

Office of School Facilities
Jaime G. Torrens, Chief Facilities Officer

SUBJECT: THAT THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AUTHORIZE THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE A LICENSE AGREEMENT WITH INFINITY ESPANOLA HOTEL VENTURES, LLC ("INFINITY"), TO INCLUDE INDEMNIFICATION AND MAINTENANCE PROVISIONS IN CONNECTION WITH IMPROVEMENTS TO BE CONSTRUCTED BY INFINITY ON A PORTION OF THE FIENBERG FISHER K-8 CENTER CAMPUS, LOCATED AT 1420 WASHINGTON AVENUE, MIAMI BEACH, FLORIDA, 33139

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Background Information

The Board, at its meeting of May 16, 2018, authorized the Superintendent to finalize negotiations and execute a Construction Access Agreement ("Access Agreement") with Infinity Espanola Hotel Ventures, LLC ("Infinity"), for temporary use by Infinity of a portion of the Fienberg Fisher K-8 Center campus ("School"), to facilitate Infinity's construction of improvements within the adjacent Clay Hotel property, and for Infinity to construct a concrete block wall within the School at no cost to the District. The Access Agreement will terminate at such time as Infinity completes its work within the School site, including construction of the concrete block wall. Infinity has advised that it intends to attach conduits on the portion of the concrete block wall facing the Clay Hotel, for the exclusive use by Infinity of providing secondary electrical service to the Hotel. As such, the proposed License Agreement will define the ongoing relationship between the Board and Infinity after construction is completed.

License Agreement

The proposed License Agreement shall include, substantially, the following terms and conditions:

- Execution of the proposed License Agreement shall be a precondition to commencement of the Access Agreement;
- The License Agreement shall survive the termination, cancelation or expiration of the Access Agreement;

- The License Agreement shall be assignable by Infinity to future owners of the Clay Hotel property;
- Infinity shall indemnify and hold harmless the Board, its members, officers and employees, from and against any and all liability, cost or expense of whatsoever kind or nature including, but not by way of limitation, attorneys' fees and court costs arising out of bodily injury to persons including death, or damage to tangible property arising out of or incidental to the installation, operation and use of the subject electrical conduits attached to the concrete block wall;
- Infinity, at its own expense, and upon written request by the Board, shall defend any suit, action or demand brought against the Board on any claim or demand arising out of, resulting from or incidental to the installation, operation and use of the subject electrical conduits attached to the concrete block wall;
- Infinity shall indemnify the Board against any successful Claims Bill imposed on the Board related to the installation, operation and use of the subject electrical conduits attached to the concrete block wall, and shall make payment under any such successful claim; and
- In the event the concrete block wall is damaged due to Infinity's actions or failure to act, or due to any operations or activities on the part of the Clay Hotel, or in the event the concrete block wall is destroyed or damaged by a catastrophic or other event, Infinity shall repair or replace the wall, at Infinity's sole cost and expense.

The proposed License Agreement will be reviewed and approved by the School Board Attorney's Office and the Office of Risk and Benefits Management for legal sufficiency and risk management issues, respectively, prior to execution.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to finalize negotiations and execute:

- 1) a License Agreement with Infinity Espanola Hotel Ventures, LLC ("Infinity"), to include indemnification and maintenance provisions in connection with improvements to be constructed by Infinity on a portion of the Fienberg Fisher K-8 Center Campus, located at 1420 Washington Avenue, Miami Beach, Florida, 33139, under, substantially, the terms and conditions noted above;
- 2) any other documents or agreements that may be required to effectuate implementation of the Access Agreement or License Agreement; and
- 3) any amendments to the License Agreement within the authority granted to the Superintendent by the School Board in the License Agreement, and to grant or deny all approvals required under the License Agreement, including canceling or terminating the License Agreement, and placing Infinity in default, as may be applicable.

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