

RESOLUTION NO. 02-100

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE JOINT-USE AGREEMENT BETWEEN THE SCHOOL BOARD OF MIAMI-DADE COUNTY AND THE TOWN OF MIAMI LAKES REGARDING THE USE OF BARBARA GOLEMAN SENIOR HIGH SCHOOL; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the School Board of Miami-Dade County (the "Board") owns and has under its jurisdiction certain facilities located at Barbara Goleman Senior High School (the "School"), which are utilized for educational purposes but which may be utilized for suitable community and recreational activities by the Town of Miami Lakes (the "Town"); and

WHEREAS, it has become desirable and necessary for the Town to utilize the Board's property as a playground, athletic field and recreational area in connection with the Town's recreational objectives; and

WHEREAS, the Board has authorized the Town to use the School's facilities when not being used by the Board in accordance with the joint-use agreement attached as Exhibit "A" (the "Joint-Use Agreement"); and

WHEREAS, the Town finds that approval of the Joint-Use Agreement between the Town and the Board for use of the facilities at the School is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

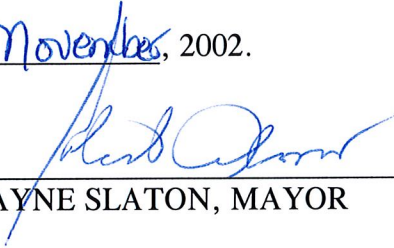
Section 1. Recitals. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of Joint-Use Agreement. The Joint-Use Agreement between the School Board of Miami-Dade County and the Town of Miami Lakes for use of the facilities at Barbara Goleman Senior High School, attached as Exhibit "A," is approved and the Town Manager is authorized to execute the Agreement on behalf of the Town.

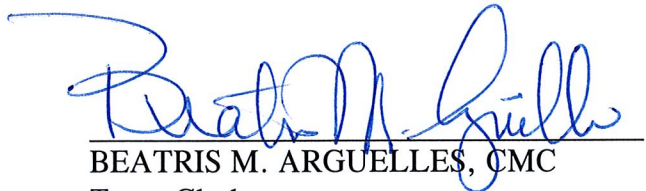
Section 3. Additional Authorization. The appropriate Town officials including Town Manager and Town Attorney are authorized to execute and deliver any additional documents pertaining to the Agreement, and to take all action necessary to implement the terms and conditions of the Agreement.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.


PASSED AND ADOPTED this 12th day of November, 2002.


WAYNE SLATON, MAYOR

ATTEST:


BEATRIS M. ARGUELLES, CMC
Town Clerk

APPROVED AS TO LEGAL SUFFICIENCY:


WEISS, SEROTA, HELFMAN, PASTORIZA & GUEDES, P.A.
Town Attorney

Pizzi / Collins

Council voted <u>7-0</u> as follows:	
Mayor Wayne Slaton	<u>YS</u>
Vice Mayor Roberto Alonso	<u>YS</u>
Councilmember Mary Collins	<u>YS</u>
Councilmember Robert Meador	<u>YS</u>
Councilmember Michael Pizzi	<u>YS</u>
Councilmember Nancy Simon	<u>YS</u>
Councilmember Peter Thomson	<u>YS</u>

JOINT USE AGREEMENT

THIS JOINT USE AGREEMENT made and entered into this 12th day of November, 2002, by and between the TOWN OF MIAMI LAKES, a Florida municipal corporation (hereinafter referred to as the "TOWN"), and THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a body corporate and politic (hereinafter referred to as to the "BOARD").

WITNESSETH:

WHEREAS, the BOARD and TOWN are mutually interested in and concerned with providing and making available recreational programs, activities and facilities for the use and benefit of the students of Miami-Dade County Public Schools and the people of the Town of Miami Lakes; and

WHEREAS, the BOARD owns and has under its jurisdiction certain facilities which are utilized for educational purposes but which may be utilized for suitable community and recreational activities by the TOWN; and

WHEREAS, it has become desirable and necessary for the TOWN to utilize the BOARD'S property as a playground, athletic field and recreational area in connection with the TOWN'S recreational objectives; and

WHEREAS, these objectives may be the best achieved through joint and coordinated action of the BOARD and the TOWN in making the BOARD'S property available for such purposes in the most cost effective manner; and

WHEREAS, the Town of Miami Lakes by the adoption of Resolution No. 02-100 at its meeting of November 12, 2002, approved this Joint Use Agreement; and

WHEREAS, the School Board of Miami-Dade County, Florida, has authorized the Joint Use Agreement in accordance with Board Action No. 103,399 at its meeting of October 23, 2002.

NOW, THEREFORE, for and in consideration of the conditions and covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I.

PREMISES TO BE JOINTLY USED

The TOWN and BOARD agree to jointly use that certain playfield area on the campus of Barbara Goleman Senior High School, 14100 N.W. 89 Avenue, as further described and limited in Articles III and IV (hereinafter called the "DEMISED PREMISES"), lying and being in the County of Miami-Dade, State of Florida, and more particularly described in Exhibit "A", attached hereto and made a part hereof.

II.

TERM

The term of this Joint Use Agreement shall be forty (40) years, beginning on a date to be mutually agreed to by the parties ("Commencement Date"). The TOWN and BOARD shall confirm the Commencement Date in a separate written instrument which shall become a part of this Joint Use Agreement by reference.

III.

USE OF PREMISES

The specific area of use by the TOWN shall be limited to the area identified in

Exhibit "A", and shall be used by the parties for the purpose of constructing educational and/or recreational improvements, as further defined in Article IV of this Joint Use Agreement, and for the operation of recreational and/or educational programs. TOWN use of the DEMISED PREMISES shall not include any portable classrooms.

The BOARD shall have full control, custody, right and use of the DEMISED PREMISES and all recreational facilities located thereon, during regular school hours on regular school days. Regular school hours shall be defined as 7:00 a.m. to 3:00 p.m. on regular school days. In addition, the BOARD shall use the DEMISED PREMISES, or any portion thereof, as required for special school events and functions, summer school and after school athletic events or team practices.

The TOWN shall have full control, custody, right and use of the DEMISED PREMISES, or any portion thereof, at all times when not in use by the BOARD. In addition, the TOWN shall have use of the school parking facilities (on a space-available basis) during its period of use, and shall have access across non-secured portions of the school campus, as a means of ingress/egress to the DEMISED PREMISES. The TOWN shall control public access to the DEMISED PREMISES during its period of use by opening and closing/locking gates as required. Further, the TOWN shall remove all unauthorized vehicles from school parking facilities, resulting from the TOWN'S use of the DEMISED PREMISES, prior to the BOARD'S period of use.

The TOWN shall restrict public use of the DEMISED PREMISES during the TOWN'S period of use to individuals engaged in informal, self-directed recreational activities. No organized adult or youth league programming will be allowed. In addition, use of the DEMISED PREMISES for carnivals, fairs, exhibits, mechanical rides, midways,

or the same or similar kinds of activities, as well as the sale or consumption of alcoholic beverages is expressly prohibited.

The TOWN shall not commit nor permit any violations of applicable laws, rules and regulations of the SCHOOL BOARD, TOWN, COUNTY, STATE, or FEDERAL GOVERNMENT upon the DEMISED PREMISES. The TOWN may promulgate and enforce reasonable rules and regulations governing its use of the DEMISED PREMISES and school parking facilities, and shall provide adequate supervision of the DEMISED PREMISES and school parking facilities at all times that it conducts activities thereon.

IV.

IMPROVEMENTS BY THE BOARD

The TOWN agrees to accept the DEMISED PREMISES in the condition it is in as of the Commencement Date of this Joint Use Agreement.

The BOARD, at its sole option, reserves the right to construct educational or recreational facilities, and maintain equipment related to the construction of said facilities, on the DEMISED PREMISES at such time as it shall be in the best interest of the school district to do so. The BOARD, or its designees, shall provide the TOWN with prior written notice of its intent to construct facilities on the DEMISED PREMISES.

The BOARD, at its sole option, reserves the right to place portable classrooms, and maintain equipment related to the installation of said classrooms, on the DEMISED PREMISES at such time as it shall be in the best interest of the school district to do so. At such time as the portable classrooms are installed, the area immediately surrounding same may be excluded from this Joint Use Agreement upon mutual accord of both the BOARD

and TOWN, through the execution of an amendment to the agreement.

V.

CONSIDERATION

As consideration for the BOARD retaining all responsibility for the removal of trash or litter from the parking lot and recreational facilities generated during the TOWN'S period of use, the TOWN agrees to provide an annual contribution to Barbara Goleman Senior High School in the amount of four thousand dollars (\$4,000.00).

VI.

MAINTENANCE

The BOARD shall retain all responsibility for maintenance of the DEMISED PREMISES and for the removal of trash or litter generated during the TOWN'S period of use.

The BOARD reserves the right to establish the frequency of its routine maintenance activities and may promulgate and enforce reasonable rules and regulations regarding the responsibility for the maintenance of the DEMISED PREMISES.

Notwithstanding the above, the TOWN agrees, at the request of the BOARD, to repair any damage to parking facilities, school grounds, buildings, recreational improvements or any other improvements located on the DEMISED PREMISES, where the BOARD can clearly substantiate that the improvements were damaged as a result of the actions of the TOWN.

VII.

LIABILITY FOR DAMAGE OR INJURY

The TOWN shall not be liable for any damage or injury which may be sustained by the BOARD or any persons on the DEMISED PREMISES during the BOARD'S period of use, other than damage or injury resulting from the negligence or improper conduct on the part of the TOWN, its agents, representatives or employees, or failure of the TOWN to perform its covenants under this Joint Use Agreement.

The BOARD shall not be liable for any damage or injury which may be sustained by the TOWN or any persons on the DEMISED PREMISES during the TOWN'S period of use, other than damage or injury resulting from the negligence or improper conduct on the part of the BOARD, its agents, representatives or employees, or failure of the BOARD to perform its covenants under this Joint Use Agreement.

VIII.

INDEMNIFICATION

The BOARD covenants and agrees that it shall indemnify, hold harmless and defend the TOWN, from and against any and all claims, suits, actions, damages or causes of action arising from or in connection with the BOARD'S use and occupancy of the DEMISED PREMISES during the term of this Joint Use Agreement, for any personal injury, loss of life or damage to property sustained in or about the DEMISED PREMISES, to the extent of the limitations included within Section 768.28, Florida Statutes.

The TOWN covenants and agrees that it shall indemnify, hold harmless and defend the BOARD, from and against any and all claims, suits, actions, damages or causes of

action arising from or in connection with the TOWN'S use and occupancy of the DEMISED PREMISES during the term of this Joint Use Agreement, for any personal injury, loss of life or damage to property sustained in or about the DEMISED PREMISES, to the extent of the limitations included within Section 768.28, Florida Statutes.

IX.

ASSIGNMENT

Neither party shall assign, transfer, or otherwise dispose of this Joint Use Agreement for the term hereof, or underlet the DEMISED PREMISES or any part thereof or permit the said DEMISED PREMISES to be occupied by other persons, firms, corporations, or governmental units during the term of this agreement.

X.

CANCELLATION AND DEFAULT

Other than as provided below and in Article XIII, this Joint Use Agreement may be cancelled by either party, without penalty, with one (1) year advance written notice to the other party.

The TOWN shall provide the BOARD with written notice of any failure to perform or comply with the terms and conditions contained herein to be performed by the BOARD.

If the BOARD fails to cure said default within thirty (30) days of receipt of written notice, or does not provide the TOWN with a written response within thirty (30) days after receiving notification, indicating the status of the BOARD'S resolution of the violations and providing for a schedule to correct all deficiencies, the TOWN shall have the right to terminate this

Joint Use Agreement, without penalty, upon ten (10) days additional written notice to the BOARD.

The BOARD shall provide the TOWN with written notice of any failure to perform or comply with the terms and conditions contained herein to be performed by the TOWN. If the TOWN fails to cure said default within thirty (30) days of receipt of written notice, or does not provide the BOARD with a written response within thirty (30) days after receiving notification, indicating the status of the TOWN'S resolution of the violations and providing for a schedule to correct all deficiencies, the BOARD shall have the right to terminate this Joint Use Agreement, without penalty, upon ten (10) days additional written notice to the TOWN.

In the event of cancellation or termination, the TOWN shall surrender the DEMISED PREMISES in accordance with the provisions of Article XV.

XI.

NO LIABILITY FOR PROPERTY

The TOWN and BOARD agree to insure or self insure their respective interests in personal property to the extent each deems necessary or appropriate and hereby mutually waive all rights to recovery for loss or damage by any means and waive all rights to recovery for loss or damage to such property by any cause whatsoever. The BOARD and TOWN hereby waive all rights of subrogation against each other under any policy or policies they may carry, or on property placed or moved on the DEMISED PREMISES.

XII.

NOTICE AND GENERAL CONDITIONS

A. All notices or other communications which shall or may be given pursuant to this Joint Use Agreement shall be in writing and shall be delivered by personal service or certified mail addressed to the parties at their respective addresses indicated below, or as the same may be changed in writing from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

To the BOARD: The School Board of Miami-Dade County, Florida
c/o Superintendent of Schools
1450 N.E. Second Avenue, Room 912
Miami, Florida 33132

With a copy to: Miami-Dade County Public Schools
Facilities Planning
Attn: Administrative Director
1450 N.E. Second Avenue, Room 525
Miami, Florida 33132

To the TOWN: Town Manager
Town of Miami Lakes
6853 Main Street
Miami Lakes, Florida 33014

B. Title and Paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Joint Use Agreement.

C. For purposes of this Joint Use Agreement, the Superintendent of Schools shall be the party designated by the BOARD to grant or deny all approvals required by this Joint Use Agreement, or to cancel this Joint Use Agreement as provided for herein.

XIII.

DAMAGE OR DESTRUCTION

In the event the DEMISED PREMISES should be destroyed or so damaged by fire, windstorm or other casualty to the extent the facilities are rendered untenable or unfit for the purposes of the TOWN, either party may immediately cancel this Joint Use Agreement by giving written notice to the other.

XIV.

NON-DISCRIMINATION

The TOWN agrees that there will be no discrimination against any person based upon race, color, sex, religious creed, ancestry, national origin, mental or physical handicap, in the use of the DEMISED PREMISES and improvements thereof. It is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Joint Use Agreement automatically terminates without any further action on the part of the BOARD, effective the date of the Court Order.

XV.

PEACEFUL POSSESSION

Subject to the terms, conditions, and covenants of this Joint Use Agreement, both parties agree that the other party shall and may peaceably have, hold and enjoy the above described DEMISED PREMISES, without hindrance or molestation by the other party. At the cancellation, termination or expiration of this Joint Use Agreement, the TOWN shall, without demand, quietly and peaceably deliver up possession of the DEMISED PREMISES and all improvements thereon in good order and repair, except for normal wear and tear,

or decay and damage by the elements, or other Acts of God.

XVI.

SUCCESSORS AND ASSIGNS

This Joint Use Agreement shall extend to and be binding upon the parties herein, their heirs, executors, legal representatives, successors and assigns.

XVII.

OPTION TO RENEW

If not in default in performance of the obligations set forth in this Joint Use Agreement, the TOWN shall have the right and option to renew this Joint Use Agreement under the same terms and conditions set forth herein for two (2) additional terms of five (5) years each from the expiration of the original term or any renewal hereof, with the mutual agreement of the BOARD.

XVIII.

COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

All parties hereby agree that they shall comply with all applicable laws, ordinances and codes of Federal, State and Local Governments, including the Americans with Disabilities Act, as they apply to this Joint Use Agreement.

XIX.

CONSTRUCTION OF AGREEMENT

This Joint Use Agreement shall be construed and enforced according to the laws of the State of Florida and the venue for any disputes shall be in Miami-Dade County, Florida.

XX.

SEVERABILITY

In the event any paragraph, clause or sentence of this Joint Use Agreement or any future amendment is declared invalid by a court of competent jurisdiction, such paragraph, clause or sentence shall be stricken from the subject Joint Use Agreement and the balance of the Joint Use Agreement shall not be affected by the deletion thereof, provided to do so would not render interpretation of the Joint Use Agreement provisions ambiguous or a nullity.

XXI.

WAIVER

No waiver of any provision hereof shall be deemed to have been made unless such waiver be in writing and signed by the TOWN or BOARD. The failure of either party to insist upon strict performance of any of the provisions or conditions of this Joint Use Agreement shall not be construed as waiving or relinquishing in the future any such covenants or conditions, but the same shall continue and remain in full force and effect.

XXII.

WRITTEN AGREEMENT

The Joint Use Agreement represents the entire agreement between the parties.

IN WITNESS WHEREOF, the BOARD and TOWN have caused this Joint Use Agreement to be executed by their respective and duly authorized officers the day and year first hereinabove written.

TOWN:


TOWN OF MIAMI LAKES,
a Florida municipal corporation



Town Manager

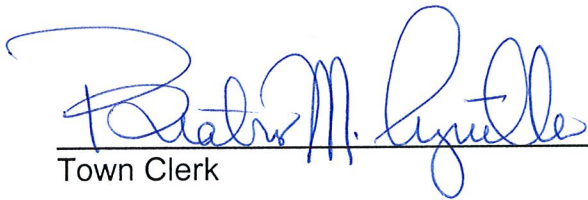
BOARD:

THE SCHOOL BOARD OF MIAMI-DADE
COUNTY, FLORIDA




Merrett R. Stierheim
Superintendent of Schools

ATTEST:



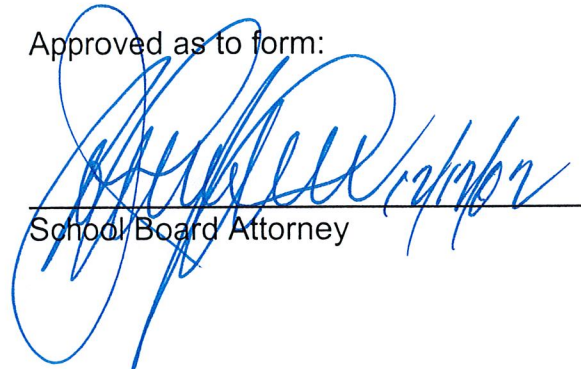
Town Clerk

Approved as to form:



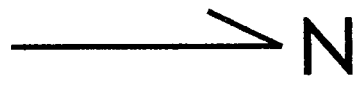
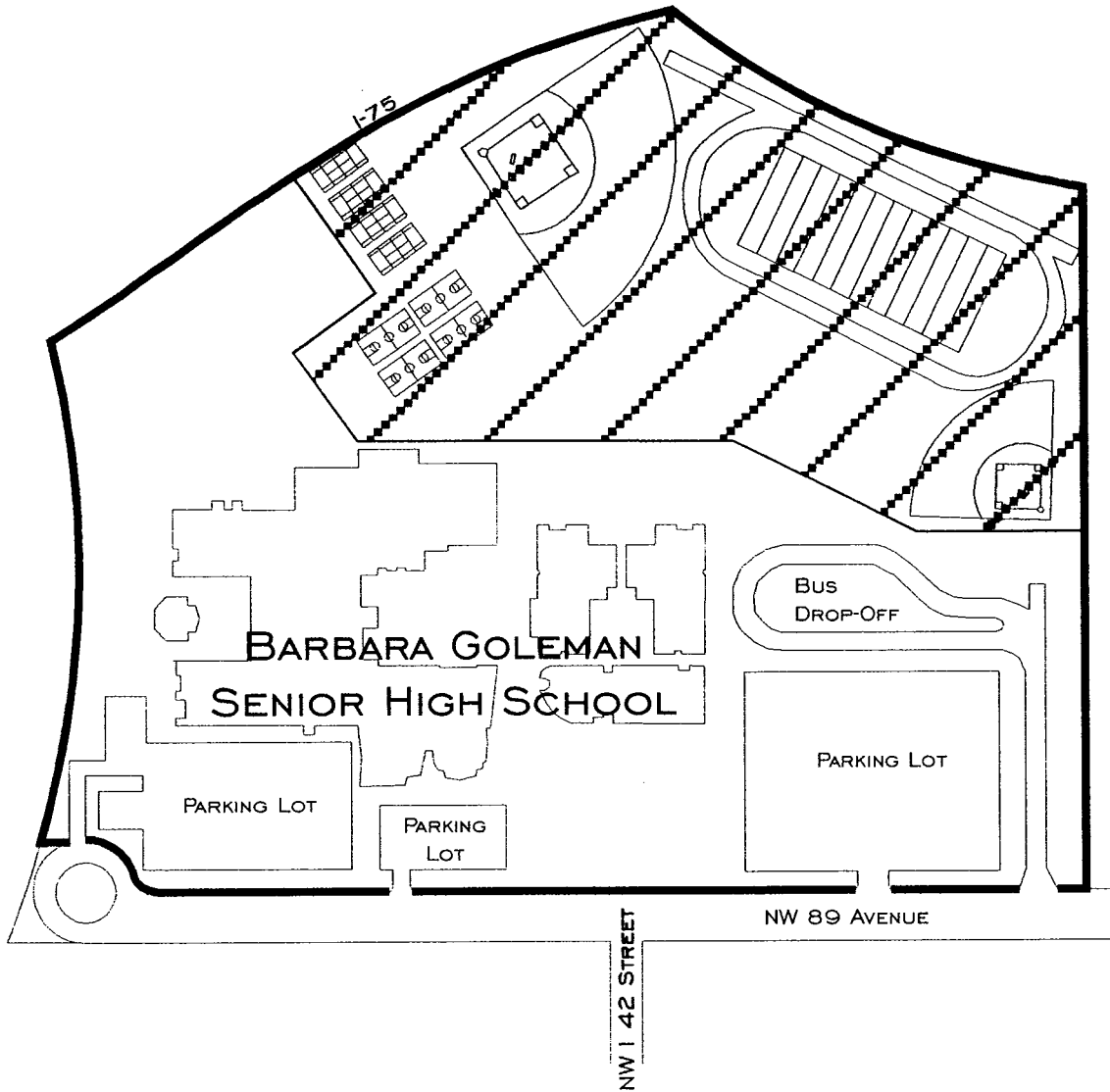
Town Attorney

Approved as to form:




School Board Attorney

EXHIBIT "A"



LEGEND

 DEMISED PREMISES

(NOT TO SCALE)