

RESOLUTION NO. 29757

A RESOLUTION AUTHORIZING THE ADMINISTRATOR FOR THE DEPARTMENT OF YOUTH AND FAMILY DEVELOPMENT TO ENTER INTO AN INTERLOCAL LEASE AGREEMENT WITH HAMILTON COUNTY BOARD OF EDUCATION TO USE SOUTH CHATTANOOGA YFD CENTER FOR THREE (3) YEARS FOR THE HOWARD SCHOOL TRANSITION ACADEMY CLASSES.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the Administrator for the Department of Youth and Family Development to enter into an Interlocal Lease Agreement with Hamilton County Board of Education to use South Chattanooga YFD Center for three (3) years for the Howard School Transition Academy classes.

ADOPTED: December 18, 2018

/mem

**INTERLOCAL LEASE AGREEMENT**

THIS LEASE AGREEMENT (“Lease”) made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the CITY OF CHATTANOOGA, TENNESSEE, a municipal corporation and political subdivision of the State of Tennessee (“Lessor”), and HAMILTON COUNTY BOARD OF EDUCATION, a public agency of the State of Tennessee (“Lessee”).

**WITNESSETH:**

WHEREAS, Tennessee Code Annotated, Section 12-9-104 provides legal authority for two (2) or more public agencies to enter into agreements with one another for joint or cooperative action; and

WHEREAS, Lessor owns certain property located at 1151 W. 40th Street in Chattanooga, Hamilton County, Tennessee; and

WHEREAS, Lessee desires to enter into a lease with Lessor to utilize a portion of the Southside Youth and Family Development Center to house the Howard High School Transitional Academy Program; and

WHEREAS, Lessor has the appropriate authority to, and hereby agrees to, lease to Lessee that certain parcel containing approximately 840 square feet located at 1151 W. 40th Street, Chattanooga, Tennessee.

NOW, THEREFORE, in consideration of the mutual covenants and premises contained in this Lease, and of other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged by both parties to this Lease, the parties for themselves, their successors, legal representatives, and assigns, desire to define to their rights, duties, and liabilities with respect to this Lease, and they do hereby agree as follows:

**SECTION 1: Leased Premises.** Lessor leases to Lessee that certain property containing approximately 840 square feet located at 1151 W. 40th Street, situated in the City of

Chattanooga, Hamilton County, Tennessee, identified as Tax Map No. 155O-N-001.03, more particularly described on **Exhibit A** attached hereto and incorporated herein by reference (the “Leased Premises”).

SECTION 2. Subject and Purpose. Lessor hereby agrees to lease to Lessee, and hereby does lease to Lessee, and Lessee hereby agrees to lease from Lessor, and hereby does lease from Lessor, the Leased Premises for the purpose of housing the Howard High School Transitional Program as set forth more fully in **Exhibit B** which is attached hereto and incorporated herein by reference. Lessee shall not utilize the Leased Premises for any other purpose without the express written approval of Lessor, which hereby designates its Mayor as its agent for this purpose. Lessee acknowledges that it has not received and Lessor has not made any warranty, express or implied, as to the condition of the Leased Premises.

SECTION 3. Term; Possession by Lessee. The term of this Lease shall commence upon execution by the parties (the “Anniversary Date”) and shall be for a period of three (3) years. Lessee may terminate this Lease at any time during the first (1<sup>st</sup>) year by giving Lessor written notice of its intention to terminate this Lease, and said notice shall be received at least thirty (30) days prior to the termination date. Additionally, Lessee may renew this Lease for two (2) successive periods of one (1) year each so long as Lessee is not in default hereunder. Lessee shall provide Lessor with written notice of its intention to renew this Lease at least ninety (90) days prior to the termination of the term then in effect.

SECTION 4. Lease Payments. Lessee shall, during the term of this Lease, pay to Lessor the net annual rent of One Dollar (\$1.00) per year with the first annual payment due on the first anniversary of this Lease and subsequent annual payments due on each anniversary of this Lease. All rentals payable by Lessee to Lessor under this Lease shall be paid to Lessor at the address herein designated in SECTION \_\_\_\_.

SECTION 5. Additional Rent.

(a) All costs and expenses that Lessee assumes or agrees to pay under this Lease, together with all interest and penalties that may accrue in the event of the failure of Lessee to pay those items, and all other damages, costs, expenses and sums that Lessor may suffer or incur or that may become due by reason of any default of Lessee or failure of Lessee to comply with the terms and conditions of this Lease, shall be deemed to be additional rent, and, in the event of nonpayment, Lessor shall have all the rights and remedies in this Lease for failure to pay rent.

(b) In the event this Lease is assigned to an entity that has not been designated as tax exempt by the Internal Revenue Service, Lessee shall pay as additional rent, before any fine, penalty, interest or costs that may be added thereto for the nonpayment thereof, real estate taxes, assessments, water quality fees, and governmental levies and charges, general and special, and of any kind which are assessed or imposed upon the Leased Premises or any part thereof, or which become payable during the term of this Lease. All costs and expenses that Lessee assumes or agrees to pay under this Lease, together with all interest and penalties that may occur in the event of the failure of Lessee to pay those items, and all other damages, costs, expenses and sums that Lessor may suffer or incur or that may become due by reason of any default of Lessee or failure of Lessee to comply with the terms and conditions of this Lease, shall be deemed to be additional rent, and, in the event of nonpayment, Lessor shall have all the rights and remedies in the Lease for failure to pay rent.

SECTION 6. Alteration and Ownership of Improvements; Furnishing of As Built Drawings and other Certificates

(a) Except as expressly provided in this Lease, Lessee shall not make any structural alterations, improvements, or additions to the Leased Premises without the prior, express, and written consent of the Lessor. All alterations, replacements, changes, additions and

improvements that may be made, erected, installed, or affixed on or in the Leased Premises during the term of this Lease shall be, and shall remain on and shall not be removed from the Leased Premises at the expiration of this Lease, as such improvements shall be the sole property of Lessor.

(b) Lessee shall provide Lessor with “as built” drawings following the completion of the Improvements, certificates of occupancy or other permits and approvals as required in connection with such Improvements.

SECTION 7. Quiet Possession. The Lessor covenants to keep the Lessee in quiet possession of the Leased Premises during the term of this Lease.

SECTION 8. Representations and Warranties.

(a) Lessee represents and warrants that (i) it has the full authority and legal right to carry out the terms of this Lease; (ii) the terms of this Lease will not violate the terms of any agreement, contract or other instrument to which it is a party and no consent or authorization of any other person, firm or corporation is a condition precedent to this Lease; (iii) it has taken all action necessary to authorize the execution and delivery of this Lease; and (iv) this Lease is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms, except as limited by bankruptcy and other laws of general application relating to or affecting the enforcement of creditors’ rights.

(b) Lessor represents that it will take all necessary and appropriate steps to obtain the required approval of this Lease under applicable state and local laws and regulations and further represents that (i) it has the full authority and legal right to carry out the terms of this Lease: (ii) the terms of this Lease will not violate the terms of any agreement, contract or other instrument to which it is a party and no consent or authorization of any other person, firm or corporation is a

condition precedent to this Lease; and (iii) upon approval, this Lease is a legal, valid and binding obligation of Lessor.

SECTION 9. Access to Leased Premises. Lessor and its agents and designee have the right to enter upon the Leased Premises at all reasonable times (or at any time in the event of an emergency). Such access by Lessor requires 24 hour advanced notice to Lessee.

SECTION 10. Repairs and Maintenance.

(a) Lessee will not suffer or permit any waste or neglect of the Leased Premises and will take such steps as often as may be necessary to keep the building and appurtenances on the Leased Premises in a neat and clean condition.

(b) Lessor shall not be held liable for the cost of any repairs made by or through Lessee unless there is an express written agreement to the contrary between the parties, or unless the repair involves any appliance or fixture which is provided by Lessor and which is covered by a warranty, guaranty, or other similar instrument running to Lessor, and then only to the extent covered by said warranty or guaranty.

SECTION 11. Clean Condition. Lessee shall be responsible for keeping the Leased Premises in a clean and orderly condition.

SECTION 12. Termination and Holding Over. Upon termination of this Lease at the expiration of the term, Lessee shall surrender the Leased Premises to Lessor in as good condition as received, ordinary wear and tear and damage by fire or other casualty excepted. Lessee covenants to Lessor that it shall vacate the Leased Premises on or before thirty-one (31) days following the expiration of the term of this Lease including removal of all personnel and personal property.

SECTION 13. Indemnity: Lessee, as a material part of the consideration to be rendered to Lessor, hereby waives all claims against Lessor for injuries or damages for any cause arising

at any time to persons in or about the Leased Premises where said injuries or damage occurs as a result of the use of the Leased Premises by Lessee or from the failure of Lessee to keep the Leased Premises in good condition and repair, as herein provided. Lessee will indemnify Lessor, its vendors, agents, employees, invitees, licensees contractors, or assignees and save it harmless from and against any and all claims, actions, damages, liability and expenses in connection with loss of life, personal injury and/or damage to property arising from or out of the occupancy or used by Lessee of the Leased Premises or any part thereof occasioned wholly or in part by any act or omission of Lessee, its agents, contractors or employees to the full extent that Lessee may be liable pursuant to the Tennessee Governmental Tort Liability act at T.C.A. § 29-20-101, *et seq.* (“TGTLA”). Lessee further agrees to defend, pay all costs of defense, including attorney’s fees, and/or any judgment or cost for any claim or suit brought against Lessor as a result of any claim brought against Lessee, its vendors, agents, employees, invitees, licensees, contractors, or assignees for use and occupancy of the Leased Premises, except for any claims brought against Lessor resulting from the negligent or intentional acts of Lessor. This indemnification of Lessor shall survive the expiration or sooner termination of this Lease.

SECTION 14. Insurance. [Check to see if HCBE is self-insured.] As a condition precedent to the effectiveness of this Lease, Lessee shall procure and maintain, at Lessee’s sole cost and expense, from an insurer licensed to do business in the State of Tennessee, the following insurance:

(a) Lessee agrees during the term of this Lease and any extensions, renewals or holdovers to purchase and maintain, for the benefit of the City, a policy or policies of public liability insurance, and property insurance, issued in the name of Lessee and naming Lessor as an additional named insured. The public liability insurance policy or policies shall have limits not less than One Million and 00/100 Dollars (\$1,000,000.00) for injury to and/or death of any single

person in a single occurrence and not less than One Million and 00/100 Dollars (\$1,000,000.00) for injury to and/or death of more than one person in a single occurrence, and not less than One Million and 00/100 Dollars (\$1,000,000.00) for damage to property in a single occurrence. The property insurance policy shall include a full replacement cost guarantee provision for both real and personal property. Lessee agrees to provide the insurance policies at its sole expense, with commercially reasonable increases in coverage thereafter, but in no event less than the limits set by the Tennessee Governmental Tort Liability Act as may be amended. Lessee shall include Lessor as additional insured on all public liability and property insurance. Proof of said insurance shall be provided to the Lessor's Risk Manager. Lessee shall provide Lessor evidence of coverage by signed certificates of insurance that show the coverage to be in effect, and Lessor will be provided with a thirty (30) day written notice prior to cancellation of the policy. The certificates of insurance shall indicate that the insurance is placed with an insurer rated AX or better by A.M. Best's Rating Guide or as approved by the Lessor's Risk Manager.

(b) Workers' Compensation Insurance covering all employees meeting statutory limits in compliance with all then applicable state and federal laws.

(c) Lessee shall insure that all of its subcontractors comply with the same insurance requirements that Lessee is required to meet.

#### SECTION 15. Restoration.

(a) Lessee shall promptly notify Lessor of damage or destruction to the Leased Premises and the date of same. All insurance funds recovered as a result of said claim shall be used for the restoration of the Leased Premises, which Lessee shall promptly begin and diligently pursue so that the Leased Premises is restored to substantially the same condition as it was in immediately before such damage or destruction. If existing laws do not permit restoration or in the



event the Leased Premises cannot be repaired or restored, then Lessee may terminate this Lease by giving prior notice to Lessor. All proceeds of insurance payable as a result of fire or other casualty shall be the sole property of the Lessee.

(b) If Lessee does not complete the repair, reconstruction or restoration within one (1) year or if the insurance proceeds will not be sufficient to cover the cost of repair, reconstruction or restoration, then Lessor may elect to terminate the Lease.

(c) Unless caused by Lessor's negligence or willful misconduct, Lessor shall not be liable to Lessee, or its agents, employees, invitees, licensees, contractors or assignees for inconvenience, annoyance, loss of profits, expenses, or any other type of injury or damage resulting from the repair of any such damage, or from any repair, modification, arranging, rearranging of any portion of the Leased Premises or any part of all of the Leased Premises or termination of this Lease as provided above. Lessee, its vendors, agents, employees, invitees, licensees, contractors or assignees shall assume the risk of any and all damage to its personal property in or on the Leased Premises and from any casualty whatsoever.

SECTION 16. Signs.

(a) All signs shall conform to any city, state or federal regulations which may be applicable.

(b) Any signs installed subsequent to the Lease Anniversary Date of this Lease shall be maintained at Lessee's expense.

SECTION 17. Condemnation of Property.

In the event that a part of the Leased Premises are taken under power of eminent domain, but such taking does not materially interfere with Lessee's ability to continue its operations from the Leased Premises, then this Lease shall remain in full force and effect. If substantial portions of the Leased Premises are taken under the power of eminent domain, rendering it impractical for

Lessee to continue its operations as previously existing, Lessee shall have the option of reconfiguring or reconstructing the Improvements on the Leased Premises so as to continue operations from the Leased Premises as modified, or of canceling this Lease by delivering written notice to Lessor within ninety (90) days of such taking. In the event Lessee elects to continue operations, then all proceeds of the condemnation will be paid to Lessee to assist with the payment of the cost of remodeling or reconstructing the Leased Premises to allow the use thereof for Lessee's continuing operations. If Lessee elects to terminate this Lease, then all awards for such taking shall be paid to Lessor, except for the value assignable to the Improvements constructed by Lessee over the remaining unamortized portion of this Lease, as calculated on a straight-line basis between the date of termination and the remaining term of this Lease, which value shall be paid to Lessee.

SECTION 18. Assignment. Lessee shall not assign or transfer this Lease or any interest herein nor sublease the Leased Premises or any part thereof to anyone without the prior written approval of Lessor. Further, neither this Lease nor any interest herein shall be subject to transfer by attachment, execution, proceedings in insolvency or bankruptcy, or receivership unless a receivership is sought by Lessor. Any such assignment or use without such consent shall be voidable at the option of Lessor, who may, on such breach, immediately re-enter and take possession of the Leased Premises.

SECTION 19. Compliance with Laws and Ordinances. Lessee covenants to comply with all state, county, and city laws and ordinances, including those regarding nuisances insofar as the Leased Premises are concerned, and that the Lessee will not by any act of its agents or officers render the Lessor liable therefor.

SECTION 20. Possession. If this Lease should at any time become void or forfeited, no demand shall be necessary to a recovery of possession of the Leased Premises, and the Lessor shall be entitled to immediate possession.

SECTION 21. Attorney's Fee for Right to Recover Possession Should the Lessor at any time rightly seek to recover possession of the Leased Premises, and be obstructed or resisted therein, and any litigation thereon ensues, the Lessee shall be bound to pay the Lessor a reasonable attorney's fee.

SECTION 22. Defaults. The occurrence of any of the following acts shall constitute an immediate, material, non-curable default by Lessee:

(a) Abandonment of the Leased Premises, except for causes of force majeure, as defined in SECTION 32 of this Lease;

(b) Failure to pay rent as provided for herein or failure to perform any term, covenant, or condition of this Lease, other than those set forth in subparagraphs (a) and (b) of this Section, shall not constitute a default unless such breach is not cured within the time periods set forth below. Lessor shall give written notice to Lessee of such default and if Lessee does not cure any rent default within fifteen (15) days, or other default within forty-five (45) days, after the giving of such notice (or, if such default is of such a nature that it cannot be completely cured within such forty-five (45) days), if Lessee does not commence such curing within forty-five (45) days and thereafter proceed with reasonable diligence and in good faith to cure such defaults, then Lessor may terminate this Lease on not less than five (5) days' written notice to Lessee, and on the date specified in said notice the term of this Lease shall terminate, and Lessee shall then quit and surrender the Leased Premises to Lessor, but Lessor shall remain liable as hereinafter provided. If this Lease shall have been so terminated by Lessor, Lessor may at any

time thereafter resume possession of the Leased Premises by any lawful means and remove Lessee or other occupants and their effects.

SECTION 23. Remedies. The parties' remedies hereunder are not exclusive but cumulative to other remedies provided by law or in equity in the event of default.

SECTION 24. Surrender of Leased Premises on Termination. Lessee shall peaceably deliver possession of the Leased Premises to Lessor on the date of expiration or termination of this Lease, whatever the reason for termination. Lessor shall have the right to re-enter and take possession of the Leased Premises on the date termination becomes effective without further notice of any kind and without instituting summary or regular legal proceedings.

SECTION 25. Discrimination. Subject to applicable federal and state laws, rules, and regulations, Lessee, its vendors, agents, employees, contractors, or assignees shall not discriminate against anyone on the basis of race, age, sex, disability, religion, or national origin in the use of the Leased Premises or construction of the Improvements on the Leased Premises.

SECTION 26. No Waiver. Any waiver by the parties of any default or breach of any one or more of the terms, conditions, or covenants of this Lease shall be in writing and shall not be construed to be a waiver of any subsequent or other breach or default of the same or of any other term, covenant, or condition of this Lease. No delay, failure, or omission of Lessor to re-enter the Leased Premises, to insist on strict enforcement of any term, covenant, or condition, or to exercise any right, privilege or option arising from any breach or default shall impair any such right, privilege or option or be construed as a waiver of or acquiescence in such breach of default.

SECTION 27. Abandoned Property. If Lessee abandons the Leased Premises or is dispossessed thereof by process or law or otherwise, Lessee shall be deemed to have abandoned any personal property belonging to Lessee left on the Leased Premises forty-five (45) days after the date of abandonment or dispossession, and title to said personal property shall be deemed to

have been transferred to Lessor. Lessor shall have the right to remove and to dispose of said personal property without liability therefor to Lessee or to any person claiming under Lessee, and shall not need to account for its disposal.

SECTION 28. Force Majeure. Lessor shall be excused for the period of any delay in the performance of any obligation hereunder when prevented by doing so by cause or causes beyond Lessor's control which shall include, without limitation, all labor disputes, civil commotion, war, war-like operations, invasion, rebellion, hostilities, military or usurped power sabotage, governmental regulations or controls, fire or other casualty, inability to obtain any material, services, or financing or through acts of God.

SECTION 29. Notices. All notices and other communications given hereunder by the parties shall be in writing and shall be delivered personally or by mail, postage prepaid, and the date of any notice by certified mail shall be deemed the date of certification thereof delivered by or addressed to the parties as follows:

**Lessor:** City of Chattanooga, Tennessee  
**ATTN:** Real Property of ECD  
101 E. 11th Street  
Chattanooga, TN 37402

**With a copy to:** City of Chattanooga  
Office of the City Attorney  
100 E. 11<sup>th</sup> Street, Suite 200  
Chattanooga, TN 37402

**Lessee:** Hamilton County Board of Education  
**ATTN:**  
[Insert Address Line 1]  
[Insert Address Line 2]

**With a copy to:** [Insert Attorney's Name]  
[Insert Attorney's Address Line 1]  
[Insert Attorney's Address Line 2]

SECTION 30. Time of the Essence. It is specifically declared that time is of the essence in all provisions of this Lease.

SECTION 31. Section Headings. The titles to the sections and paragraphs of this Lease are solely for the convenience of the parties and shall not be used explain, modify, simplify or aid in the interpretation of the provisions of this Lease.

SECTION 32. Modification. Any modification of this Lease or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

SECTION 33. Miscellaneous Provisions.

(a) Applicable Law. This Lease shall be construed and interpreted pursuant to the laws of the State of Tennessee. Should there be any provision thereof to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the legality, validity, and enforcement of the remaining provisions shall not be affected, but shall continue in full force and effect. Any disputes between the parties and/or default by Lessee may only be submitted to a court of competent jurisdiction in Hamilton County, Tennessee, and the prevailing party shall be entitled to recover all costs, expenses, and legal fees in defending such legal action.

(b) Entire Agreement. This Lease represents and constitutes the entire understanding between the parties and supersedes all other agreements and communications between the parties, whether oral or written, concerning the subject matter herein. Any amendment to this Lease must be in writing and adopted by lawful resolution of the respective governing bodies to be bound thereby.

(c) Binding Effect. The terms and conditions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Lease on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, at Chattanooga, Hamilton County, Tennessee.

**LESSOR:**

CITY OF CHATTANOOGA, TENNESSEE

BY: \_\_\_\_\_  
ANDY BERKE, *Mayor*

**LESSEE:**

HAMILTON COUNTY BOARD OF  
EDUCATION

BY: \_\_\_\_\_  
\_\_\_\_\_, its \_\_\_\_\_

**EXHIBIT A**

[Insert Map of Leased Premises]



## **EXHIBIT B**



2500 South Market Street, Chattanooga, Tennessee 37408  
Telephone: 423-498-6850. Fax: 423-209-5869. [www.howard.hcde.org](http://www.howard.hcde.org)

**Dr. LeAndrea Ware**  
Executive Principal

**Dr. Charles Mitchell**  
Assistant Principal

**Dr. Elizabeth Renneisen**  
Assistant Principal

**Ms. Andrea Short**  
Assistant Principal

**Mr. David Moore**  
Dean of Students

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### **Howard High Non-Traditional Transition Academy Program**

The Howard High Transition Academy is a customized learning lab with a full suite of instructors working to provide students intensified supports needed as they complete individualized learning plans. This online learning platform is district approved and allows students with extenuating circumstances such as teen parents, working students, and students at-risk of not graduating due to various barriers and challenges, to get back on track and graduate on time pending successful completion.

#### **The program aims to:**

- Identify at-risk students, grades 9-12, and provide targeted support to assist in grade repair/credit recovery in a small, intensive non-traditional structure
- Serve as alternative to school dropout prevention, thus positively impacting students' successful matriculation through their high school career
- Permit the development of a Personalized Education Plan (PEP) to include the best program and community support to meet academic goals
- Foster the collaboration of an Intervention Team and community specialists and partners to connect individual students and their parents with support programs throughout the community
- Develop a mentor/mentee program that will help meet the individual needs of the students
- Track the progress of individual students with weekly performance reviews
- Work with faculty, administration, and the community to adapt the curriculum and/or differentiate instruction and whole child supports to meet the needs of students
- Work with appropriate personnel to address attendance, or other barriers to students' overall success
- Generate a work based program and internships with multiple community partners to support students with real world experiences
- Provide student and family seminars and workshops to provide whole child supports
- Provide on-going individual and group counseling with at-risk students

For additional information, please contact Mr. Ron Davis or Kendra Harris at 423-498-6850.