

RESOLUTION No. 15-209

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING AN AMENDMENT TO MODIFY CERTAIN SECTIONS OF THE GRAND BAY SOUTH PLANNED UNIT DEVELOPMENT (PUD) MASTER DEVELOPMENT AGREEMENT (MDA) AND FOURTH AMENDMENT TO THE SETTLEMENT AGREEMENT SECTION 8 WHICH PROVIDES FOR THE CONSTRUCTION AND OPERATIONS OF THE CHARTER SCHOOL TO BE LOCATED ON APPROXIMATELY A FOUR (4) ACRE TRACT OF LAND ON THE NORTHWEST CORNER OF THE INTERSECTION OF NW 102 AVENUE AND NW 78 STREET, CITY OF DORAL, FLORIDA; APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF MIAMI-DADE COUNTY AND THE CITY OF DORAL RELATING TO THE GRAND BAY SOUTH AT DORAL SCHOOL SITE; PROVIDING FOR RECORDATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Flordade, LLC. ("Applicant"), is requesting to modify certain provisions of the Grand Bay South PUD Master Development Agreement (MDA) and Fourth Amendment to the Settlement Agreement (the Settlement Agreement) which provides for the construction and operations of a charter school in the property; and

WHEREAS, the Settlement Agreement, dated June 12, 2005, as amended from time to time, governs the development of certain lands located within Section 8, which includes Grand Bay South PUD; and

WHEREAS, the Grand Bay South PUD Master Development Agreement, which is recorded at Official Records Book 29252, Page 1778 of the Public Records of Miami-Dade County includes a condition that provides for the construction and operation of a charter school with a minimum capacity of 1,926 students in the K-12 grade levels; and

WHEREAS, the proposed modifications will allow greater flexibility as to the construction and operation of the school, which means that the school may be operated by either a traditional public school or public charter school; and

WHEREAS, the terms and conditions of the development of the School Site and operation of the School by the District shall be set forth pursuant to the terms of an Interlocal Agreement between the District and the City provided herein in Exhibit A; and

WHEREAS, after careful review and deliberation, staff has determined that the proposed modifications is consistent with the approved Grand Bay PUD Agreements; and

WHEREAS, on October 21, 2015, the City Council held a public hearing and received testimony and evidence related to the proposed modifications; and

WHEREAS, the City Council finds that the proposed modifications are in the best interest and welfare of the residents of the City of Doral; and

WHEREAS, the City Council has reviewed City staff's report which evaluates the proposed modifications to certain provisions of the Grand Bay South PUD Master Development Agreement and Fourth Amendment to the Settlement Agreement which provides for the construction and operations of a charter school.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:

Section 1. Recitals. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. Approval. The Mayor and City Council of the City of Doral hereby approve the proposed modifications to certain provisions of the Grand Bay South PUD

Master Development Agreement and Fourth Amendment to the Settlement Agreement which provides for the construction and operations of a charter school; and approval of the Interlocal Agreement by and between the School Board of Miami-Dade County, Florida and City of Doral, Florida relating to Grand Bay South at Doral School Site. The proposed modifications to the Master Development Agreement and Fourth Amendment to the Settlement Agreement are provided as follows herein:

I. Modification to the Master Development Agreement: (Exhibit B)

FROM:

"15. Construction and Operation of a Public Charter School. As depicted in the Conceptual Master Plan, the Developer has set aside land within a parcel designated as a "Charter School" to facilitate the construction and operation of a public charter school (the "School). Although a permitted use, the operation of the School shall require a separate site plan approval as may be provided from time to time in the City's Land Development Code. The School shall have a minimum capacity of 1,926 students in the K-12 grade levels, which School shall be built in two phases. The construction and operation of the School shall commence and proceed in two phases in accordance with the following schedule:

a. Phase I shall have a minimum capacity of 1,000 student stations and shall be ready for occupancy for the first full school year following the issuance of a building permit for the unit representing fifty percent (50%) of the total number of dwelling units; and

b. Phase II shall have a minimum capacity of 926 student stations and shall be ready for occupancy for the first full school year following the issuance of a building permit for the last unit.

Until the construction of the School is commenced, the site designated for the School shall be maintained as green open space for the benefit of the residents of the Project."

TO:

"15. Construction and Operation of a School. As depicted in the Conceptual Master Plan, the Developer has set aside a parcel of land (the "School Site") to facilitate the construction and operation of a school (the "School). Although a permitted use, the operation of the School shall require a separate site plan approval as may be provided from time to time in the City's Land Development Code. The School may be operated as a public charter school or as a traditional public school facility in accordance with the following provisions:

a. Public Charter School. If the School is operated as a public charter school, the School shall have a minimum capacity of 1,440 student stations in the K to 12 grade levels. The public charter school may be built in one or more phases so long as the first phase provides a minimum capacity of 1,000 student stations and shall be ready for occupancy for the first full school year following the issuance of a building permit for the unit representing fifty percent (50%) of the total number of dwelling units. If the School is to be operated as a public charter school, the School Site shall be

maintained as green open space for the benefit of the residents of the Project, until the construction of the School commences.

b. Public School. If the School is operated as a traditional public school by the Miami-Dade Public School District (the "District"), and the School shall have a capacity of up to 1,200 students in the K to 8~~12~~ grade levels. The District may develop the School Site in two or more phases. The terms and conditions of the development of the School Site and operation of the School by the District shall be set forth pursuant to the terms of an Interlocal Agreement between the District and the City.

II. Modification to the Settlement Agreement: (Exhibit C)

FROM:

"5. Control and Operation of Charter School. Pursuant to a Declaration of Restrictions (the "County Declaration") previously delivered by Atlas I to the County in connection with its consideration of the Zoning Application, Atlas I has agreed to set aside land within the TND and to build or cause to be built and to operate or cause to be operated thereon a charter school for 1,440 students in the K-12 grades (the "Charter School"). The location and timing for the operation of the Charter School shall be controlled by the terms of the County Declaration.

In addition, Atlas I agrees to set aside sufficient land and cause to be constructed and continuously operated sufficient student stations within the Property to absorb the student population that will be and/or is actually generated by the development of the balance of the Section 8 Residential Lands, as calculated by the School District in connection with the School District's review of the impacts of the CDMP Application, as

adjusted to reflect the maximum number of dwelling units allowed under Paragraph 6 of this Agreement. Once the operation of the Charter School begins, its operation shall not be discontinued without the prior written approval of the City.

The parties desire to forge a partnership to ensure that the operation of the Charter School facilities results in a benefit not only to the residents of the Section 8 Residential Lands, but also to all of the residents of the City. As such, the City shall have the right to appoint two members to the Charter School's Advisory Board. Atlas I (its successors or assigns) shall appoint two members to each Charter School's Advisory Board. Together, the four appointed members shall select the fifth member of the Board. Lastly, to the maximum extent permitted by law, the charter for the Charter School shall provide a geographic attendance preference first to the residents of the Section 8 Residential Lands and then to all residents within the City."

TO:

"5. Control and Operation of School. A parcel of land within the Property (the "School Site") has been set aside for the development of a school (the "School") under the terms of that certain Master Development Agreement, recorded at Official Records Book 29252, Page 1778 of the Public Records of Miami-Dade County, as may be amended from time to time (the "Master Development Agreement"). The School may be operated as either a traditional public school or a public charter school. The timing for the construction of the School shall be controlled by the terms of the Master Development Agreement.

A. If operated as a public charter school, the student station capacity of the School shall be no less than 1,440 students in the K to 12 grade levels. The City shall have the right to appoint two members to the Charter School's Advisory Board. Atlas I (its successors or assigns) shall appoint two members to each Charter School's Advisory Board. Together, the four appointed members shall select the fifth member of the Board. Lastly, to the maximum extent permitted by law, the charter for the charter school shall provide a geographic attendance preference first to the residents of the Section 8 Residential Lands and then to all residents within the City." Until the construction of the School is commenced, the site designated for the School shall be maintained as green open space for the benefit of the residents of the Project.

B. If the School Site is conveyed to the Miami-Dade Public School District, the student station capacity of the School shall be up to 1,200 students, as said capacity shall be determined by the District, in the K to 8 grade levels. The District may develop the School Site in two or more phases. The terms and conditions of the development of the School Site and operation of the School by the District shall be set forth pursuant to the terms of an Interlocal Agreement between the District and the City.

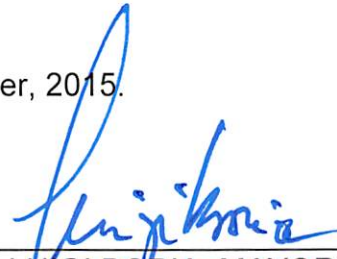
Section 3. Recordation. This Resolution and modified Grand Bay South PUD Master Development Agreement and Fourth Amendment to the Settlement Agreement shall be recorded in the Public Records of Miami-Dade County, Florida with the Applicant paying the cost thereof.

Section 4. Effective Date. This Resolution shall become effective immediately upon adoption.

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

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

PASSED AND ADOPTED this 21 day of October, 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, & BIERMAN, PL
CITY ATTORNEY

INTERLOCAL AGREEMENT
BY AND BETWEEN
THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA
AND
CITY OF DORAL, FLORIDA
RELATING TO GRAND BAY AT DORAL SCHOOL SITE

THIS INTERLOCAL AGREEMENT BY AND BETWEEN THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AND THE CITY OF DORAL, FLORIDA RELATING TO GRAND BAY AT DORAL SCHOOL SITE (“Interlocal Agreement”), made and entered into this _____ day of _____, 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 (the “**BOARD**”), and the **CITY OF DORAL, FLORIDA**, a municipal corporation (the “**CITY**”). The BOARD and CITY are sometimes referred to in this Interlocal Agreement individually as “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, Section 163.01, Florida Statutes, the “Florida Interlocal Cooperation Act of 1969”, authorizes public agencies to enter into Interlocal agreements for mutual benefit and to provide facilities to service the needs of local communities; and

WHEREAS, Section 166.021, Florida Statutes, authorizes the CITY to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Atlas Developers Property I, LLC and Atlas Property II, LLC entered into that certain June 12, 2005 Settlement Agreement, as amended from time to time, which governs the development of certain lands located within the City, including the parcel known as Grand Bay South PUD (“**Settlement Agreement**”); and

WHEREAS, the CITY and Flordade, LLC, a Florida limited liability company (“**Flordade**”), as successors in interest under the Settlement Agreement to the Grand Bay South PUD property, entered into that certain July 25, 2014 Master Development Agreement (“**Master Development Agreement**”), to establish certain terms and conditions related to the proposed development of

Grand Bay South (“**Development**”); and

WHEREAS, as a condition of the Master Development Agreement, Flordade agreed to set aside land within the Development, to facilitate the construction and operation of a public charter school, with a minimum capacity of 1,926 students in the K-12 grade levels, with the school to be built in two phases (the “**Charter School**”); and

WHEREAS, the BOARD, at its meeting of April 15, 2015, authorized the Superintendent of Schools (“**Superintendent**”) to explore with the CITY and Flordade, a partnership through which the Board would build and subsequently own and operate an approximate 1,200 student station K-8 facility (the “**District School**”) located within the Development on a net 4-acre parcel of land located on the northwest corner of future N.W. 102 Avenue and the proposed N.W. 77 Terrace right-of-way (the “**Site**”), in lieu of the Charter School; and

WHEREAS, representatives of the BOARD, CITY and Flordade held subsequent discussions concerning the viability of such an agreement, including the land exchange between the BOARD and Flordade to facilitate construction of the District School on the Site; and

WHEREAS, following favorable discussions between Miami-Dade County Public Schools (the “**District**”) and Flordade, the BOARD, at its meeting of August 5, 2015, authorized the Superintendent to finalize negotiations and execute an Interlocal Agreement (“**ILA**”) with the CITY, wherein the District would construct on the Site and subsequently own and operate the District School, subject to approval by the City of an amendment to the Master Development Agreement reflecting the subject change from the Charter School to the District School; and

WHEREAS, as a part of its August 5, 2015 action, the BOARD also authorized the exchange of certain land owned by the BOARD, for the Site, under terms and conditions agreeable to the BOARD and Flordade, in order to effectuate the proposed modification to the Master Development Agreement and construction by the District of the School (“**Exchange Agreement**”); and

WHEREAS, subject to the CITY agreeing to amend the Master Development Agreement to provide that in lieu of the Charter School to be built on the Site, the District school will be

built, owned and operated by Miami-Dade County Public Schools instead, and further subject to the BOARD and Flordade Closing on the exchange of BOARD-owned land for the Site, the BOARD agrees to construct the District School, as hereinafter described; and

WHEREAS, The School Board of Miami-Dade County, Florida has authorized this Interlocal Agreement in accordance with Board Item No. F-2, at its meeting of August 5, 2015; and

WHEREAS, the City of Doral has authorized this Interlocal Agreement in accordance with City Council Item No. _____, at its meeting of _____, 2015.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), restrictions and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the BOARD and CITY agree as follows:

I.

RECITALS INCORPORATED

The above recitals are true and correct and are incorporated herein by reference.

II.

PURPOSE

The purpose of this Interlocal Agreement is to provide for the construction, ownership and operation by the District of an approximate 1,200 student station K-8 educational facility within the 4-acre Site (as further described in **Exhibit "A"**, attached hereto and made a part hereof). The District will construct the District School in two phases: Phase I - the School will open for the 2018-19 school year serving grade levels K-5 with approximately 800 student stations; Phase II - the District will construct approximately 400 additional student stations and open grade levels 6-8 beginning with the 2020-21 school year. The District School shall have an environmental science programmatic theme with related appropriate STEM (Science, Technology, Engineering and Mathematics) curriculum.

III.

CONDITIONS PRECEDENT

The Parties acknowledge and agree that the commitment by the BOARD under this ILA to construct the District School is specifically contingent on the following events: 1) approval and duly execution on behalf of the CITY and Flordade of an amendment to the Master Development Agreement setting forth and approving construction of the approximate 1,200 student station K-8 school to be owned and operated by the District, and recording thereof among the Public Records of Miami-Dade County, Florida; 2) approval and execution on behalf of the BOARD and the CITY of this Interlocal Agreement acknowledging the above referenced amendment to the Master Development Agreement; and 3) completion of a Real Estate Closing between the BOARD and Flordade, wherein ownership of the Site is conveyed to the BOARD in full compliance with the terms and conditions of that certain Exchange Agreement between the BOARD and Flordade.

IV.

JOINT USE AGREEMENT

Subsequent to construction by the District of Phase I of construction, the District shall make available to the CITY recreational facilities at the Site, under the existing February 2, 2006 Joint Use Agreement between the Parties up through the start of Phase II, and then subsequently after completion of said Phase II.

V.

TERM

The term of this ILA shall be effective upon the later date of execution of this ILA by both Parties ("**Effective Date**"), and shall remain in full force and effect until the District completes Phase II of the District School.

VI.

INDEMNIFICATION AND HOLD HARMLESS

The CITY does hereby agree to indemnify and hold harmless the BOARD, to the extent of the monetary limitations included within Florida Statutes, Section 768.28, subject to the

provisions in this act whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the CITY arising out of the same incident or occurrence, exceeds the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise as a result of the negligence of the CITY. However, nothing herein shall be deemed to indemnify the BOARD from any liability or claim arising out of the negligent performance or failure of performance of the BOARD or as a result of the negligence of any unrelated third party.

The BOARD does hereby agree to indemnify and hold harmless the CITY, to the extent of the monetary limitations included within Florida Statutes, Section 768.28, subject to the provisions in this act whereby the BOARD shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the BOARD arising out of the same incident or occurrence, exceeds the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise as a result of the negligence of the BOARD. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or as a result of the negligence of any unrelated third party.

The provisions of this Article shall survive the termination or cancellation of this Interlocal Agreement.

Nothing in this Interlocal Agreement is intended to operate as a waiver of either Party's sovereign immunity.

VII.

CANCELLATION

This Interlocal Agreement may be canceled or terminated by the BOARD, if the Conditions Precedent as set forth in Article III hereof are not met by March 31, 2016, unless otherwise extended by mutual agreement of the Parties.

VIII.

DEFAULT

The CITY shall notify the BOARD in writing regarding the BOARD'S failure to perform or to comply with the terms and conditions of this Interlocal Agreement. If the BOARD fails to cure the default within thirty (30) days after receiving written notice or does not provide the CITY with a written response indicating the status of the BOARD'S curing of the default and providing a mutually agreeable schedule to cure all defaults, said approval not to be unreasonably withheld, within thirty (30) days after receiving written notice, the CITY shall have the right to immediately terminate this Interlocal Agreement and the Lease, without penalty.

The BOARD shall notify the CITY in writing regarding the CITY'S failure to perform or to comply with the terms and condition of this Interlocal Agreement. If the CITY fails to cure the default within thirty (30) days after receiving written notice or does not provide the BOARD with a written response indicating the status of the CITY'S curing of the default and providing a mutually agreeable schedule to cure all defaults, said approval not to be unreasonably withheld, within thirty (30) days after receiving written notice, the BOARD shall have the right to immediately terminate this Interlocal Agreement and the Lease, without penalty.

If an event of default occurs and shall continue, the non-defaulting Party shall be entitled to all remedies available at law or equity, which may include, but not be limited to, the right to damages and/or specific performance.

IX.

AMENDMENTS

The BOARD and CITY may, by mutual agreement, amend this Interlocal Agreement. Such amendments shall be effective only when signed by the BOARD and CITY and shall be incorporated as part of this Interlocal Agreement.

X.

LEGAL FEES AND COURT COSTS

In the event of any litigation between the Parties under this Interlocal 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 Interlocal Agreement.

XI.

CONSTRUCTION OF AGREEMENT

This Interlocal Agreement shall be construed and enforced according to the laws of the State of Florida and the venue for any disputes shall be Miami-Dade County, Florida.

XII.

SEVERABILITY

In the event any paragraph, clause or sentence of this Interlocal Agreement or any future amendment thereto is declared invalid by a court of competent jurisdiction, such paragraph, clause or sentence shall be stricken from the subject Interlocal Agreement and the balance of the Interlocal Agreement shall not be affected by any deletion, provided to do so would not render interpretation of the Interlocal Agreement provisions ambiguous or a nullity.

XIII.

WAIVER

No waiver of any provision of this Interlocal Agreement shall be deemed to have been made unless such waiver is in writing and signed by the BOARD or CITY. The failure of any Party to insist upon strict performance of any of the covenants, provisions or conditions of this Interlocal Agreement shall not be construed as waiving or relinquishing any such covenants, provisions or conditions, but the same shall continue and remain in full force and effect.

XIV.

NOTICE AND GENERAL CONDITIONS

A. All notices or communications under this Interlocal Agreement by either Party to the other shall be sufficiently given or delivered if dispatched by: (1) certified U.S. mail, postage pre-paid, return receipt requested, (2) hand delivery, (3) Federal Express or other comparable overnight mail service, (4) telephone facsimile transmission with transmission receipt, or (5) electronic mail to the following addresses, or as the same may be changed in writing from time to time:

In the case of notice or communication to the BOARD:

The School Board of Miami-Dade County, Florida
c/o Superintendent of Schools
School Board Administration Building
1450 N.E. Second Avenue, Room 912
Miami, Florida 33132
Fax: 305-995-1488

With a copy to:

Miami-Dade County Public Schools
Office of School Facilities
Attention: Chief Facilities Officer
1450 N.E. Second Avenue, Room 525
Miami, Florida 33132
Fax: 305-995-4760
E-mail: JTorrens@dadeschools.net

With a copy to:

The School Board of Miami-Dade County, Florida
School Board Attorney's Office
1450 NE 2nd Avenue, #400
Miami, FL 33132
Attn: School Board Attorney
Fax: 305-995-1412
E-mail: Walter.Harvey@dadeschools.net

In the case of notice or communication to the CITY:

Julian H. Perez, AICP, CFM
Planning and Zoning Director
City of Doral
8401 NW 53rd Terrace
Second Floor
Doral, FL 33166
T (305) 593-6630
Julian.Perez@cityofdoral.com

With a copy to:

Gilberto Pastoriza, Esquire
Chair, Private Land Use and Zoning Department
2525 Ponce de Leon Blvd., Suite 700 | Coral Gables, FL 33134
P: (305) 854-0800
F: (305) 854-2323
GPastoriza@wsh-law.com

B. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the Parties to this Interlocal Agreement.

C. For purposes of this Interlocal Agreement, the Superintendent of Schools, or his/her designee, shall be the party designated by the BOARD to grant or deny any approvals relating to the nature, scope and scheduling of the School construction. In addition, the Superintendent of Schools shall be the party designated by the BOARD to grant or deny any approvals required by this Interlocal Agreement, or canceling and/or terminating the Interlocal Agreement as provided herein.

D. Except as otherwise provided in this Interlocal Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 PM (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Interlocal Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. “Day” as used in this Interlocal Agreement shall be defined as calendar day, unless otherwise provided. Counsel for the BOARD and counsel for the CITY may deliver Notice on behalf of the BOARD and the CITY, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties of any change in name or address to which Notices shall be sent by providing the same pursuant to this provision.

XV.

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

The Parties shall comply with all applicable laws, rules, regulations, ordinances and codes of Federal, State and Local governments.

XVI.

INSPECTOR GENERAL OFFICE

The School Board Office of Inspector General (“SBOIG”) may, on a random basis, perform audits, inspections and reviews of all BOARD contracts. Consequently, the CITY

acknowledges and accepts the authority of the SBOIG to conduct such random audits, inspections, and reviews, including, but not limited to, the authority of the SBOIG to access the CITY'S records, its legal representatives' and contractors' records and the obligation of the CITY to make those records, relating to this Agreement, available upon request.

XVII.

MISCELLANEOUS PROVISIONS

- A. EMINENT DOMAIN: If the Site or any portion thereof is taken in the exercise of the power of eminent domain, this Interlocal Agreement may terminate, at the BOARD's sole option, upon receipt of notice to the BOARD ("**Notice to Owner**") by the condemning authority. .
- B. TIME IS OF THE ESSENCE: Time is of the essence in the performance of this Interlocal Agreement.
- C. WAIVER OF TRIAL BY JURY: The Parties waive trial by jury in any action, proceeding or counterclaim brought by either Party against the other with respect to any matter arising under this Interlocal Agreement.
- D. ASSIGNMENT: This Interlocal Agreement may not be assigned, in whole or in part, by any Party without the prior written consent of the other Party, which may be granted or withheld in its sole discretion.
- E. HEADINGS FOR CONVENIENCE ONLY: The descriptive headings in this Interlocal Agreement are for convenience only and shall not control nor affect the meaning or construction of any of the provisions of this Interlocal Agreement.
- F. COUNTERPARTS: This Interlocal Agreement and any subsequent amendments hereto may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original, and all of which shall be deemed to be one and the same instrument. Facsimile transmission signatures shall be deemed original signatures.
- G. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the BOARD and the CITY and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in the Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the BOARD and the CITY any right, remedy, or claims under or by reason of this Agreement or any of the provisions or conditions of this

Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the BOARD and the CITY, and their respective representatives, successors, and assigns.

- H. UNAVOIDABLE DELAY. In the event that either the BOARD or the CITY are unable to meet the deadline for their respective obligations under this Agreement due to any circumstance beyond the control of the BOARD and/or the CITY, including without limitation, the occurrence of a force majeure event, then the time for such performance shall be extended for such reasonable period of time as may be required by such circumstance or the occurrence of such event. The term "Force Majeure" shall include without limitation labor strikes (whether lawful or not), fire, hurricanes, adverse weather conditions, unavoidable casualties, inability to obtain labor or materials, Acts of God, vandalism, terrorism, civil unrest, moratoriums, financial emergencies and the like.

XVIII.

ENTIRE AGREEMENT

This Interlocal Agreement and all Exhibits attached hereto constitute the entire agreement between the Parties and supersedes all previous negotiations, and it may be modified only by an agreement in writing signed by the BOARD and CITY.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the BOARD and the CITY have caused this Interlocal Agreement to be executed by their respective and duly authorized officers the day and year first written above.

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

By: _____
Alberto M. Carvalho
Superintendent of Schools
Date: _____

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

School Board Attorney

RECOMMENDED:

By: _____
Jaime G. Torrens
Chief Facilities Officer

CITY:

CITY OF DORAL, FLORIDA

By: _____
Name: _____
Title: _____
Date: _____

ATTEST:

By: _____
City Clerk

Exhibit B

This Instrument was Prepared by:

Juan J. Mayol, Jr., Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3300
Miami, Florida 33131

SECOND AMENDMENT TO MASTER DEVELOPMENT AGREEMENT

This Amendment (the "Amendment") to the Master Development Agreement is made as of the ____ day of _____, 2015, by and between FLORDADE, LLC, a Florida limited liability company (the "Developer"), and the CITY OF DORAL, FLORIDA, a Florida municipal corporation (the "City").

RECITALS

WHEREAS, Flordade, is the Developer of that certain parcel of land located within the boundaries of the City, the legal description of which is attached hereto and made a part hereof as Exhibit "A" (the "Property");

WHEREAS, the Developer and the City are parties to Master Development Agreement for the Grand Bay South PUD, which is recorded at Official Records Book 29252, Page 1778 of the Public Records of Miami-Dade County, Florida (collectively, the "Master Development Agreement");

WHEREAS, the Master Development Agreement was entered into and recorded in connection with the approval of the development of the project known as the Grand Bay South Planned Unit Development (PUD);

WHEREAS, the City has adopted Land Development Regulations which assigned PUD zoning to the Property, which regulations currently govern the Property;

WHEREAS, paragraph 25 of the Master Development Agreement states that the Master Development Agreement may be modified by a written instrument signed by the City and the Developer after public hearing;

WHEREAS, the Developer seeks to amend the Master Development Agreement to modify certain development criteria relating to the development of a parcel of land within the Property (the "School Site"), which has been set aside for the development of a school (the "School") in order to ensure that the School Site is properly maintained prior to development if the Miami-Dade County School Board does not acquire said parcel and provides an assurance that, if developed as a public school, the School will accommodate the projected number of student stations;

WHEREAS, the City held a public hearing and, on the ____ day of _____, 2015, the City approved the Developer's application to amend the Master Development Agreement pursuant to Ordinance No. ____-____ (the "Amendment Approval");

WHEREAS, the Amendment Approval amended the Grand Bay South PUD requirements relating the development of the School Site and operations of the School;

WHEREAS, the Developer and the City desire to modify certain terms and provisions of the Master Development Agreement as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree to amend the Master Development Agreement as follows:

1. Recitals. The Recitals are true and correct and incorporated herein by reference and made a part hereof.

2. Capitalized Terms. Capitalized terms used herein and not otherwise defined herein shall have the meaning provided in the Master Development Agreement.

3. Section 5(a) of the Master Development Agreement, entitled Permitted Development Uses, is deleted and replaced in its entirety to provide as follows:

"15. Construction and Operation of a School. As depicted in the Conceptual Master Plan, the Developer has set aside a parcel of land (the "School Site") to facilitate the construction and operation of a school (the "School"). Although a permitted use, the operation of the School shall require a separate site plan approval as may be provided from time to time in the City's Land Development Code. The School may be operated as a public charter school or as a traditional public school facility in accordance with the following provisions:

a. Public Charter School. If the School is operated as a public charter school, the School shall have a minimum capacity of 1,440 student stations in the K to 12th grade levels. The public charter school may be built in one or more phases so long as the first phase provides a minimum capacity of 1,000 student stations and shall be ready for occupancy for the first full school year following the issuance of a building permit for the unit representing fifty percent (50%) of the total number of dwelling units. If the School is to be operated as a public charter school, the School Site shall be maintained as green open space for the benefit of the residents of the Project, until the construction of the School commences.

b. Public School. If the School is operated as a traditional public school by the Miami-Dade Public School District (the "District"), and the School shall have a capacity of up to 1,200 students in the K to 8th grade levels. The District may develop the School Site in two or more phases. The terms and conditions of the development of the School Site and operation of the School by the District shall be

set forth pursuant to the terms of an Interlocal Agreement between the District and the City.”

4. Except as modified and amended hereby the terms and provisions of the Master Development Agreement are hereby ratified and confirmed and shall remain in full force and effect.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY:

ATTEST:

CITY OF DORAL, FLORIDA

City Clerk

By: _____

Name: _____

Title: _____

_____ day of _____, 2015

Approved as to form and legality
By office of City Attorney for
The City of Doral, Florida

City Attorney

DEVELOPER

FLORDADE, LLC,
a Florida limited liability company

By: _____

Its: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015 by _____ as _____ of Flordade, LLC, a Florida limited liability company, on behalf of the company. He/she personally appeared before me, is personally known to me, or has produced _____ as identification

[NOTARIAL SEAL]

Notary: _____
Print Name: _____
Notary Public, State of Florida
My Commission Expires: _____

EXHIBIT "A"

LEGAL DESCRIPTION:

A portion of Section 8, Township 53 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the Northwest Corner of said Section 8; thence N89deg39min28secE, along the North Line of said Section 8, for a distance of 40.01 feet; thence S01deg43min29secE for a distance of 240.07 feet; thence N89deg39min28secE for a distance of 310.09 feet; thence S01deg43min29secE along the West Line of a 170.00 feet Wide Florida Power and Light Easement, as described in Official Records Book 6142, at Page 326 of the Public Records of Miami-Dade County, Florida for a distance of 1348.81 feet to the POINT OF BEGINNING of the hereinafter described Parcel of Land; thence N88deg16min31secE for a distance of 994.69 feet; thence N01deg42min31secW for a distance of 141.56 feet; thence N88deg17min29secE for a distance of 926.97 feet; thence N88deg15min36secE for a distance of 384.09 feet; thence S01deg44min24secE for a distance of 3156.70 feet; thence S89deg39min25secW, along a line that is parallel with and 730.00 feet North of the South line of Section 8, for a distance of 2307.30 feet; thence N01deg43min29secW, along the West Line of a 170.00 feet wide Florida Power and Light Easement as recorded in Official Records Book 6142, at Page 326, of the Public Records of Miami-Dade County, Florida for a distance of 608.96 feet to a point of curvature of a circular curve to the right, concave to the Southeast; thence Northerly along the arc of said curve, having for its elements a radius of 23.00 feet, through a central angle of 12°33'07" for an arc distance of 5.04 feet; thence S88deg16min17secW, for a distance of 310.55 feet; thence N01deg43min29secW, along a line 40.00 feet East of and parallel with the West line of the Southwest 1/4 of said Section 8, for a distance of 60.00 feet; thence N88deg16min17secE for a distance of 310.55 feet to its intersection with the arc of a circular curve to the right, concave to the Northeast, a radial line from said point bears N75deg42min56secE; thence Northerly along the arc of said curve, having for its elements a radius of 23.00 feet, through a central angle of 12°33'35" for an arc distance of 5.04 feet to a point of tangency; thence N01deg43min29secW, along the West line of said 170 feet wide Florida Power and Light Easement, for a distance of 1208.64 feet; thence S88deg16min31secW for a distance of 310.00 feet; thence N01deg43min29secW, along a line 40.00 feet East of and parallel with the West line of said Section 8, for a distance of 60.00 feet; thence N88deg16min31secE for a distance of 310.00 feet; thence N01deg43min29secW, along the West line of said 170 feet wide Florida Power and Light Easement, for a distance of 1012.05 feet to the POINT OF BEGINNING.

Containing 7,112,394.37 Square Feet or 163.28 Acres more or less.

Exhibit C

Prepared by:

Juan J. Mayol, Jr., Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131

FOURTH AMENDMENT TO SETTLEMENT AGREEMENT

THIS FOURTH AMENDMENT to Settlement Agreement ("Fourth Amendment") is entered into by and among (i) Flordade, LLC, a Florida limited liability company ("Flordade"), and (ii) the City of Doral, a Florida municipal corporation (the "City").

WHEREAS, the subject property of the Agreement as amended by this Fourth Amendment is legally described in the attached Exhibit "A" (the "Property");

WHEREAS, a Settlement Agreement, dated as of June 12, 2005, was entered into by the City and the then owners of that certain +/-465 acre parcel of land located in Section 8, Township 53 South, Range 40 East in the City of Doral, Florida to address the concerns of the City with respect to the development of the subject property of said Settlement Agreement, which was amended by that certain Amendment to Settlement Agreement, approved by the City of Doral on February 12, 2007, pursuant to Resolution No. 07-06, and by that certain Second Amendment to Settlement Agreement, recorded in Official Records Book 26842 at Page 4067 of the Public Records of Miami-Dade County, Florida, and which was amended by the Third Amendment to Settlement Agreement, recorded in Official Records Book 29252 at Page 1882 of the Public Records of Miami-Dade County, Florida (collectively, the "Agreement" and attached hereto as Exhibit "B");

WHEREAS, the Agreement was entered into by the parties to assure the City of performance of certain obligations and the commitment to certain restrictions on the Property, including infrastructure improvements, as a settlement to litigation proceedings between the parties;

WHEREAS, over time, the subject property of the Agreement has been divided into smaller parcels and conveyed to various owners;

WHEREAS, Atlas I transferred its interest in certain portions of the Property to Century Grand I, LLLP, a Florida limited liability limited partnership ("Century Grand");

WHEREAS, Century Grand subsequently transferred its interest in the Property to Flordade;

WHEREAS, Atlas I transferred its interest in certain portions of the Property to 107 Avenue Doral Properties, LLC ("107 Avenue");

WHEREAS, Atlas II transferred its interest in the Property to Atlas I and Atlas Property III, LLC, a Delaware limited liability company ("Atlas III");

WHEREAS, Atlas II and Atlas III transferred their interest in the Property to FDG Beacon Commons, LLC, a Delaware limited liability company;

WHEREAS, FDG Beacon Commons, LLC, subsequently changed its entity name to FDG Doral Commons, a Delaware limited liability company ("FDG");

WHEREAS, FDG transferred their interest in the Property to Terra Doral Commons, LLC, a Florida limited liability company ("Terra");

WHEREAS, the obligations and restrictions of the Agreement that applied to that certain +/-83 acre portion of the Property owned by Terra have been satisfied and the Agreement was partially released by the City pursuant to that certain Partial Release of Settlement Agreement recorded in Official Records Book 28316 at Page 1060 of the Public Records of Miami-Dade County, Florida;

WHEREAS, the obligations and restrictions of the Agreement being amended herein only apply to the Property, which is owned by Flordade, known as the Grand Bay South PUD, and is a portion of the Agreement subject property; and

WHEREAS, the parties wish to amend the Agreement in accordance with the terms and conditions as set forth below:

FROM:

"5. Control and Operation of Charter School. Pursuant to a Declaration of Restrictions (the "County Declaration") previously delivered by Atlas I to the County in connection with its consideration of the Zoning Application, Atlas I has agreed to set aside land within the TND and to build or cause to be built and to operate or cause to be operated thereon a charter school for 1,440 students in the K-12 grades (the "Charter School"). The location and timing for the operation of the Charter School shall be controlled by the terms of the County Declaration.

In addition, Atlas I agrees to set aside sufficient land and cause to be constructed and continuously operated sufficient student stations within the Property to absorb the student population that will be and/or is actually generated by the development of the balance of the Section 8 Residential Lands, as calculated by the School District in connection with the School District's review of the impacts of the CDMP Application, as adjusted to reflect the maximum number of dwelling units allowed under Paragraph 6 of this Agreement. Once the operation of the Charter School begins, its operation shall not be discontinued without the prior written approval of the City.

The parties desire to forge a partnership to ensure that the operation of the Charter School facilities results in a benefit not only to the residents of the Section 8 Residential Lands, but also to all of the residents of the City. As such, the City shall have the right to

appoint two members to the Charter School's Advisory Board. Atlas I (its successors or assigns) shall appoint two members to each Charter School's Advisory Board. Together, the four appointed members shall select the fifth member of the Board. Lastly, to the maximum extent permitted by law, the charter for the Charter School shall provide a geographic attendance preference first to the residents of the Section 8 Residential Lands and then to all residents within the City."

TO:

"5. Control and Operation of School. A parcel of land within the Property (the "School Site") has been set aside for the development of a school (the "School") under the terms of that certain Master Development Agreement, recorded at Official Records Book 29252, Page 1778 of the Public Records of Miami-Dade County, as may be amended from time to time (the "Master Development Agreement"). The School may be operated as either a traditional public school or a public charter school. The timing for the construction of the School shall be controlled by the terms of the Master Development Agreement.

A. If operated as a public charter school, the student station capacity of the School shall be no less than 1,440 students in the K to 12th grade levels. The City shall have the right to appoint two members to the Charter School's Advisory Board. Atlas I (its successors or assigns) shall appoint two members to each Charter School's Advisory Board. Together, the four appointed members shall select the fifth member of the Board. Lastly, to the maximum extent permitted by law, the charter for the charter school shall provide a geographic attendance preference first to the residents of the Section 8 Residential Lands and then to all residents within the City. Until the construction of the School is commenced, the site designated for the School shall be maintained as green open space for the benefit of the residents of the Project."

B. If the School Site is conveyed to the Miami-Dade Public School District (the "District"), the student station capacity of the School shall be up to 1,200 students, as said capacity shall be determined by the District, in the K to 8th grade levels. The District may develop the School Site in two or more phases. The terms and conditions of the development of the School Site and operation of the School by the District shall be set forth pursuant to the terms of an Interlocal Agreement between the District and the City."

NOW, THEREFORE, for and in consideration of the premises hereof and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. The above recitals are true and correct and are incorporated herein by this reference. All capitalized terms used in this Fourth Amendment without separate definition shall have the same meanings assigned to them in the Agreement.

2. Section 5 of the Agreement is hereby amended effective as of the date hereof and shall hereinafter read as follows:

"5. Control and Operation of School. A parcel of land within the Property (the "School Site") has been set aside for the development of a school (the "School") under the terms of that certain Master Development Agreement, recorded at Official Records Book 29252, Page 1778 of the Public Records of Miami-Dade County, as may be amended from time to time (the "Master Development Agreement"). The School may be operated as either a traditional public school or a public charter school. The timing for the construction of the School shall be controlled by the terms of the Master Development Agreement.

A. If operated as a public charter school, the student station capacity of the School shall be no less than 1,440 students in the K to 12th grade levels. The City shall have the right to appoint two members to the Charter School's Advisory Board. Atlas I (its successors or assigns) shall appoint two members to each Charter School's Advisory Board. Together, the four appointed members shall select the fifth member of the Board. Lastly, to the maximum extent permitted by law, the charter for the charter school shall provide a geographic attendance preference first to the residents of the Section 8 Residential Lands and then to all residents within the City. Until the construction of the School is commenced, the site designated for the School shall be maintained as green open space for the benefit of the residents of the Project."

B. If the School Site is conveyed to the Miami-Dade Public School District (the "District"), the student station capacity of the School shall be up to 1,200 students, as said capacity shall be determined by the District, in the K to 8th grade levels. The District may develop the School Site in two or more phases. The terms and conditions of the development of the School Site and operation of the School by the District shall be set forth pursuant to the terms of an Interlocal Agreement between the District and the City."

3. Except as specifically modified in this Fourth Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. In the event of any inconsistency between the terms of this Fourth Amendment and the terms of the Agreement, then the terms of this Fourth Amendment shall control. This Fourth Amendment shall be construed and enforced in accordance with the laws of the State of Florida and shall be binding upon the heirs, successors and assigns of the parties hereto.

4. This Fourth Amendment may be executed in any number of counterparts, each of which will be deemed to be an original, and all of such counterparts will constitute one Fourth Amendment. The signature of any party to any counterpart may be appended to any other counterpart.

5. This Fourth Amendment shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of Flordade.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed and delivered this Amendment on this ____ day of _____, 2015.

CITY OF DORAL, FLORIDA, a municipal corporation

By: _____

Print Name: _____

Title: _____

Attest: _____

Approved as to legal sufficiency:
Gilberto Pastoriza, Esq., City Attorney

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015 by _____ as _____ of City of Doral, Florida, a Florida municipal corporation, on behalf of the City. He/she personally appeared before me, is personally known to me, or has produced _____ as identification

[NOTARIAL SEAL]

Notary: _____

Print Name: _____

Notary Public, State of Florida

My Commission Expires: _____

FLORDADE, LLC,
a Florida limited liability company

By: _____

Its: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015 by _____ as _____ of Flordade, LLC, a Florida limited liability company, on behalf of the company. He/she personally appeared before me, is personally known to me, or has produced _____ as identification

[NOTARIAL SEAL]

Notary: _____
Print Name: _____
Notary Public, State of Florida
My Commission Expires: _____

Exhibit A

LEGAL DESCRIPTION OF THE GRAND BAY SOUTH PUD:

A portion of Section 8, Township 53 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the Northwest Corner of said Section 8; thence N89deg39min28secE, along the North Line of said Section 8, for a distance of 40.01 feet; thence S01deg43min29secE for a distance of 240.07 feet; thence N89deg39min28secE for a distance of 310.09 feet; thence S01deg43min29secE along the West Line of a 170.00 feet Wide Florida Power and Light Easement, as described in Official Records Book 6142, at Page 326 of the Public Records of Miami-Dade County, Florida for a distance of 1348.81 feet to the POINT OF BEGINNING of the hereinafter described Parcel of Land; thence N88deg16min31secE for a distance of 994.69 feet; thence N01deg42min31secW for a distance of 141.56 feet; thence N88deg17min29secE for a distance of 926.97 feet; thence N88deg15min36secE for a distance of 384.09 feet; thence S01deg44min24secE for a distance of 3156.70 feet; thence S89deg39min25secW, along a line that is parallel with and 730.00 feet North of the South line of Section 8, for a distance of 2307.30 feet; thence N01deg43min29secW, along the West Line of a 170.00 feet wide Florida Power and Light Easement as recorded in Official Records Book 6142, at Page 326, of the Public Records of Miami-Dade County, Florida for a distance of 608.96 feet to a point of curvature of a circular curve to the right, concave to the Southeast; thence Northerly along the arc of said curve, having for its elements a radius of 23.00 feet, through a central angle of 12°33'07" for an arc distance of 5.04 feet; thence S88deg16min17secW, for a distance of 310.55 feet; thence N01deg43min29secW, along a line 40.00 feet East of and parallel with the West line of the Southwest 1/4 of said Section 8, for a distance of 60.00 feet; thence N88deg16min17secE for a distance of 310.55 feet to its intersection with the arc of a circular curve to the right, concave to the Northeast, a radial line from said point bears N75deg42min56secE; thence Northerly along the arc of said curve, having for its elements a radius of 23.00 feet, through a central angle of 12°33'35" for an arc distance of 5.04 feet to a point of tangency; thence N01deg43min29secW, along the West line of said 170 feet wide Florida Power and Light Easement, for a distance of 1208.64 feet; thence S88deg16min31secW for a distance of 310.00 feet; thence N01deg43min29secW, along a line 40.00 feet East of and parallel with the West line of said Section 8, for a distance of 60.00 feet; thence N88deg16min31secE for a distance of 310.00 feet; thence N01deg43min29secW, along the West line of said 170 feet wide Florida Power and Light Easement, for a distance of 1012.05 feet to the POINT OF BEGINNING.

Containing 7,112,394.37 Square Feet or 163.28 Acres more or less.

Exhibit B

(Original Settlement Agreement, as Amended)