

Second Amendment to Temporary Use Agreement

This Second Amendment ("Second Amendment") to the Temporary Use Agreement by and between North Broward Preparatory Schools, LLC, and the City of Coconut Creek dated July 11, 2013 ("Use Agreement"), and the First Amendment to the Use Agreement dated November 13, 2014 ("First Amendment") is made and entered into this _____ day of _____, 2017 by and between NORTH BROWARD PREPARATORY SCHOOLS, LLC, hereinafter referred to as "NBPS," and the CITY OF COCONUT CREEK, FLORIDA, hereinafter referred to as "City."

WHEREAS, NBPS owns the property generally located at 7600 Lyons Road, Coconut Creek, FL 33073 ("Property"); and

WHEREAS, on June 27, 2013, City, acting through its City Commission, approved the Use Agreement authorizing construction and placement of two (2) temporary modular dormitories on the Property ("Modular Dorms"); and

WHEREAS, on November 13, 2014, City, acting through its City Commission, approved the First Amendment authorizing the City to collect certain public facilities and services fees attributable to the Property due to the placement and use of the Modular Dorms; and

WHEREAS, the Use Agreement provides for a three (3) year term effective July 11, 2013 through July 11, 2016, with extensions upon mutual written consent of the parties; and

WHEREAS, the Use Agreement provides that the time-frames contained within the Use Agreement are subject to review and approval periods by City personnel, as well as NBPS consultants, and such time-frames may be extended upon a showing of good cause; and

WHEREAS, good cause for delay was shown by NBPS in January 2016, and its request to extend the agreement for one (1) year was approved by written consent from City personnel, providing a new termination date of July 11, 2017; and

WHEREAS, NBPS and City desire to amend the Use Agreement and First Amendment to provide for an additional one (1) year extension based on NBPS request and showing of good cause; and

WHEREAS, this Second Amendment is in the best interest of the City and residents of Coconut Creek.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. Pursuant to Paragraph 1 of the Use Agreement, the parties desire and mutually consent in writing to extend all the terms and conditions contained in the Use Agreement dated July 11, 2013, the First Amendment dated November 13, 2014, and the Second Amendment as provided herein for a new term to end on July 11, 2018.
3. Paragraph 3 of the Use Agreement shall be amended to read as follows:

As a material consideration for entering in this Agreement, NBPS hereby agrees to file with City all development and permit applications necessary to receive City approval to construct permanent dormitories on the Property in accordance with the following schedule:

- a. Within six (6) months of the effective date, NBPS shall submit any required plat and rezoning applications;
- b. Within eighteen (18) months of the effective date, NBPS shall submit a site plan application;
- c. Within ~~thirty (30)~~ sixty (60) months of the effective date, NBPS shall submit building permit applications and obtain a building permit.

4. Paragraph 15 of the Use Agreement shall be amended to read as follows:

In the event it becomes necessary for any reason to construe this Agreement as permitted by the rules of evidence of the State of Florida, this Agreement will be construed as being jointly prepared and drafted by all parties hereto. Venue, should litigation arise from this Agreement, shall be exclusively in Broward County, Florida.

5. Except to the extent modified herein, all other terms and conditions of the Use Agreement dated July 11, 2013 and First Amendment dated November 13, 2014 shall remain in full force and effect.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have made and executed this Second Amendment to the Temporary Use Agreement by and between North Broward Preparatory Schools, LLC, and the City of Coconut Creek dated July 11, 2013, and the First Amendment to the Use Agreement dated November 13, 2014.

Witnesses:

North Broward Preparatory Schools, LLC

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Printed Name: _____

Attest:

City of Coconut Creek

By: _____

Leslie Wallace May, City Clerk

Mary C. Blasi, City Manager

Approved as to Form:

Terrill C. Pyburn, City Attorney