

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE SECOND AMENDMENT TO USE AGREEMENT WITH THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING PARKING SPACES FOR NORTH BEACH ELEMENTARY FACULTY AND STAFF; SAID AMENDMENT APPROVING AN ADDITIONAL FIVE (5) YEAR RENEWAL TERM, COMMENCING ON JULY 23, 2021 AND ENDING ON JULY 22, 2026, AND CONCURRENT THEREWITH, MODIFYING CERTAIN TERMS AND CONDITIONS OF THE AGREEMENT.

WHEREAS, on October 18, 2000, the Mayor and City Commission approved Resolution No. 2000-24124, authorizing a Use Agreement with the School Board of Miami-Dade County, Florida (the "Board"), for an initial five (5) year term, with subsequent extension options of five (5) years each (subject to mutual consent of the parties) for the Board's use of parking spaces for faculty and staff of North Beach Elementary ("NBE"); and

WHEREAS, the City and the Board executed that certain Use Agreement, dated October 18, 2000 (the "Agreement"); and

WHEREAS, on November 17, 2010, the Mayor and City Commission adopted Resolution No. 2010-27544, approving: (1) a five (5) year extension of the Use Agreement commencing July 23, 2011 and ending July 22, 2016 and (2) the following amendments to the Use Agreement:

- The total number of parking spaces available to the NBE was reduced from 48 to 30 and consist of 15 parking spaces along 42nd Street at no charge (pursuant to the Use Agreement), and 15 dedicated parking spaces in the City's surface parking lot on 42nd Street;
- The 15 spaces in the City's surface parking lot on 42nd Street would be paid at the annual sum of \$3,150 payable in twelve (12) equal monthly installments of \$262.50; and
- A new Article XXVI entitled "Legal Fees and Court Costs" was added to 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 termination of this Agreement"; and

WHEREAS, the City and the Board executed that certain First Amendment to Use Agreement, dated April 12, 2011 ("Amended Use Agreement"); and

WHEREAS, on December 9, 2015, the Mayor and Commission adopted Resolution No. 2015-29207, approving the renewal of the Amended Use Agreement for another five (5) year term commencing on July 23, 2016 and ending on July 22, 2021 ("Renewal of Amended Use Agreement")(the Agreement, as amended by the First Amendment to Use Agreement and the Renewal of Amended Use Agreement shall collectively be referred to herein as the "Agreement"); and

WHEREAS, the City and the Board executed that certain Renewal of Amended Use Agreement, dated April 14, 2016; and

WHEREAS, the Board and the City wish to renew the Agreement for an additional five (5) years, commencing on July 23, 2021 and ending on July 22, 2026, and concurrent therewith, modify the Agreement to:

- (1) add language that allows for the relocation of the spaces from the 42nd Street lot (P63) to the 42nd Street Garage (G6) at no additional cost;
- (2) adjust the annual fee from \$3,150.00 to \$5,625.00, which represents 50% of the current rate of \$75 per space for the 15 spaces over a period of 10 months, payable in 12 equal installments of \$468.75;
- (3) update the No Discrimination provision;
- (4) add a Public Records Law provision; and
- (5) add the Inspector General Audit Rights provision; and

WHEREAS, the City Manager hereby recommends approving the Second Amendment to Use Agreement, incorporated herein by reference and attached hereto as Exhibit "1".

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve and authorize the City Manager and City Clerk to execute the Second Amendment to Use Agreement with the School Board of Miami-Dade County, Florida, providing parking spaces for North Beach Elementary faculty and staff; said amendment approving an additional five (5) year renewal term, commencing on July 23, 2021 and ending on July 22, 2026, and concurrent therewith, modifying certain terms and conditions of the Agreement.

PASSED and ADOPTED this ____ day of July 2021.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk