insurance or self-insurance maintained by LANDLORD. Any insurance, or self-insurance, maintained by LANDLORD shall be in excess of, and shall not contribute with, the insurance provided by TENANT.

Except as otherwise specifically authorized in this Agreement, no deductible or self-insured retention for any required insurance provided by TENANT pursuant to this Agreement will be allowed. To the extent any required insurance is subject to any deductible or self-insured retention (whether with or without approval of LANDLORD), TENANT shall be responsible for paying on behalf of LANDLORD any such deductible or self-insured retention. LANDLORD, from time to time, may require evidence of all such insurance coverages and policies as provided above and TENANT shall agree to supply these policies or proof of insurance. LANDLORD shall further have the right to require TENANT to make reasonable increases to the minimum required limits of insurance specified herein during the term of this lease.

8. **USE OF PREMISES.** TENANT shall utilize the Demised Premises for all uses pertinent to and related to its Boys & Girls Club programs. TENANT specifically agrees not to conduct its operations in a manner that disturbs the quiet enjoyment of other tenants and occupants of the property and agrees to conduct its operations in compliance with all applicable

laws. TENANT further agrees to keep the Demised Premises in a clean and sanitary condition; to comply with all laws, ordinances, rules, regulations, environmental permits, and all other obligations imposed by applicable provisions of building, housing, health and environmental codes of any local, state, or federal law, regulation, or agency; to make no alterations or additions to the Demised Premises without the prior written consent of LANDLORD; to commit no waste of the Demised Premises; to remove all garbage and other debris which results from the operation of TENANT's operations and use of the premises in a clean and sanitary manner and to remove the garbage and debris in conformity with all laws and regulations; to keep all plumbing fixtures used by TENANT clean and sanitary; to use and operate in a reasonable manner all electrical, plumbing, heating, ventilating, air conditioning and other facilities and appliances; not to destroy, deface, damage, impair or remove any part of the Demised Premises, or property therein belonging to LANDLORD; to direct persons on the premises with TENANT's consent to conduct themselves in a manner that does not unreasonably disturb other tenants or occupants or constitute a breach of the peace; and to surrender the Demised Premises at the termination of this Lease in a good state and condition as reasonable use and wear will have permitted.

A copy of the posted hours of operation and a list of the programming curriculum shall be furnished to LANDLORD at the time of the execution of this Lease, and updated upon request. Additionally, TENANT specifically acknowledges that its use and occupancy of the Demised Premises is expressly subject to the following:

(a) Use by LANDLORD: Recognizing that the gymnasium facility was designed to function as an emergency shelter facility in the event of an emergency, whether natural or manmade, TENANT agrees to surrender occupancy and control of the facility to the LANDLORD

for such use in the event of an emergency declaration being issued by the CITY or other state or federal declaration, for the period of time that such a declaration shall continue to be in effect. TENANT agrees to cease all normal programming operations and cooperate with all emergency personnel in the conduct of their duties in connection with the use of the facility. TENANT shall not be compensated in any manner for the loss of the use of the facility for such period of surrender. LANDLORD further reserves to itself the right to use the Demised Premises exclusively or in conjunction with TENANT or any other person or entity at all reasonable times; provided, however, that such use shall not unreasonably interfere with TENANT'S own use of the facility for programmed or scheduled events; and

(b) Use by IRSC: TENANT further recognizes that it shares the Human Development Resources Center campus and common area with Indian River State College (IRSC), who operates educational programming in the Phase 1 building, adjacent to the gymnasium. TENANT recognizes that coordination will occasionally be required with IRSC with regard to exterior maintenance issues and the scheduling of the use of the shared common areas, such as the parking lots, future sports fields developed on the property, and other areas of the facility. TENANT agrees to cooperate with IRSC, or any party or entity that may occupy said property after IRSC ("succeeding parties"), in such joint use of the common areas, but TENANT will not be required to subjugate its interests to IRSC or succeeding parties within its Phase 2 gymnasium building.

9. **MAINTENANCE AND REPAIR.** TENANT shall at all times maintain the gymnasium facility, and all appurtenances thereof, in a first-class condition and appearance, in compliance with all local, state, or federal statutes, codes, ordinances and rules. TENANT shall keep and

maintain in good order and condition (which maintenance shall mean replacement if necessary), with the exception of ordinary wear and tear, interior walls, ceilings, interior portions of all doors, windows, glass, plumbing and sewage facilities, fixtures, heating, air-conditioning (including exterior mechanical equipment), interior electrical equipment serving the Demised Premises, floors, and all other parts of the Demised Premises. LANDLORD shall be responsible for the maintenance of the exterior of the Phase 2 gymnasium building, including the foundation, exterior walls, roof, generators, and backup water system which are required for the use of the facility as an emergency shelter.

10. **ALTERATIONS.** TENANT shall not make any alterations, additions, or improvements to the Demised Premises without the prior written consent of LANDLORD, except for the installation of unattached, movable trade fixtures which may be installed without defacing the Demised Premises. All alterations, additions, improvements and fixtures (other than movable trade fixtures) which may be made or installed upon the Demised Premises shall become the property of LANDLORD upon installation and shall remain upon and be surrendered with the Demised Premises at the termination of the Lease unless LANDLORD requests their removal, in which event TENANT shall remove the same and restore the Demised Premises to the original condition at TENANT's expense. Any linoleum, carpeting, or other floor covering which may be cemented or otherwise affixed to the floor of the Demised Premises shall be a permanent fixture and shall become the property of LANDLORD without credit or compensation to TENANT.

11. **UTILITIES.** LANDLORD agrees to pay the following utility services furnished to the Demised Premises: heat, water, electricity, and garbage. TENANT shall contract in its own

name and shall pay the charge before delinquency, for all other utility services rendered or furnished to the Demised Premises, including telephone, internet and the like, together with all taxes or other charges levied on such utilities. LANDLORD may, if it so elects, furnish one or more other utility services to TENANT with TENANT'S written approval, in the event such utilities or services are tied to and a part of LANDLORD's other facilities or common area. In such event, TENANT agrees to pay its pro rata share of such utilities or services as determined by LANDLORD from time to time.

12. **TITLE TO IMPROVEMENTS.** Title to any building, structure, or other improvements (other than movable trade fixtures) that shall be constructed, installed, or placed upon the Demised Premises shall vest in LANDLORD upon the termination of this Lease or any renewal or extension hereof, and TENANT acknowledges that it shall have no right to remove such fixed and permanent improvements and any fixed appliances, apparatus, or equipment related to the improvements, including all replacements, accessories and modifications thereof from the Demised Premises.

13. **DAMAGE AND OBLIGATION TO RESTORE.** TENANT shall give immediate written notice to LANDLORD of any damage caused to the Demised Premises by fire or other casualty. If the Demised Premises should be: (1) damaged by any uninsured casualty or; (2) be damaged to an extent in excess of fifty percent (50%) of the cost of replacement thereof, LANDLORD may elect either to terminate the Lease or to proceed to rebuild and repair the Demised Premises. Should LANDLORD elect to terminate the Lease, it shall give written notice of such election to TENANT within ninety (90) days after the occurrence of such casualty. Except as otherwise provided herein, in the event the Demised Premises should be damaged by fire or

other casualty insurable under standard fire and extended insurance coverage, LANDLORD shall proceed with reasonable diligence to rebuild and repair the Demised Premises. LANDLORD's obligation to rebuild and repair shall be limited to restoring the Demised Premises to substantially return to the condition in which same existed prior to the casualty, shall be limited to the extent of the insurance proceeds available to LANDLORD for such restoration and, further, shall exclude any obligation with regard to the personal property and trade fixtures of TENANT. In the event any portion of the gymnasium facility should be damaged to such an extent that LANDLORD, in its sole discretion, should elect to discontinue operation of the Human Development Resources Center, LANDLORD may cancel this lease by giving written notice to TENANT, and the lease shall terminate and become null and void.

14. **LIABILITY AND INDEMNIFICATION.** LANDLORD shall not be liable for any damage or injury, whether it be to the person or property, of TENANT, TENANT's employees, agents, guests, invitees, or otherwise, by reason of TENANT's occupancy of the Demised Premises or because of fire, flood, wind storm, acts of God, or for any other reason, except such damage or injury arising or occurring as a result of LANDLORD's positive acts, negligence, acts or omissions. This paragraph shall apply also to damage caused as previously stated or by frost, steam, excessive heat or cold, falling objects, broken glass, sewage, gas, odors, or noise, or the bursting or leaking of pipes or plumbing fixtures and shall apply equally whether any such damage results from the acts or omissions of other tenants, occupants or of any other person, whether such damage be caused by or result from any other thing or circumstances above mentioned, or any other thing or circumstances, whether of a like or wholly different nature.

15. TENANT hereby agrees to indemnify and hold harmless LANDLORD and its officers and employees from and against any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and costs, by reason of damage to persons or property as a result of an accident upon the Demised Premises or events caused by the negligence, recklessness, or intentional misconduct of TENANT, its agents, its officers, or its employees, while TENANT is in possession thereof.

16. **ASSIGNMENT AND SUBLETTING.** The identity and financial standing of TENANT is a material consideration of LANDLORD in entering into the Lease. TENANT shall not voluntarily, involuntarily, or by operation of law assign, sell, mortgage, pledge, or in any manner transfer the Lease or any estate or interest therein or sublet the Demised Premises or any part thereof, or grant any license, concession, or other right to occupy any portion of the Demised Premises without the prior written consent of LANDLORD.

17. **DEFAULT AND REMEDIES.** The occurrence of any one or more of the following events shall constitute a material default and breach of the Lease by TENANT:

- (a) The vacating or abandonment of the Demised Premises by TENANT.
- (b) The failure by TENANT to observe or perform any of the covenants, conditions or provisions to be observed or performed by TENANT where such failure shall continue for a period of ten (10) days after written notice thereof from LANDLORD to TENANT; provided, however, that if the nature of TENANT's default is such that more than ten (10) days are reasonably required for its cure, TENANT shall not be deemed to be in default if TENANT commences such cure within said ten day period and thereafter diligently pursues such cure to completion.

In the event of any default or breach by TENANT, LANDLORD may at any time thereafter declare this Lease terminated, terminate TENANT's right to possession of the Demised Premises, and retake possession thereof.

Either party may also terminate this Lease by serving the other party with ninety (90) days written notice of intent to terminate with written notice sent to each party at the addresses listed below.

AS TO LANDLORD:

Fort Pierce City Hall
100 North US #1
Fort Pierce, FL 34950
Attention: City Manager
City Attorney
FPRA Director

AS TO TENANT:

Boys & Girls Clubs of St. Lucie County
HDRC F Facility
3104 Avenue J
Fort Pierce, FL 34947

18. **NOTICES.** All notices required to be served upon LANDLORD shall be served by registered or certified mail, return receipt requested, to: CITY OF FORT PIERCE, Attn: City Manager, with copies to the Office of the City Attorney and the FPRA Director, at the address designated in Section 17 above, or such other place as LANDLORD may designate in writing. All notices required to be served upon TENANT shall be served by hand delivery or registered or certified mail, return receipt requested to: BOYS & GIRLS CLUB OF ST. LUCIE COUNTY, at the address designated in Section 17 above, or such other place as TENANT may designate in writing. All such notices shall be deemed to have been duly given, delivered, or served if and when hand delivered or deposited in the U.S. Post Office, postage prepaid, whether evidence of delivery received is obtained or not obtained.

19. **ACCESS TO PROPERTY.** During the term of this Lease, and any renewal or extension thereof, TENANT shall permit LANDLORD and the agents and representatives of LANDLORD access to the Demised Premises at all reasonable times deemed necessary for the purpose of this Lease, and to assure compliance with all ordinances, statutes and rules and regulations of federal, state and local agencies having jurisdiction.

20. **GENERAL PROVISIONS.** The following general provisions shall be an integral part of this Lease:

(a) Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship of principal and agent or of partnership or of joint venture between the parties hereof. Neither this Lease, nor any of the terms and provisions contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of LANDLORD and TENANT.

(b) Time is of the essence.

(c) The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

(d) Whenever a period of time is prescribed for action to be taken by either party, said party shall not be liable or responsible for and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of the parties.

(e) Each provision performable by TENANT shall be deemed both a covenant and a condition. The Lease contains all agreements of the parties with respect to any matter

mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. The Lease may be modified in writing only, signed by the parties in interest at the time of modification.

(f) This Lease shall bind the parties, their personal representatives, successors and assigns.

(g) This Lease and the rights of the parties shall be governed by and construed or enforced in accordance with the laws of the State of Florida. Venue for any action arising out of this Lease is in the Courts of St. Lucie County, Florida. Any action shall be tried as a non-jury case.

(h) The terms "LANDLORD" and "TENANT", as used herein, denote both singular and plural and all genders. Where "TENANT" consists of more than one person, whether natural or artificial, all the persons constituting "TENANT" shall be jointly and severally liable for all obligations to be performed by TENANT herein.

(i) The Effective Date of the Lease shall be the date last executed by the parties without amendment or deletion to the Lease and its Exhibit(s).

21. **RADON GAS.** Pursuant to Fla. Stat. Sec. 404.056(8), Radon is a naturally occurring radioactive gas that when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the St. Lucie County Public Health Unit.

22. **INSPECTION.** LANDLORD or its agents shall have the right to enter the Demised Premises at all reasonable hours for the purpose of inspecting or for any other purpose not inconsistent with the terms and provisions of this Lease.

23. **PARTIAL INVALIDITY.** In the event any term, provision, or condition of this Lease shall be adjudged, decreed, held or ruled to be invalid, such provision or a portion thereof shall be deemed severable, and it shall not invalidate or impair this Lease as a whole or any other provision of this Lease.

24. **NO WAIVER.** No waiver of any provision of this Lease shall be implied by any failure of either party to enforce any remedy upon the violation of such provision, even if such violation is continued or repeated subsequently. No express waiver shall affect any provision other than the one specified in such waiver, and then only for the time and in the manner specifically stated.

IN WITNESS WHEREOF, the parties hereto have signed, sealed, and delivered this Lease as of the day and year first above written.

WITNESS AS TO LANDLORD:

LANDLORD:

ATTEST:

**FORT PIERCE REDEVELOPMENT
AGENCY**

By: _____
Linda Cox, City Clerk

By: _____
Linda Hudson, Chairman

Date: _____

**APPROVED AS TO FORM
AND CORRECTNESS:**

By: _____
Peter Sweeney, City Attorney

**TENANT:
BOYS & GIRLS CLUB OF
ST. LUCIE COUNTY**

WITNESSES AS TO TENANT:

By: _____
William Armstead, Chief Executive Officer

Date: _____

Date: _____