

FIRST AMENDMENT TO JOINT USE AGREEMENT

THIS FIRST AMENDMENT TO JOINT USE AGREEMENT (the "**First Amendment**") is made and entered into this 24 day of August 2015, by and between THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a body corporate and politic existing under the laws of the State of Florida (hereinafter referred to as the "**Board**"), and the CITY OF DORAL, a political subdivision of the State of Florida (hereinafter referred to as the "**City**"). The Board and City are sometimes referred to in this First Amendment individually as "**Party**" and collectively as the "**Parties**".

WITNESSETH

WHEREAS, the Board and City entered into that certain Joint Use Agreement dated February 2, 2006 (the "**Agreement**"), to allow both Parties to jointly use all park sites and school sites located within the City for recreational purposes; and

WHEREAS, Exhibit "A" to the Agreement lists the specific park sites and school sites approved for use by each Party; and

WHEREAS, the Board and City are desirous of entering into this First Amendment to amend Exhibit "A" and other terms and conditions of the Agreement, as provided below; and

WHEREAS, The School Board of Miami-Dade County, Florida has authorized this First Amendment, in accordance with Board Action No. 117,612 at its meeting of June 17, 2015; and

WHEREAS, the City of Doral, by the adoption of Resolution No. 15-149, at its meeting of August 11, 2015, approved this First Amendment.

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:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. Article III (USE OF PREMISES) of the Agreement is hereby amended to add the following language:

"Notwithstanding the above, the school administrator and park manager for each school or park site listed in Exhibit "A" shall meet prior to the start of each regular

school year, as established through the Board's official school calendar, or as soon thereafter as possible, to establish a mutually agreeable and reasonable schedule for use of the park or school sites. Such schedule of use may be modified from time to time throughout the school year by mutual agreement of the respective school administrator and park manager."

3. Section C of Article XIII (NOTICE AND GENERAL CONDITIONS) is deleted and replaced with the following language:

"For purposes of the Agreement, the Superintendent of Schools or his/her designee shall be the party designated by the Board to grant or deny all approvals required by the Agreement dealing with construction of improvements, changing periods or schedules of use, and City use of school sites for City events.

In addition to the above, for purposes of the Agreement, the Superintendent of Schools shall be the party designated by the Board to grant or deny any approvals required by the Agreement, including without limitation, amending any exhibits to the Agreement, adding or deleting school or park sites, authorizing use of a school site by a not-for-profit party or entity, placing the City in default, or renewing, extending, canceling or terminating the Agreement.

The City Manager of the City is the party designated by the City Council to grant or deny all approvals required by this Agreement, including adding or deleting individual park sites from this Agreement, changing dates and hours of use, authorizing use of a park site by a not-for-profit party, allowing the Board to hold School Events on a park site, allowing the Board to construct recreational improvements on a park site or to cancel this Agreement."

As to all other terms and conditions, Article XIII remains unchanged.

4. Exhibit "A" to the Agreement is hereby replaced with the revised Exhibit "A-1", attached hereto and made a part hereof. The Effective Date of the attached Exhibit "A-1" shall be the date on which the last of the Parties executes this First Amendment which date shall also be the Effective Date of this First Amendment.
5. A new Article XXVI entitled SUBORDINATION is hereby created and shall read as follows:

"This Agreement is and shall be subject and subordinate to any conveyance and ground or underlying leases, and the rights of each school site and the rights of the Board under those leases and to all financing that may now or hereafter affect the leases or the school sites, or any portions thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof. This provision

shall be self-operative and no further instrument of subordination shall be necessary. However, in confirmation of this subordination, the City shall execute, within thirty (30) calendar days of request, any certificate that the Board may request.”

6. A new Article XXVII entitled LEGAL FEES AND COURT COSTS is hereby created and shall read as follows:

“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 paragraph shall survive the expiration or early termination or cancellation of this Agreement.”

7. A new Article XXVIII entitled FLORIDA PUBLIC RECORDS LAWS; AUDITS AND INSPECTIONS & ACCESS TO RECORDS is hereby created and shall read as follows:

“This Agreement shall be subject to Florida’s Public Records Laws, Chapter 119, Florida Statutes. The Parties understand the broad nature of these laws and agree to comply with Florida’s Public Records Laws and laws relating to records retention.

Each Party acknowledges and accepts the authority of the other Party to request and authorize audits, inspections, and reviews, including, but not limited to, the authority to access the other Party’s records, its legal representatives’ and contractors’ records and the obligation of each Party to retain and to make those records available upon request, and in accordance with all applicable laws. Each Party shall keep records to show its compliance with this Agreement. In addition, each Party’s contractors and subcontractors must make available, upon the other Party’s request, any books, documents, papers and records which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

Each Party, its contractors and sub-contractors shall (a) retain all records for five (5) years after the completion of construction work within the other party’s property if any, and (b) each Party shall retain records for five (5) years after the expiration, early termination or cancellation of this Agreement.

Each Party shall incorporate this provision into every contract that it enters into relating to this Agreement”.

8. A new Article XXIX entitled REPRESENTATIONS is hereby created and shall read as follows:

“The City has full power to execute, deliver, and perform its obligations under this Agreement, as amended. The execution and delivery of this Agreement, and the performance by the City of its obligations under this Agreement, have been duly authorized by all necessary actions of the City, and do not contravene or conflict with any rules, regulations, policies or laws governing the City, or any other agreement binding on the City. The individual(s) executing this Agreement on behalf of the City has/have full authority to do so.

The Board has full power to execute, deliver, and perform its obligations under this Agreement, as amended. The execution and delivery of this Agreement, and the performance by the Board of its obligations under this Agreement, have been duly authorized by all necessary actions of the Board, and do not contravene or conflict with any rules, regulations, policies or laws governing the Board, or any other agreement binding on the Board. The individual(s) executing this Agreement on behalf of the Board has/have full authority to do so.”

- 9. A new Article XXX entitled USE OF FACILITY AS A REVENUE GENERATOR is hereby created and shall read as follows:**

“The Board shall at all times retain the exclusive right to be the sole authorizer and recipient of revenue generators, in compliance with Board Policies, relating to the school sites, including, without limitation, third party advertising or installation of wireless telecommunications facilities, provided such endeavors do not unreasonably interfere with the City’s rights to peaceful enjoyment of the school sites.

The City shall at all times retain the exclusive right to be the sole authorizer and recipient of revenue generators, in compliance with City policies, relating to the park sites, including, without limitation, third party advertising or installation of wireless telecommunications facilities, provided such endeavors do not unreasonably interfere with the Board’s rights to peaceful enjoyment of the park sites.”

- 10. A new Article XXXI entitled COUNTERPARTS is hereby created and shall read as follows:**

“This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one Agreement.”

- 11. All other terms and conditions of the Agreement shall remain unchanged.**

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

WITNESSES AS TO THE BOARD:


Print Name: Michelle A. Lewis

Print Name: Marta C. Alvarado

BOARD:
THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA

By: 
Alberto M. Carvalho
Superintendent of Schools
Date: 7/16/15

RECOMMENDED:


Jaime G. Torrens
Chief Facilities Officer

**TO THE BOARD: APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

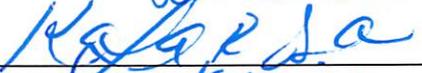

School Board Attorney
07/13/15

WITNESSES AS TO THE CITY:

CITY:
CITY OF DORAL


Print Name: Jennifer Laffita

By: 
Name: EDWARD A. ROJAS
Title: C.M.
Date: 8.24.15


Print Name: Karina Carillo

ATTEST:


City Clerk

TO THE CITY: APPROVED AS TO
FORM:


City Attorney

EXHIBIT "A-1"

John I. Smith K-8 Center (10415 NW 52 Street):

- The CITY shall have use of the school hard courts, parking lot, P.E. shelter, and playfield area and shall have access across non-secured portions of the school campus, as a means of ingress/egress to the DEMISED PREMISES (see attached sketch). Further, as provided in Article 3E of the Agreement, the CITY shall control public access to the DEMISED PREMISES during its period of use by opening and closing/locking gates as required, and shall remove all unauthorized vehicles from school parking facilities, resulting from the CITY'S use of the DEMISED PREMISES, prior to the BOARD'S next period of use.
- Other than the above, the CITY'S period of use, maintenance responsibilities and all other terms and conditions shall be as set forth in the Agreement.

Eugenia B. Thomas Elementary School (5950 NW 114 Avenue):

- The CITY shall have use of the school hard courts, parking lot, P.E. shelter, and playfield area and shall have access across non-secured portions of the school campus, as a means of ingress/egress to the DEMISED PREMISES (see attached sketch). Further, as provided in Article 3E of the Agreement, the CITY shall control public access to the DEMISED PREMISES during its period of use by opening and closing/locking gates as required, and shall remove all unauthorized vehicles from school parking facilities, resulting from the CITY'S use of the DEMISED PREMISES, prior to the BOARD'S next period of use.
- Other than the above, the CITY'S period of use, maintenance responsibilities and all other terms and conditions shall be as set forth in the Agreement.

BOARD site housing John I. Smith K-8 Center, Ronald W. Reagan/Doral Senior Annex and Central Region Office (5005 NW 112 Avenue):

- The CITY shall have use of the school hard courts, parking lot, P.E. shelter, and playfield area and shall have access across non-secured portions of the school campus, as a means of ingress/egress to the DEMISED PREMISES (see attached sketch). Further, as provided in Article 3E of the Agreement, the CITY shall control public access to the DEMISED PREMISES during its period of use by opening and closing/locking gates as required, and shall remove all unauthorized vehicles from school parking facilities, resulting from the CITY'S use of the DEMISED PREMISES, prior to the BOARD'S next period of use.

- Other than the above, the CITY'S period of use, maintenance responsibilities and all other terms and conditions shall be as set forth in the Agreement.

Ronald W. Reagan/Doral Senior (8600 NW 107 Avenue)

- Subject to the provisions of Article 3A of the Agreement, the CITY shall have use of the school's South and North parking lots, gymnasium, auditorium, baseball field, football/soccer field, softball field, tennis courts, racquetball courts and basketball courts, and shall have access across non-secured portions of the school campus, as a means of ingress/egress to the DEMISED PREMISES (see attached sketch). Further, as provided in Article 3E of the Agreement, the CITY shall control public access to the DEMISED PREMISES during its period of use by opening and closing/locking gates as required, and shall remove all unauthorized vehicles from school parking facilities, resulting from the CITY'S use of the DEMISED PREMISES, prior to the BOARD'S next period of use.
- During any period of CITY use, maintenance responsibilities and all other terms and conditions shall be as set forth in the Agreement.

Dr. Rolando Espinosa K-8 Center (11250 NW 86 Street)

- The CITY shall have use of the school hard courts, parking lots, P.E. shelter, and playfield area and shall have access across non-secured portions of the school campus, as a means of ingress/egress to the DEMISED PREMISES (see attached sketch). Further, as provided in Article 3E of the Agreement, the CITY shall control public access to the DEMISED PREMISES during its period of use by opening and closing/locking gates as required, and shall remove all unauthorized vehicles from school parking facilities, resulting from the CITY'S use of the DEMISED PREMISES, prior to the BOARD'S next period of use.
- In addition, the CITY may request use of one (1) school classroom one (1) day per week, with a minimum of forty-eight (48) hours advance notice to the school administrator, subject to availability and approval of the school administrator. Approval of such requests shall not be unreasonably withheld, provided such use does not conflict with the BOARD or school's operations or previous obligations. The CITY shall provide proper supervision during its period of use and shall comply with all terms and conditions of the Agreement, including without limitation, Article 3 thereof.
- Other than the above, the CITY'S period of use, maintenance responsibilities and all other terms and conditions shall be as set forth in the Agreement.

Morgan Levy Park (5300 NW 102 Avenue):

- The BOARD shall have use of the entire park site and all parking and

recreational facilities located thereon (with the exception of the tennis courts, which must be scheduled with the CITY), to serve John I. Smith Elementary School.

- In addition, the CITY intends to construct a parent drop-off/pick-up facility on the portion of the park located adjacent to the school, in compliance with Article IVA of the Agreement. Subsequent to completion of construction, the school shall have use of the drop-off/pick up facility for John I. Smith Elementary School, during hours to be mutually agreed upon between the school administrator and the CITY.
- The indicated schools shall use this location at scheduled days and times through prearranged scheduling with the CITY. Use of premises requested by the school administrator shall be made within ten (10) business days concerning the scheduling of events, athletic and recreational program(s), and other activities. The CITY property will then be used upon approval.
- Other than the above, the BOARD'S period of use, maintenance responsibilities and all other terms and conditions shall be as set forth in the Agreement.

Doral Meadow Park (11555 NW 58 Street):

- The BOARD shall have use of the entire park site and all parking and recreational facilities located thereon to serve Eugenia B. Thomas Elementary School.
- In addition, the BOARD shall have use of the existing park parking lot located adjacent to the school for a drop-off/pick up facility for Eugenia B. Thomas Elementary School, during hours to be mutually agreed upon between the school administrator and the CITY.
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- Other than the above, the BOARD'S period of use, maintenance responsibilities and all other terms and conditions shall be as set forth in the Agreement.

Doral Central Park (3000 NW 87 Avenue):

- The BOARD may request use of any portion of the facility, on an "as needed"

basis, by scheduling such use with the Park Manager with a minimum of 48-hours advance notice.

- The indicated schools shall use this location at scheduled days and times through prearranged scheduling with the CITY. Use of premises requested by the school administrator shall be made within ten (10) business days concerning the scheduling of events, athletic and recreational program(s), and other activities. The CITY property will then be used upon approval.
- During any period of BOARD use, maintenance responsibilities and all other terms and conditions shall be as set forth in the Agreement.

RESOLUTION No. 15-149

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE AMENDED JOINT-USE AGREEMENT BETWEEN THE CITY OF DORAL AND MIAMI-DADE COUNTY SCHOOL BOARD TO INCLUDE DR. ROLANDO ESPINOSA K-8 CENTER; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDED JOINT-USE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in January 2006, the City of Doral (the "City") entered into a Joint-Use Agreement with Miami-Dade County School Board (the "School Board") that gave the City access to hard courts, parking lot, P.E. shelter, playfields, and non-secured portions of the school campus at John I. Smith Elementary School, Eugenia B. Thomas Elementary School and Doral Middle School; and

WHEREAS, the agreement also gave the School Board access to the park site, parking lots and recreational facilities at Morgan Levy Park, Doral Meadow Park and Doral Central Park (stated in the agreement as Miami West Park); and

WHEREAS, during the June 17, 2015 School Board Meeting, the School Board approved the amendment to Exhibit "A" of the agreement to include Dr. Rolando Espinosa K-8 Center, because the school had not been built at the time of the original agreement; and

WHEREAS, Staff has recommended that the City Council approve the amended joint-use agreement between the City and the School Board to include Dr. Rolando Espinosa K-8 Center and authorize for the City Manager to execute the amended Joint-Use Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Approval. The amended agreement between the City and the School Board to include Dr. Rolando Espinosa K-8 is approved. The City Manager is hereby authorized to execute the amended agreement.

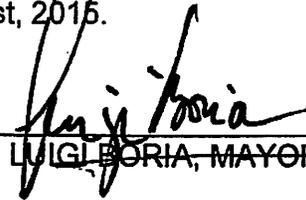
Section 3. Implementation. The City Manager and the City Attorney are hereby authorized to take such action as may be necessary to implement the purpose and the provisions of this Resolution.

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

The foregoing Resolution was offered by Councilmember Fraga who moved its adoption. The motion was seconded by Vice Mayor Ruiz and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Sandra Ruiz	Yes
Councilman Pete Cabrera	Absent/Excused
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED this 11 day of August, 2015.



LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE SOLE USE
OF THE CITY OF DORAL



WEISS, SEROTA, HELFMAN, COLE, & BIERTMAN, PL
CITY ATTORNEY

EXHIBIT “A”

EXHIBIT "A-1"

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