

## **First Amendment to Temporary Use Agreement**

This First Amendment "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") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014 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 (the "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 (the "Modular Dorms"); and

WHEREAS, the Use Agreement provides for a three (3) year term effective July 11, 2013 through July 11, 2016; and

WHEREAS, NBPS and City desire to amend the Use Agreement to provide for payments by NBPS to City during the term of the Use Agreement to compensate City for the cost of public facilities and services including, but not limited to, water, sewer, police, emergency and fire service ("Public Facilities and Services") attributable to the Property due to the placement and use of the Modular Dorms on the Property ("Dorm Service Fee"); and

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

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt 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. The parties agree that in order to reimburse City for expenses incurred in providing Public Facilities and Services for the Modular Dorms, NBPS shall pay City an annual Dorm Service Fee.

3. The parties agree that the annual Dorm Service Fee attributable to the Property for the term commencing July 11, 2013 is the sum of Fourteen Thousand Nine Hundred Twenty Seven Dollars and 53/100 (\$14,927.53) and that such amount constitutes the "Base Rate" for the Dorm Service Fee for the Property.
4. Effective with the term commencing July 11, 2014 and for each subsequent yearly term thereafter during the term of the Use Agreement or any renewal or extension thereof, the Base Rate for the Dorm Service Fee shall be increased by Four Percent (4%) over the previous year's Dorm Service Fee and thereafter the Base Rate shall be the previous year's Base Rate as adjusted in accordance with this paragraph.
5. NBPS acknowledges that the 2013 Dorm Service Fee in the amount of Fourteen Thousand Nine Hundred Twenty Seven Dollars and 53/100 (\$14,927.53) is unpaid, and that the 2014 Dorm Service Fee is currently due in the amount of Fifteen Thousand Five Hundred Twenty Four Dollars and 63/100 (\$15,524.63). NBPS agrees to pay the 2013 and 2014 Dorm Service Fees within ten days of the execution of this Amendment by City. NBPS agrees to pay the Dorm Service Fee due for the term commencing July 11, 2015 and any renewal or extension term thereof in advance on before July 11th of each term year. In the event the Use Agreement is terminated prior to the end of its term for any reason, NBPS shall pay City within Thirty (30) days after the termination of the Use Agreement, the prorated portion of the Dorm Service Fee due for the period from July 11 of the previous year through and including the date of termination.
6. Upon expiration or other termination of the Use Agreement, with the exception of any partial payment due as set forth in paragraph 5 above, NBPS's Dorm Service Fee obligation shall automatically terminate.
7. The parties acknowledge and agree that the Dorm Service Fee is in addition to, and not in lieu of, any other payment or obligation owed by NBPS to City for Public Facilities and Services pursuant to any other agreements between the parties or due to City pursuant to any applicable City code.
8. The parties acknowledge that as of the date of the Use Agreement and this Amendment, NBPS is exempt from payment of City's Fire Protection Services Assessments. In the event at any time during the term of the Use Agreement, the Property loses its tax exempt status, the Dorm Service Fee shall terminate as of the date the Property becomes taxable and NBPS shall pay City the prorated Dorm Service Fee due through the date of such termination as provided in paragraph 5 above and

thereafter the Property shall be subject to all applicable taxes and fees imposed by any governmental body including, but not limited to, City.

9. Except to the extent modified herein, all other terms and conditions of the Use Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Witnesses:

\_\_\_\_\_

Printed Name: \_\_\_\_\_

\_\_\_\_\_

Printed Name: \_\_\_\_\_

North Broward Preparatory Schools, LLC

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

CITY SIGNATURE PAGE FOLLOWS

Attest:

\_\_\_\_\_

Leslie Wallace May, City Clerk

City of Coconut Creek

By: \_\_\_\_\_

Mary C. Blasi, City Manager

Approved as to Form:

\_\_\_\_\_

Terrill C. Pyburn, City Attorney