

RESOLUTION NO. 2024-33420

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE, AT ITS NOVEMBER 6, 2024 MEETING, APPROVING OPTION 1, PRESENTED TO THE COMMITTEE IN CONNECTION WITH THE INSTALLATION OF A FENCE AND SIDEWALK (IMPROVEMENTS) AT POLO PARK, ADJACENT TO THE SOFTBALL FIELD AND BASKETBALL COURTS OF MIAMI BEACH NAUTILUS MIDDLE SCHOOL, AS A SECURITY MEASURE; AND FURTHER AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE ANY AND ALL DOCUMENTS AND/OR AGREEMENTS WITH THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA (SCHOOL BOARD) RELATING TO THE INSTALLATION OF THE IMPROVEMENTS AT THE SOLE COST OF THE SCHOOL BOARD AND UPON TERMS MUTUALLY AGREEABLE TO THE PARTIES.

WHEREAS, on October 21, 1992, the Mayor and City Commission approved Resolution No. 92-20635, authorizing the execution of an Exchange Agreement between the City and the School Board of Miami-Dade County, Florida (the "School Board"), for the exchange of the City-owned property located at 805 42nd Street, Miami Beach, Florida and at the time commonly known as "Polo Park", for the School Board-owned property located at 4301 N.. Michigan Avenue, Miami Beach, Florida and commonly known at the time as "Nautilus Middle School"; and

WHEREAS, on December 1, 1993, the Mayor and City Commission adopted Resolution No. 93-21003, authorizing the City to execute a Construction Agreement and a Joint Use Agreement for the construction, joint use and coordination of, recreational and other facilities to be located on the property at the time commonly known as the Nautilus Middle School property; and

WHEREAS, the School Board approved the Joint Use Agreement with the City in accordance with Board Item No. A-17 at its December 8, 1993 meeting; and

WHEREAS, on January 20, 1994, School Board and the City executed the Construction Agreement and Joint Use Agreement ("JUA"), which JUA contains an original term of forty (40) years, with one additional twenty (20) year renewal term, at the option of the School Board and; and

WHEREAS, on December 1, 2002, the City and the School Board executed a Settlement Agreement resolving a disagreement between the parties associated with the proper construction of the tennis courts, and on December 9, 2009, the parties executed a Restated Settlement Agreement, finalizing the negotiations and acceptance of the improvements under the Construction Agreement, and following certain payments to the City, acceptance by the City of the improvements; and

WHEREAS, per the JUA, the City permits the School Board to utilize certain portions of what is now Polo Park as a playground, athletic and recreation area ("Demised Premises"); and

WHEREAS, the School Board has full control, custody, right and use of the Demised Premises during regular school hours on regular school days; and during summer school and

for after-school activities the administrators of Miami Beach Nautilus Middle School and City's Parks Department coordinate access; and

WHEREAS, the City staff, as well as the general public, have the right to access and use of the following areas of the Demised Premises during school hours: tot lot, racquetball and tennis courts; and

WHEREAS, per the JUA, the School Board has reserved the right to promulgate and enforce reasonable rules and regulations governing the use of the recreational facilities by the public during school hours; and

WHEREAS, the School Board transmitted a letter, dated July 12, 2024, regarding the monitoring of the current legislative session, in an attempt to implement changes that may be required in the immediate future, and through this monitoring, the School Board has become aware of the new regulations being promulgated regarding school safety and security; and

WHEREAS, an additional emphasis is being placed on locking and monitoring access points to school sites when students are present on campus; and

WHEREAS, during the School Board's compliance review, the School Board identified Miami Beach Nautilus Middle School as an area of concern, in that, per their review, there are perimeter fencing enclosure areas lacking where, during regular school hours, students are present for outdoor activities; and

WHEREAS, the School Board site administration has observed individuals utilizing the basketball courts and baseball fields during school hours resulting in intervention by the resource officer; and

WHEREAS, the School Board is aware of the long and fruitful history of collaboration with the City regarding Miami Beach Nautilus Middle School, as well as the terms of the JUA, that has been in effect since 1994; and

WHEREAS, the School Board requested a review of the JUA to determine the best way to allow for fencing to be placed around Miami Beach Nautilus Middle School to limit access to the property during instructional time; and

WHEREAS, at the July 24, 2024 City Commission meeting, the Mayor and City Commission referred an item (C4 P) to the Public Safety and Neighborhood Quality of Life Committee ("PSNQLC" or "Committee") to discuss the JUA vis-à-vis Miami Beach Nautilus Middle School's request to install a fence at Polo Park; and

WHEREAS, during the September 18, 2024 PSNQLC meeting, City staff informed the Committee that they met with representatives from the School Board onsite at Miami Beach Nautilus Middle School and Polo Park on Friday, September 13, 2024, to discuss the proposed fence location and any potential park operational impacts, and City staff requested to come back to the next meeting with an update, as City Staff was in the process of discussing different options with the School Board; and

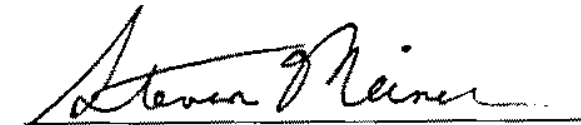
WHEREAS, the School Board has recommended to proceed with the fence layout indicated in Option 1 (Attachment B to the Committee Memorandum), which also includes the construction of a sidewalk area (collectively, the "Improvements"), with the School Board paying for the installation of the Improvements at Polo Park; and

WHEREAS, during the November 6, 2024 PSNQLC meeting, the Committee gave a favorable recommendation, approving Option 1, in connection with the installation of the improvements at Polo Park, adjacent to the field and basketball courts of Miami Beach Nautilus Middle School, as a security measure; and

WHEREAS, the City Manager recommends accepting the recommendation of the PSNQLC, at its November 6, 2024 meeting, approving Option No. 1 for the construction of the improvements, as this option doesn't eliminate access to the children's playground and tennis/pickleball courts during school hours and provides additional security for the school kids attending Miami Beach Nautilus Middle School; and further authorizing the City Manager to negotiate and execute any and all documents and/or agreements with the School Board relating to the installation of the improvements at the sole cost of the School Board and upon terms mutually agreeable to the parties.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendation of the Public Safety and Neighborhood Quality of Life Committee, at its November 6, 2024 meeting, approving Option 1, presented to the Committee in connection with the installation of a fence and sidewalk (Improvements) at Polo Park, adjacent to the softball field and basketball courts of Miami Beach Nautilus Middle School, as a security measure; and further authorize the City Manager to negotiate and execute any and all documents and/or agreements with the School Board of Miami-Dade County, Florida (School Board) relating to the installation of the improvements at the sole cost of the School Board and upon terms mutually agreeable to the parties.

PASSED and ADOPTED this 11th day of December 2024.




Steven Meiner, Mayor

ATTEST:


DEC 12 2024
Rafael E. Granado, City Clerk



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney 
11/24/2024
Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: December 11, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE, AT ITS NOVEMBER 6, 2024 MEETING, APPROVING OPTION 1, PRESENTED TO THE COMMITTEE IN CONNECTION WITH THE INSTALLATION OF A FENCE AND SIDEWALK (IMPROVEMENTS) AT POLO PARK, ADJACENT TO THE FIELD AND BASKETBALL COURTS OF MIAMI BEACH NAUTILUS MIDDLE SCHOOL, AS A SECURITY MEASURE; AND FURTHER AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE ANY AND ALL DOCUMENTS AND/OR AGREEMENTS WITH THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA (SCHOOL BOARD) RELATING TO THE INSTALLATION OF THE IMPROVEMENTS AT THE SOLE COST OF THE SCHOOL BOARD AND UPON TERMS MUTUALLY AGREEABLE TO THE PARTIES.

RECOMMENDATION

Accept the recommendation of the Public Safety and Neighborhood Quality of Life Committee, at its November 6, 2024 meeting, approving option 1, presented to the Committee in connection with the installation of a fence and sidewalk (Improvements) at Polo Park, adjacent to the field and basketball courts of Miami Beach Nautilus Middle School, as a security measure; and further authorizing the City Manager to negotiate and execute any and all documents and/or agreements with the School Board of Miami-Dade County, Florida (School Board) relating to the installation of the improvements at the sole cost of the School Board and upon terms mutually agreeable to the parties.

BACKGROUND/HISTORY

At the July 24, 2024 Commission meeting, the Mayor and City Commission referred an item (C4 P) to the PSNQLC to discuss the School Board Joint Use Agreement ("JUA") review regarding Miami Beach Nautilus Middle School fence request at Polo Park. (Exhibit A).

The School Board of Miami-Dade County, Florida, (the "School Board") transmitted a letter dated July 12, 2024 regarding the monitoring of the current legislative session in an attempt to implement changes that may be required in the immediate future. Through this monitoring, the School Board has become aware of the new regulations being promulgated regarding school safety and security. Specifically, an additional emphasis is being placed on locking and monitoring access points to school sites when students are present on campus.

During the School Board's compliance review, they identified Miami Beach Nautilus Middle School as an area of concern. Per their review, there are perimeter fencing enclosure areas lacking where, during regular school hours, students are present for outdoor activities. Additionally, the School Board site administration has observed individuals utilizing the basketball courts and baseball fields during school hours resulting in intervention by the resource officer.

The School Board is aware of the long and fruitful history of collaboration with the City of Miami

Beach regarding Miami Beach Nautilus Middle School, as well as the forty-year Joint Use Agreement that has been in effect since 1994. The School Board requested a review of the Joint Use Agreement to determine the best way to allow for fencing to be placed around Miami Beach Nautilus Middle School to limit access to the property during instructional time.

During the September 18, 2024 PSNQLC meeting, staff informed the Committee that they met with representatives from the School Board onsite at Nautilus Middle School and Polo Park on Friday, September 13, 2024 to discuss the proposed fence location and any potential park operational impacts. Staff requested to come back to the next meeting with an update as they are working through options with the School Board.

During the November 6, 2024 PSNQLC meeting, the Committee gave a favorable recommendation, approving option 1, in connection with the installation of a fence and sidewalk (Improvements) at Polo Park, adjacent to the field and basketball courts of Miami Beach Nautilus Middle School, as a security measure; and further authorizing the City Manager to negotiate and execute any and all documents and/or agreements with the School Board of Miami-Dade County, Florida (School Board) relating to the installation of the improvements at the sole cost of the School Board and upon terms mutually agreeable to the parties.

ANALYSIS

The JUA regarding Polo Park was adopted by the City of Miami Beach per Resolution No. 93-21003 at its December 1, 1993 meeting and the School Board in accordance with Board Item No. A-17 at its December 8, 1993 meeting. The original term of the agreement is for forty (40) years commencing on January 20, 1994. A Settlement Agreement was executed on December 9, 2009.

Per the JUA, the premise may be utilized as a playground, athletic and recreation area. The School Board has full control, custody, right and use of the premises during regular school hours on regular school days. During summer school and for after-school activities the administrators of Miami Beach Nautilus Middle School and City's Parks Department shall coordinate access. The City staff, as well as the general public, have the right to access and use of the following areas of the premises during school hours: tot lot, racquetball and tennis courts. Per the JUA, the School Board has reserved the right to promulgate and enforce reasonable rules and regulations governing the use of the recreational facilities by the public during school hours.

The School Board has recommended to proceed with the fence layout indicated in Option 1 (Attachment B). They will be paying for the fencing and installation at Polo Park. Administration agrees and accepts the option selected by the School Board. This option doesn't eliminate access to the children's playground and tennis/pickleball courts during school hours.

FISCAL IMPACT STATEMENT

There is no budget impact for the City. The School Board will be paying for the fencing and installation at Polo Park.

Does this Ordinance require a Business Impact Estimate?
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

N/A

CONCLUSION

The Parks and Recreation Department, along with the Office of Education and Performance Initiatives, will collaborate with the School Board to finalize the agreement and ensure the successful completion of the project.

Applicable Area

Middle Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Parks and Recreation

Sponsor(s)

Co-sponsor(s)

Condensed Title

Accept PSNQLC Recommendation JUA School Board Nautilus Middle Fence (Parks and Recreation)

C4 P REFERRAL TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS THE SCHOOL BOARD JOINT USE AGREEMENT REVIEW REGARDING MIAMI BEACH NAUTILUS MIDDLE SCHOOL FENCE REQUEST AT POLO PARK.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Rickelle Williams, Interim City Manager

DATE: July 24, 2024

TITLE: REFERRAL TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS THE SCHOOL BOARD JOINT USE AGREEMENT REVIEW REGARDING MIAMI BEACH NAUTILUS MIDDLE SCHOOL FENCE REQUEST AT POLO PARK.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission approve the referral to the Public Safety and Neighborhood Quality of Life Committee (PSNQLC) to discuss the item and provide a recommendation.

BACKGROUND/HISTORY

The School Board of Miami-Dade County, Florida, transmitted a letter dated July 12, 2024 (attachment A) regarding the monitoring of the current legislative session in an attempt to implement changes that may be required in the immediate future. Through this monitoring, the School Board has become aware of the new regulations being promulgated regarding school safety and security. Specifically, an additional emphasis is being placed on locking and monitoring access points to school sites when students are present on campus.

During the School Board's compliance review, they identified Miami Beach Nautilus Middle School as an area of concern. Per their review, there are perimeter fencing enclosure areas lacking where, during regular school hours, students are present for outdoor activities. Additionally, School Board site administration has observed individuals utilizing the basketball courts and baseball fields during school hours resulting in intervention by the resource officer.

The School Board is aware of the long and fruitful history of collaboration with the City of Miami Beach regarding Miami Beach Nautilus Middle School, as well as the forty-year Joint Use Agreement that has been in effect since 1994. At this time, the School Board is requesting a review of the Joint Use Agreement to determine the best way to allow for fencing to be placed around Miami Beach Nautilus Middle School to limit access to the property during instructional time.

ANALYSIS

The Joint Use Agreement (JUA) regarding Polo Park was adopted by the City of Miami Beach per Resolution No. 93-21003 (Attachment B) at its December 1, 1993 meeting and the School Board in accordance with Board Item No. A-17 at its December 8, 1993 meeting. The original term of the agreement is for forty (40) years commencing on January 20, 1994. A Settlement Agreement was executed on December 9, 2009 (Attachment C).

Per the JUA, the jointly owned premises may be utilized as a playground, athletic and recreation area. The School Board has full control, custody, right and use of the premises during regular school hours on regular school days. During summer school and for after-school activities the

administrators of Miami Beach Nautilus Middle School and City's Parks Department shall coordinate access. The City staff, as well as the general public, have the right to access and use of the following areas of the premises during school hours: tot lot, racquetball and tennis courts. Per the JUA, the School Board has reserved the right to promulgate and enforce reasonable rules and regulations governing the use of the recreational facilities by the public during school hours.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on .
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

Per the letter dated July 12, 2024 the School Board will submit any documentation necessary to satisfy the requirements of the Improvements section (IV.) of the agreement and is willing to pay for the fencing and its installation at Polo Park.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Education and Performance Initiatives

Sponsor(s)

Co-sponsor(s)

Condensed Title

Ref: PSNQLC - MDCPS Joint Use Agmt Review of Nautilus Middle School Fence at Polo Park.
EPI



Miami-Dade County Public Schools

giving our students the world

Superintendent of Schools
Dr. Jose L. Doties

Chair
Dr. Patricia

Miami-Dade County School Board

Mar. Tere Rojas, Chair
Monica Colucci, Vice Chair

Roberto J. Alonso

Lucia Baez-Geller

Dr. Dorothy Bendross-Mindingall

Mary Blanco

Danny Espino

Dr. Steve Gailon III

Luisa Santos

July 12, 2024

VIA ELECTRONIC EMAIL

RickelleWilliams@miamibeachfl.gov

Ms. Rickelle Williams
Interim City Manager
City of Miami Beach
1700 Convention Center Dr.
Miami Beach, FL 33139

Dear Ms. Williams:

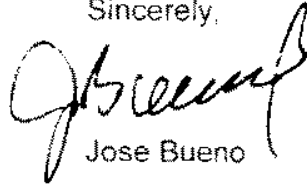
The School Board of Miami-Dade County, Florida, has been closely monitoring the current legislative session in an attempt to implement changes that may be required in the immediate future. Through this monitoring, we have become aware that new regulations are being promulgated regarding school safety and security. Specifically, an additional emphasis is being placed on locking and monitoring access points to school sites when students are present on campus.

During our compliance review, we have identified Miami Beach Nautilus Middle School as an area of concern. This site currently lacks perimeter fencing enclosing areas where, during regular school hours, students are present for outdoor activities. Conversations with the principal have revealed additional security concerns, as he has noted that he commonly must ask the resource officer to remove individuals from the basketball courts and baseball field during instructional time.

The School Board is aware of the long and fruitful history of collaboration with The City of Miami Beach regarding Miami Beach Nautilus Middle School, as well as the forty-year Joint Use Agreement that has been in effect since 1994. At this time, the School Board is requesting a review of the Joint Use Agreement to determine the best way to allow for fencing to be placed around Miami Beach Nautilus Middle School to limit access to the property during instructional time. To this effect, the Board is willing to submit any documentation necessary to satisfy the requirements of the *Improvements* section (IV.) of the agreement and is willing to pay for the fencing and its installation.

As always, the main concern for the Board is to move with expediency to assure the safety and security of the students and maintain full compliance with all federal, state, and local laws (as is mandated in section XVIII).

Sincerely,

A handwritten signature in black ink, appearing to read 'Jose Bueno', with a stylized, cursive script.

Jose Bueno

JB:im
L002

cc: Mr. Luis Diaz
Ms. Tabitha Fazzino
Chief Ivan Silva
Dr. Yesenia Aponte
Dr. Gilberto Bonce
Dr. Guillermo Munoz
Mr. Ignacio Palacio
Mr. Humberto Brito
Dr. Leslie Rosenfeld

be construed as waiving or relinquishing any such covenants or conditions, but the same shall continue and remain in full force and effect.

XX.

ENTIRE AGREEMENT

This Agreement represents the total agreement between the parties.

XXI.

SUCCESSORS AND ASSIGN

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

XXII.

LIMITATION OF LIABILITY

LESSOR and LESSEE desire to enter into this Agreement only if in so doing LESSOR and LESSEE can place a limit on their liability for any cause of action for money damages due to an alleged breach by LESSOR or LESSEE of this Agreement, so that their liability for any such breach never exceeds the sum of \$10,000. LESSOR and LESSEE hereby express their willingness to enter into this Agreement with a \$1,000,000 limitation on recovery for any damage action for breach of contract.

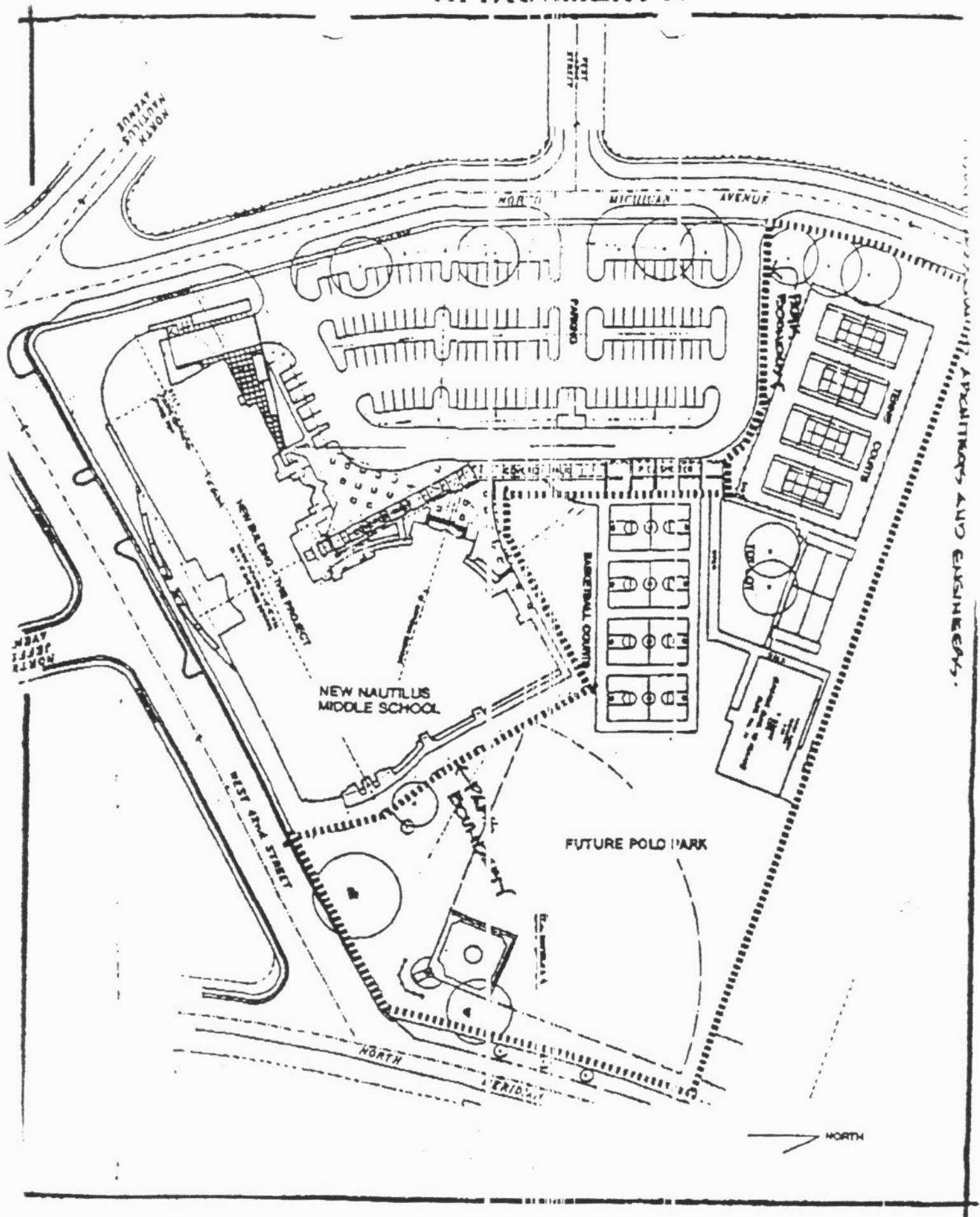
Accordingly, LESSOR and LESSEE hereby agree that LESSOR and LESSEE shall not be liable to each other for damages in an amount in excess of \$1,000,000 for any action occurring from breach of contract arising out of the performance or non performance of any application imposed upon the LESSOR or LESSEE by this Agreement.

The foregoing provision shall not preclude an action by LESSOR or LESSEE for specific performance. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitations placed upon LESSEE's or LESSOR's liability as set forth in Florida Statutes, Section 768.28

XXIII.

ARBITRATION

Any controversy or claim for money damages arising out of or relating to this Agreement, or the breach hereof shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and the arbitration award shall be final and binding upon the parties hereto and subject to no appeal, and shall deal with the question of the cost of arbitration and all matters related thereto. In that regard, the parties shall mutually select one arbitrator, but to the extent that the parties cannot agree upon the arbitrator, then the American Arbitration Association shall appoint one. Judgment upon the award rendered may be entered into any court having jurisdiction, or application may be made to such court for an order of enforcement. Any controversy or claim other than a controversy or claim for money damages arising out of or relating to this Agreement or the breach thereof, including any controversy or claim relating to the right to specific performance, shall be settled by litigation not arbitration.



ATTACHMENT B

LIST OF IMPROVEMENTS BY LESSEE

The LESSEE hereby agrees to construct, at its sole expense, in accordance with applicable Department of Education standards, the following improvements:

1. four regulation hard surface basketball courts
2. four regulation hard court tennis courts
3. two outdoor racquetball courts
4. grass softball field and softball backstop
5. tot lot (including new equipment)

Both parties agree that the specifications for the above improvements shall be found in the set of construction drawings and documents for this project.

αεξαφυμφοτ.κφα

2009-27259
CYH-12/9/09

RESTATED SETTLEMENT AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of December, 2009, by and between THE CITY OF MIAMI BEACH, a municipal corporation of the State of Florida (hereinafter called the "CITY" or the "LESSOR"), and the SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a body corporate and politic of the State of Florida (hereinafter called the "SCHOOL BOARD" or the "LESSEE"), collectively the "Parties".

WITNESSETH

WHEREAS, the CITY and the SCHOOL BOARD have entered into a JOINT USE AGREEMENT and a CONSTRUCTION AGREEMENT, both dated the 20th day of January, 1994, attached hereto as Exhibit "A" and Exhibit "B" respectively, regarding the property known as POLO PARK; and

WHEREAS, those agreements deal with certain improvements to be made on, and joint usage of POLO PARK; and

WHEREAS, disagreements have arisen concerning the proper construction of the tennis courts by the SCHOOL BOARD, and the CITY has not accepted possession of said improvements under the terms of the CONSTRUCTION AGREEMENT; and

WHEREAS, the CITY and the SCHOOL BOARD entered into a SETTLEMENT AGREEMENT dated the 1st day of December 2002, which was intended to resolve these disagreements, complete the SCHOOL BOARD'S obligations under the CONSTRUCTION AGREEMENT, and allow the Parties to operate under the terms of the JOINT USE AGREEMENT; and

WHEREAS, as a part of the SETTLEMENT AGREEMENT, the SCHOOL BOARD agreed to pay to the CITY the amount of \$85,000, as settlement of all issues between the Parties; and

WHEREAS, after further negotiations, the Parties have now agreed to restate the SETTLEMENT AGREEMENT in compliance with the terms and conditions provided herein, in order to provide a revised framework for the final settlement of all outstanding claims, disputes, disagreements and conflicts whatsoever between the Parties pertaining to the Construction Agreement; and

WHEREAS, it is the Parties intent that this restated SETTLEMENT AGREEMENT supersede and replace the above described SETTLEMENT AGREEMENT; and

WHEREAS, the SCHOOL BOARD, pursuant to Agenda Item F-3, Board Action # 113,174, at its meeting of November 17, 2009, authorized the Superintendent to finalize negotiations and execute this Agreement.

NOW, THEREFORE, in consideration of the mutual 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.

RECITALS

The Parties agree that the above recitals are true and correct and are incorporated herein by reference.

II.

PAYMENT OF FUNDS BY THE SCHOOL BOARD

The CITY shall assume any and all responsibility for the repairs to the tennis courts, with the SCHOOL BOARD to provide the CITY Fifty Thousand Dollars (\$50,000), as its share of the repair cost. This amount shall augment the above mentioned Eighty-Five Thousand Dollars (\$85,000), previously authorized by the SCHOOL BOARD in 2002 but not yet paid.

III.

ACCEPTANCE OF IMPROVEMENTS

The Parties agree that, upon payment to the CITY by the SCHOOL BOARD of the amounts of Eighty Five Thousand Dollars (\$85,000) and Fifty Thousand Dollars (\$50,000), totaling One Hundred and Thirty Five Thousand Dollars (\$135,000), the CITY shall deem all work required to be performed by the SCHOOL BOARD under the CONSTRUCTION AGREEMENT to be satisfactorily concluded and complete, and the improvements made by the SCHOOL BOARD to POLO PARK to be deemed accepted by the CITY. The SCHOOL BOARD shall remit the total amount of \$135,000 to the CITY within thirty (30) days of the CITY'S approval of this Agreement, and acceptance of the improvements to POLO PARK shall not be effective until such time as the funds are received by the CITY.

IV.

JOINT USE AGREEMENT

Concurrent with payment to the CITY by the SCHOOL BOARD of the funds enumerated in Article II, the Parties hereby ratify and affirm that the JOINT USE AGREEMENT remains in full force and effect.

V.

RESOLUTION OF CLAIMS

This Agreement settles and resolves all claims, disputes, disagreements and conflicts among and between the Parties arising from the CONSTRUCTION AGREEMENT, including, but not limited to all claims that were, or could have been raised by any Party to this dispute, and the CITY releases the SCHOOL BOARD from any and all claims and liabilities whatsoever relating to the Construction Agreement.

VI.

ATTORNEYS FEES

In the event of any litigation between the Parties under this Agreement, each Party shall be responsible for its own attorney's fees and court costs through trials and appellate levels. The provisions of this term shall survive the termination of this Agreement.

VII.


EFFECTIVE DATE

This Agreement shall become effective as of the date of full execution by both Parties.

IN WITNESS WHEREOF, the Parties hereto have individually, through their proper officials, executed this Agreement the day and year first hereinabove written.

Matti A. Bower
MAYOR

DADE COUNTY, FLORIDA



SUPERINTENDENT

Renee Parcker
CITY CLERK

CITY ATTORNEY

Richard J. Pearson
ATTORNEY FOR THE BOARD

City Attorney AB 12/4/09
Date

Proposed new fencing, to be installed by MDCPS
Layout was agreed to and walked on 09/13/2024 between Principal, MDCPS, CMB, and Parks & Recreation Department

