

Office of School Facilities
Raul F. Perez, Chief Facilities Design & Construction Officer

SUBJECT: PROPOSED AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE SCHOOL BOARD AND THE MIAMI-DADE FOUNDATION FOR EDUCATIONAL INNOVATION, INC. ("MDFEI") TO CONSTRUCT A TWELVE CLASSROOM ADDITION AT 1080 LA BARON DRIVE, MIAMI SPRINGS, FLORIDA, FOR THE CONTINUED OPERATION OF A DISTRICT-MANAGED CHARTER SCHOOL

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Background

Since August 2011, the Miami-Dade Foundation for Educational Innovation, a Florida not-for-profit corporation ("MDFEI"), has occupied a portion of the Board-owned facility located at 1080 La Baron Drive, Miami Springs, Florida ("Facility"), to operate a District-managed charter school ("School") under a Lease Agreement ("Lease Agreement") with the District. MDFEI currently uses approximately 24,526 square feet of classroom and ancillary space in the existing Facility, seven (7) MDFEI-provided portable classrooms totaling an additional 6,048 square feet of classroom space ("Portable Classrooms"), and non-exclusive use of the playfield area and hardcourt, as well as non-exclusive use of the south parking lot (classroom, ancillary and portable classroom space currently totals 30,574 square feet). The current term of the Lease Agreement expires on June 30, 2025, and no extensions are available to MDFEI without further Board action. MDFEI's Charter also expires on June 30, 2025.

MDFEI has now approached the District to advise that due to the success of its educational program, enrollment has continued to grow. To accommodate this growth, MDFEI is requesting permission to construct an approximate 14,500 square foot, twelve (12) classroom addition at the Facility ("School Addition"), which will require an amendment to the Lease Agreement ("Lease Amendment"). Upon completion of the proposed School Addition, MDFEI will remove up to seven (7) of the existing Portable Classrooms.

Should the Board authorize entering into the proposed Lease Amendment, MDFEI shall, at its sole cost and expense, provide the District with a detailed site plan ("Site Plan"), depicting the area of the Facility that MDFEI is requesting be used for the School Addition, as well as removal of up to seven (7) of the existing Portable Classrooms. The Site Plan is to include, but is not limited to, location of the new building, building height, layout of classrooms, modifications to existing staff/visitor parking, location of fencing and any on-site driveways or pedestrian corridors to be used, as well as details of any existing improvements located at the Facility intended to be demolished, modified or in any way impacted by the proposed construction of the School Addition. Approval of the Site Plan by the District is a precondition to the execution of the proposed Lease Amendment by the Board. MDFEI will fund all costs involved with the School Addition, including payment to the District of a construction management fee of Five Percent (5%) of the estimated cost of the work for project management related tasks. The District's Building Department will review plans and issue permits for the work.

Proposed Lease Amendment

The Deputy Superintendent/Chief Operating Officer, School Operations, recommends entering into the Lease Amendment with MDFEI to allow for the construction by MDFEI of the School Addition at the Facility. Accordingly, it is recommended that the Lease Agreement be amended to provide, substantially, for the following terms and conditions:

- After review and approval by the District of a detailed MDFEI-provided Site Plan, as set forth above, MDFEI shall be permitted to construct the School Addition at the Facility, consisting of approximately 14,500 square feet, and to remove up to seven (7) of the existing Portable Classrooms. MDFEI, at its sole cost and expense, shall fund all costs related to the construction of the School Addition, including architectural/engineering fees, and payment to the District of a construction management fee of Five Percent (5%) of the estimated cost of the work for project management related tasks;
- The District's Building Department will review plans and issue permits for the work;
- Effective with issuance by the District's Building Department of a Certificate of Occupancy, Temporary Certificate of Occupancy, Certificate of Completion, or equivalent ("CO") for the work, MDFEI's proportionate share of Facility Operating Expenses currently reimbursed to the Board (e.g. utility costs, custodial services, etc.) shall be adjusted to reflect the construction of the School Addition, and removal of the Portable Classrooms;
- At the completion of the work, MDFEI shall secure an inspection of the construction area by the District, verifying that construction of the School Addition has been satisfactorily and properly completed, and shall not release its contractor from its contractual obligations or make final payment to the contractor until the District attests

to same. MDFEI shall also provide the District with a signed and sealed “as-built” survey of the construction area, certified to the Board, showing the location of the School Addition, which survey shall document that the School Addition is located entirely within the area authorized by the District; and

- the parties acknowledge and agree that, concurrent with issuance by the District’s Building Department of the CO (as hereinabove defined), ownership of the School Addition shall vest with the Board.

All other terms and conditions of the Lease Agreement will remain unchanged, including:

- rent at \$1 per year;
- MDFEI shall fully reimburse the Board for its portion of the Facility’s Operating Expenses, including routine building and grounds maintenance, custodial/janitorial services, trash pick-up, utilities and property insurance;
- either party shall have the right to cancel the Lease Agreement at will by giving the other party at least ninety (90) days prior written notice, provided the effective date of such cancellation does not fall during the regular school year, as defined by the Board’s Elementary and Secondary School Calendar; and
- in addition to MDFEI having the option to make capital improvements within the leased space at its sole cost and expense, as currently allowed under the Lease Agreement, upon mutual agreement of the parties as to scope and cost, the District may provide certain capital improvements within the Facility serving MDFEI, with MDFEI to reimburse the District for the cost of same over an agreed to period of time, not to exceed the period remaining in the MDFEI Charter.

The proposed Lease Amendment has been reviewed by the School Board Attorney’s Office and the Office of Risk and Benefits Management for legal sufficiency and risk management issues, respectively, and found to be in compliance. A copy of the proposed Lease Amendment in its final form is attached hereto as Attachment “A”.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, authorize the Superintendent to execute an amendment to the Lease Agreement between the School Board and The Miami-Dade Foundation for Educational Innovation ("MDFEI"), to authorize the construction by MDFEI of a twelve classroom addition at 1080 La Baron Drive, Miami Springs, Florida, for the continued operation of a District-managed Charter School, and under, substantially, the terms and conditions noted within the item.

MAL:mal

ATTACHMENT "A"

EIGHTH AMENDMENT TO LEASE AGREEMENT

THIS EIGHTH AMENDMENT TO LEASE AGREEMENT (the "**Eighth Amendment**") is made and entered into as of this _____ day of _____, 20____, 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 "**Lessor**"), and THE MIAMI-DADE FOUNDATION FOR EDUCATIONAL INNOVATION, INC., a Florida not-for-profit corporation (hereinafter referred to as the "**Lessee**"). The Lessor and Lessee are sometimes referred to in this Eighth Amendment individually as "**Party**" and collectively as the "**Parties**."

WITNESSETH

WHEREAS, the Lessor and Lessee entered into that certain Lease Agreement dated August 15, 2011 (the "**Agreement**"), for Lessee's use of portions of Lessor's property located at 1080 LaBaron Drive, Miami Springs (the "**FACILITY**"), as amended by that certain Addendum No. 1 to Lease Agreement, dated November 3, 2011, and by that certain Addendum No. 2 to Lease Agreement, dated August 14, 2012, and by that certain Third Amendment to Lease Agreement, dated September 27, 2013, and by that certain Fourth Amendment to Lease Agreement, dated June 20, 2015, and by that certain Fifth Amendment to Lease Agreement, dated September 11, 2015, and by that certain Sixth Amendment to Lease Agreement, dated March 9, 2018, and by that certain Seventh Amendment to Lease Agreement, dated October 15, 2018; and

WHEREAS, the Lessor and Lessee are desirous of amending certain terms and conditions of the Agreement to allow the Lessee to construct and occupy additional classrooms, as more specifically set forth below; and

WHEREAS, The School Board of Miami-Dade County, Florida has authorized this Eighth Amendment in accordance with Board Action No. _____, at its meeting of _____, 20____; and

WHEREAS, Lessee has authorized all signatories to this Eighth Amendment, at a meeting duly noticed, held on _____, 20____ in accordance with its By-Laws and regulations and at which meeting a quorum was present, to execute this Eighth Amendment on its behalf.

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 I (DEMISED PREMISES AND EXPANSION OF USE) of the Agreement is modified to add the following language:

“The Parties acknowledge and agree that, as of the Effective Date of this Eighth Amendment (as defined below), the Board intends to modify the definition of the DEMISED PREMISES by allowing Lessee to construct an addition to the School consisting of approximately 14,500 square feet (“**School Addition**”), and to remove up to seven (7) Portable Classrooms upon completion of the School Addition. Subsequent to approval from the School Board to proceed, but as a precondition to execution of this Eighth Amendment by Lessor, Lessee shall, at its sole cost and expense, provide Lessor with a detailed site plan (“**Site Plan**”), depicting the area of the School site that Lessee is requesting be used for the School Addition. The Site Plan is to show removal of up to seven (7) Portable Classrooms, and the proposed area of the School site Lessee intends to construct the School Addition. The Site Plan is to depict the School Addition as if fully built-out with all proposed improvements and occupied by the maximum number of students, and is to include, but is not limited to, location of building, building height, layout of classrooms, modifications to existing staff/visitor parking, location of fencing and any on-site driveways or pedestrian corridors to be used, as well as details of any existing improvements located on the School site intended to be demolished, modified or in any way impacted by the proposed construction of the School Addition.

At such time as the Site Plan is fully vetted and approved by Lessor or its designee, said Site Plan shall be attached hereto and become a part hereof as **Exhibit “B”**. Subsequent to the Site Plan being approved by Lessor or its designee, Lessee shall, at its sole cost and expense, provide a signed and sealed survey with a legal description, certified to the Lessor (“**Survey**”), depicting the area of the School site described in the approved Site Plan (“**Construction Area**”), which Survey shall be attached to this Eighth Amendment as **Exhibit “C”** as a precondition to execution of this Eighth Amendment by Lessor

Effective with the Effective Date of this Eighth Amendment, the classrooms, ancillary spaces, non-exclusive use of the playfield area for recreational purposes, non-exclusive use of the hardcourt located within the playfield area and parking utilized by Lessee at the School under this Agreement, as all may be modified by the provisions of this Eighth Amendment, shall be described in **Exhibit “A-4”**, which shall be attached hereto and made a part hereof as the DEMISED PREMISES.

The Lessee agrees and acknowledges that its use of the additional space in the School shall be under the same terms and conditions of this Agreement, and the amount of Operating Expenses (as defined in Article III) by Lessee shall be adjusted to reflect the amount of square footage being occupied, effective the date of said occupancy”.

3. Article II (TERM) of the Agreement is amended to add the following language:

“For the purpose of this Eighth Amendment, the Parties acknowledge and agree that the later date of execution of this Eighth Amendment by both Parties shall serve as the effective date of the Eighth Amendment (“**Effective Date of Eighth Amendment**”). For the purpose of this Eighth Amendment, the Parties acknowledge and agree that issuance of the CO by Lessor (as defined below) shall serve as the commencement date of the Eighth Amendment (“**Commencement Date of Eighth Amendment**”).

4. Article III (RENT AND OPERATING EXPENSES) of the Agreement is modified to add the following language:

“Effective with issuance by Lessor’s Building Department of a Certificate of Occupancy, Temporary Certificate of Occupancy, Certificate of Completion, or equivalent (“**CO**”) for the Work (as defined in Article V), which CO shall be attached hereto as **Exhibit “D”** and made a part hereof, Lessee shall pay to Lessor, Lessee’s adjusted proportionate share of operating expenses for the FACILITY, which includes, but is not limited to, routine building and grounds maintenance, custodial and janitorial services, trash pick-up, utilities, and Lessor’s property insurance. The Parties acknowledge and agree that Lessor previously was not responsible for providing property insurance for the Portable Classrooms. Effective with the removal of the Portable Classrooms by Lessee as a part of its proposed Work under this Eighth Amendment, Operating Expenses shall include all facilities utilized by Lessee as a part of the DEMISED PREMISES, and the total Operating Expenses amount shall be adjusted to reflect both the modified square footage occupied by Lessee, as well as the inclusion of Lessor’s property insurance. Concurrent with issuance of the CO, Lessor shall provide written notice to Lessee with the adjusted Operating Expenses amount which shall be due to Lessor at the next monthly installment of Operating Expenses reimbursement as set forth herein”.

5. Article V (IMPROVEMENTS BY LESSEE) of the Agreement is modified to add the following language:

“For the purpose of this Eighth Amendment, the Parties acknowledge and agree that Lessee shall be making certain Additional Improvements on the School campus (as hereinabove defined), substantially as set forth in Exhibit “B”, and as further detailed in a scope of work, attached hereto and made a part hereof as **Exhibit “E”**. Lessee shall conform to all terms and conditions of this Article V dealing with review and approval of plans, issuance of permits, complying with all District design criteria, specifications and safety codes, and all other specified

provisions. On site construction related activities shall not commence until such time as Lessor or its designee approves the full set of construction documents, which documents shall be attached hereto by reference, and advises Lessee in writing that it may proceed with the work.

At the completion of the work, Lessee shall secure an inspection of the Construction Area from Lessor's designee, verifying that construction of the School Addition has been satisfactorily and properly completed, and shall not release its contractor from its contractual obligations or make final payment to the contractor until the Lessor's designee attests to same. Lessee further covenants and agrees to provide the Lessor with a signed and sealed "as-built" survey of the Construction Area, certified to the Lessor, showing the location of the School Addition, which survey shall document that the School Addition is located entirely within the area set forth in Exhibit "C".

Notwithstanding any other provisions of this Agreement, the Parties acknowledge and agree that, concurrent with issuance by LESSOR'S Building Department of the CO (as hereinabove defined), ownership of the Additional Improvements, substantially as set forth in Exhibit "E", shall vest with the Lessor, and shall thenceforth be included as a part of the FACILITY."

6. Effective as of the Effective Date of Eighth Amendment, Exhibit "A-3" to the Agreement is hereby replaced with the attached revised Exhibit "A-4".
7. All other terms and conditions of the Agreement, as amended, shall remain unchanged.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Lessor and Lessee have caused this Eighth Amendment to Agreement to be executed by their respective and duly authorized officers as of the day and year first hereinabove written.

WITNESSES AS TO LESSOR:

LESSOR:

THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA

Print Name: _____

By: _____

Alberto M. Carvalho
Superintendent of Schools

Print Name: _____

Date: _____

**TO THE LESSOR: APPROVED AS TO
RISK MANAGEMENT ISSUES:**

Office of Risk and Benefits Management

RECOMMENDED:

Risk and Benefits Officer
Date: _____

Jaime G. Torrens
Chief of Staff
Date: _____

**TO THE LESSOR: APPROVED AS
TREASURY MANAGEMENT ISSUES:**

Office of Treasury Management

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

Treasurer
Date: _____

School Board Attorney
Date: _____

WITNESSES AS TO LESSEE:

LESSEE:

THE MIAMI-DADE FOUNDATION FOR
EDUCATIONAL INNOVATION, INC.

Print Name: _____

Print Name: _____

By: _____

Name: _____

Title: President

Date: _____