

**AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING
REGARDING COMPOSITION, TERMS OF APPOINTMENT, VACANCIES, AND CHAIRMANSHIP OF THE
JOINT MANAGEMENT ADVISORY BOARD (JMAB)
FOR THE NORTH PORT PERFORMING ARTS CENTER**

This Amended and Restated Memorandum of Understanding (“Amended MOU”) Regarding Composition, Terms of Appointment, Vacancies, and Chairmanship of the Joint Management Advisory Board (JMAB) for the North Port Performing Arts Center, is made and entered into by and between the City of North Port, Florida, a municipal corporation of the State of Florida (“City”), and the School Board of Sarasota County, Florida, a body corporate under the laws of the State of Florida (“School Board”), together the “Parties.”

RECITALS

WHEREAS, on November 4, 2002, the Parties entered into the *Use Agreement for the North Port Performing Arts Center* (“Use Agreement”); and

WHEREAS, Article I of the Use Agreement creates the Joint Management Advisory Board (“JMAB”) with four (4) members; requires the JMAB to meet at least once per quarter; establishes the duties and responsibilities of the JMAB; and requires that the length of member terms and member selection methodology be included in a formal letter of understanding; and

WHEREAS, on October 24, 2011, the Parties fulfilled their obligation under the Use Agreement to produce a formal letter of understanding by entering into the *Memorandum of Understanding Regarding Composition, Terms of Appointment, Vacancies and Chairmanship of the Joint Management Advisory Board (JMAB) for the North Port Performing Arts Center* (the “Original MOU”); and

WHEREAS, the Original MOU set the requirements for the composition of the JMAB’s membership, the terms of appointment for each board member, the procedure for filling board member vacancies, and established the JMAB chair as a rotating position held by either a representative of the City or the School Board on alternating two-year terms; and

WHEREAS, on May 14, 2013, the Parties entered into the *First Amendment to the Use Agreement*, amending the frequency of JMAB meetings from at least once per quarter, to at least once per year; and

WHEREAS, the Parties mutually desire to amend and restate the Original MOU to remove the condition of an altering chair, to provide that a City member serve as the JMAB Chair, and to provide other clarification; and

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the Parties agree that the Original MOU is amended and restated as follows:

A. Recitals. The recitals set forth above are adopted and incorporated in this Amended MOU by reference.

B. Effective Date. This Amended MOU shall become effective on the date the last party approves it ("Effective Date").

C. Term and Termination.

1. The term of this Amended MOU begins on the Effective Date and continues until terminated or until the expiration or termination of the Use Agreement, whichever occurs first.
2. Either party may terminate this Amended MOU by providing the non-terminating party with twelve (12) months written notice prior to the date of termination.

D. Board Composition. The JMAB shall be composed of the following members:

1. Citizen JMAB Members.
 - a. One (1) citizen JMAB member shall be appointed by the City Commission for the City of North Port, Florida and must be a City resident for at least one (1) year prior to appointment. The City Commission shall appoint a citizen JMAB member within six (6) months of this seat becoming vacant.
 - b. One (1) citizen JMAB member shall be appointed by the North Port High School Principal ("Principal"), with the consent of the School Board, and must be a resident of Sarasota County for at least one (1) year prior to appointment. The Principal shall appoint a citizen JMAB member within six (6) months of this seat becoming vacant.
2. School Board JMAB Member. The Principal or designated North Port High School employee chosen by the Principal shall serve as the School Board's representative on the JMAB.
3. City JMAB Member.
 - a. The City Manager or designated City employee chosen by the City Manager shall serve as the City's representative on the JMAB.
 - b. The City JMAB member shall serve as the JMAB Chair.

E. Term of Appointment.

1. Each citizen JMAB member shall be appointed for a three (3) year term ("Initial Term"). At the end of the Initial Term, a citizen JMAB member may be reappointed for an additional three (3) year term. No citizen JMAB member shall be appointed for more than two (2) terms.
2. If the Principal does not serve as the School Board JMAB member, the Principal's designee shall serve at the pleasure of the Principal and shall be appointed within six (6) months of a vacancy.

3. If the City Manager does not serve as the City JMAB member, the City Manager's designee shall serve at the pleasure of the City Manager and shall be appointed within six (6) months of a vacancy.

F. Notices. All notices must be in writing and transmitted by FedEx; UPS; or by certified mail, return receipt requested, to the following. A party may update its notice information by providing written notice to the other party.

For the City:
City of North Port, Florida
City Manager
4970 City Hall Blvd.
North Port, FL 34286

with a copy to:
City of North Port, Florida
City Attorney's Office
4970 City Hall Blvd.
North Port, Florida 34286

For the School Board:
School Board of Sarasota County
Secondary Schools Exec. Dir.
1960 Landings Blvd.
Sarasota, FL 34321

with a copy to:
School Board General Counsel
Shumaker, Loop & Kendrick, LLP
240 S Pineapple Ave 10th Floor
Sarasota, FL 34236

G. Dispute Resolution. In the event of a dispute between the Parties, the City Manager and the School Board Administrator or their respective designee(s) shall review the dispute and negotiate a mutually acceptable resolution. Any dispute not resolved by the designee(s) shall be referred to the City Manager and the School Board Administrator to come to a mutually acceptable resolution. In the event the City Manager and the School Board Administrator are unable to agree, the matter shall be referred to the respective Commission/Board, who must hold a joint meeting to resolve the matter. If the matter is not resolved at the joint meeting of the Commission/Board, the Parties may avail themselves of any other available legal rights or remedies available. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.

I. Miscellaneous.

1. Authority to Execute Agreement. The signature by any person to this Amended MOU shall be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act hereunder.
2. Binding Effect/Counterparts. By the signatures affixed hereto, the Parties intend to be bound by the terms and conditions hereof. This Amended MOU is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors, and assigns. It may be signed in counterparts.
3. Governing Law and Venue. The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Amended MOU. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Amended MOU are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida.

4. No Agency. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the Parties, it being understood and agreed that no provision contained herein, or any acts of the Parties shall be deemed to create any relationship between them other than that as detailed herein.
5. Severability. In the event any court shall hold any provision of this Amended MOU to be illegal, invalid, or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition, or covenant shall not be construed as a waiver of a subsequent breach by the other party.
6. Headings. The descriptive titles appearing in each respective paragraph are for convenience only and are not a part of this Amended MOU and do not affect its construction.
7. Complete Agreement. This Amended MOU incorporates and includes all prior negotiations, correspondence, agreements, or understandings between the Parties, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Amended MOU that are not contained in this document. This Amended MOU supersedes all other agreements between the Parties, whether oral or written, with respect to the subject matter.
8. Amendment. No amendment, change, or addendum to this Amended MOU is enforceable unless agreed to in writing by both parties and incorporated into this Amended MOU. Any amendments changing the City's financial obligations under this Amended MOU shall require approval by the City Commission. The City Commission hereby authorizes the City Manager or City Manager's authorized designee to approve and execute all amendments on behalf of City that do not change City's financial obligations under this Amended MOU.
9. Assignment. The School Board shall not assign this Amended MOU or any right or responsibility herein unless with the written consent of the City.
10. Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. The Parties shall not administer this Amended MOU in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

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IN WITNESS WHEREOF, the parties executed this Amended MOU as follows.

Approved by the School Board of Sarasota County, Florida on _____, 2021.

**THE SCHOOL BOARD OF SARASOTA COUNTY,
FLORIDA**

By: _____
Shirley Brown, Chair

Approved for Legal Content
September 15, 2021 by
Shumaker, Loop & Kendrick, LLP
Attorneys for The School Board
of Sarasota County, Florida
Signed: MAC

Approved by the City Commission of the City of North Port, Florida on _____, 2021.

CITY OF NORTH PORT, FLORIDA

GISELE "JILL" E. LUKE
MAYOR

ATTEST

HEATHER TAYLOR, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY