

RESOLUTION NO. 2019-2625

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT FOR TEMPORARY USE OF MIAMI-DADE COLLEGE FACILITIES; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") Police Department (the "Department") offers an annual Citizens Police Academy (the "Academy") enabling participants to gain a better understanding of police policies, procedures, responsibilities, personnel demands, and laws that guide their decision making; and

WHEREAS, the Department wishes to conduct a portion of the Academy at Miami-Dade College's School of Justice Driving Range; and

WHEREAS, the Town wishes to enter into an Agreement for Temporary Use of Miami-Dade College Facilities (the "Agreement") in substantially the form attached hereto as Exhibit "A"; and

WHEREAS, the Town Commission finds that approving the Agreement is in the best interest and welfare of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That the above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval. That the Town Commission approves the Agreement in substantially the form attached hereto as Exhibit "A."

Section 3. Authorization. That the Town Manager is hereby authorized to further negotiate and execute the Agreement, subject to approval by the Town Attorney as to form, content, and legal sufficiency.

Section 4. Implementation. That the Town Manager and/or designee are authorized to expend budgeted funds and take any and all action necessary to implement the purposes of this Resolution and the Agreement.

Section 5. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED on this 10th day of September, 2019.

Moved By: Commissioner Paul

Second By: Commissioner Karukin

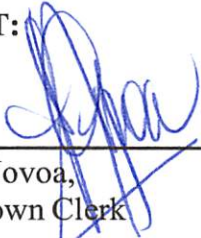
FINAL VOTE ON ADOPTION

| | |
|-------------------------------|---------------|
| Commissioner Barry Cohen | <u>Absent</u> |
| Commissioner Michael Karukin | <u>Yes</u> |
| Commissioner Tina Paul | <u>Yes</u> |
| Vice Mayor Daniel Gielchinsky | <u>Yes</u> |
| Mayor Daniel Dietch | <u>Yes</u> |



Daniel Dietch
Mayor

ATTEST:



Sandra Novoa,
MMC Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE
USE AND BENEFIT OF THE TOWN OF SURFSIDE
ONLY:**



Weiss/Serota Helfman Cole & Bierman, P.L.
Town Attorney

Miami Dade College

| | | | | | | | | | |
|-------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <input type="checkbox"/> North Campus 11380 NW 27 th Ave Miami, FL 33167 | <input type="checkbox"/> Kendall Campus 11011 SW 104 Street Miami, FL 33176 | <input type="checkbox"/> Wolfson Campus 300 NE 2 nd Ave Miami, FL 33132 | <input type="checkbox"/> Medical Campus 950 NW 20 th Street Miami, FL 33127 | <input type="checkbox"/> Homestead Campus 500 College Terrace Homestead, FL 33030 | <input type="checkbox"/> InterAmerican 627 SW 27 Ave Miami, FL 33135 | <input type="checkbox"/> Hialeah Campus 1780 W 49 th Street Hialeah, FL 33012 | <input type="checkbox"/> West Campus 3800 NW 115 Ave Doral, FL 33178 | <input type="checkbox"/> Tower Theatre 1508 SW 8th St Miami, FL 33135 | <input type="checkbox"/> Koubek Center 2705 SW 3rd St Miami, FL 33135 |
|-------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|

AGREEMENT FOR TEMPORARY USE OF MIAMI DADE COLLEGE FACILITIES

This Agreement for Temporary Use of Miami Dade College Facilities (“Agreement”) is made and entered into on the date last signed below and between The District Board of Trustees of Miami Dade College, Florida, a public educational institution and political subdivision of the State of Florida, (“COLLEGE”), and Town of Surfside Police Department, (“USER”), for the use of facilities under control of the COLLEGE, and described herein.

1. RESERVATION INFORMATION (“Reservation”)

Facility Name/Location: School of Justice Driving Range (“College Facility”)

Event Name: Student Training

Description of Event: Vehicle Operations student training (“USER Event”)

USER Event Start and end date: 10/1/2019 12/31/2019

USER Event Start and end time: As needed As needed

**ALL USERS BE ADVISED THAT MIAMI DADE COLLEGE DOES NOT PROVIDE ACCESS TO
FACILITIES TO ORGANIZATIONS OVER EXTENDED PERIODS OF TIME.
USE OF COLLEGE FACILITIES ARE ON A TEMPORARY BASIS ONLY.**

2. **Fees for the use of College Facility:** The USER agrees to pay the COLLEGE the amount of \$ 107.00 per hour for track use, \$30.00per hour/per vehicle for skid cars (“College Facility Use Fee”), plus all applicable Florida sales tax of \$ Exempt, for a total amount of \$ To be determined by actual use for the rights granted under this Agreement, regardless of whether the USER utilizes the Campus Facilities for the entire time permitted. Payment(s) shall be made pursuant to the following payment schedule:

| Payment Due Date | Payment Amount |
|------------------|-------------------------|
| Monthly | To be determined by use |
| Date. | Amount. |
| Date. | Amount. |
| Date. | Amount. |
| TOTAL: | To be determined |

All payments must be made by check, cashier’s check, money order or electronic wire transfer payable to “Miami Dade College”. All payments will be delivered to the Campus Administration’s Office no later than date set forth in the payment schedule above. All payments are non-refundable unless provided for in this Agreement. The calculation of final charges shall be completed by the COLLEGE at the end of the USER’s Event and any additional charges shall be paid by the USER within five (5) business days from the receipt of the COLLEGE’s invoice to the USER detailing the additional charges. Before the COLLEGE will remove the assessment of sales taxes, USER must provide the COLLEGE a current copy of certificate confirming tax exemption.

In the event any payment by the USER to the COLLEGE is returned for any reason, USER will be responsible for any charges, including fines, assessed the COLLEGE. Reservation will be suspended pending USER's payment of all outstanding amounts, including all additional charges and fines. Any USER who fails to make any payments as set forth herein will authorize the COLLEGE to cancel the Reservation and immediately terminate this Agreement. USER will not be granted the use of any College Facility until all outstanding amounts are paid in full.

- 3. General Terms and Conditions** – USER agrees to comply with the following terms and conditions and further agrees to require, as applicable, each of its employees, agents, contractors, volunteers, guests, participants (collectively referred together with USER as “USER MEMBER”) to comply with same.
- a. Activities will not be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless specifically authorized herein.
 - b. USER accepts the Premises in “AS IS” condition. In the event the USER finds it necessary to remove or change any equipment, USER will request in writing such alteration to the Campus Representative for approval. The Campus Representative will approve or deny the alteration in writing. Any approved alteration shall be made by the USER, unless otherwise required by the Campus Representative, at the USER's sole expense and shall be returned to its original condition and appearance at the conclusion of the USER's Event.
 - c. USER MEMBERS are responsible for the proper use and care of any COLLEGE property, including, but not limited to, the College Facility. USER agrees that it will not use tape to affix items to the walls, or drive or permit to be driven, nails, hooks, tacks or screws into any part of the College Facility, building or equipment contained therein and will not make nor allow to be made any alterations of any kind to the Premises, building or equipment contained therein.
 - d. Animals are not permitted at any College property, except service animals, limited by Federal law as a dog or miniature horse adequately trained to do work or perform tasks for the benefit of an individual with a qualifying disability, are permitted.
 - e. All COLLEGE areas are smoke-free, and smoking and/or use of any tobacco product, including, but not limited to, cigarettes, cigars, and pipes, as well as the use of electronic cigarettes is strictly prohibited. USER will be charged for the cost of cleaning or eliminating smoke odors or stains caused by any USER MEMBER.
 - f. Possession and/or use of any illegal substances is strictly prohibited on all College properties.
 - g. Sale, possession or consumption of alcoholic beverages by any USER MEMBER on any College property is prohibited, unless specifically authorized herein.
 - h. The use of scooters (including electric and non-electric), skateboards, skates, rollerblades, bicycles, hoverboards, other recreational equipment or vehicles, and gambling devices is not permitted on COLLEGE property unless specifically authorized in this Agreement.
 - i. USER will be liable for the repair and/or replacement cost of any COLLEGE property, including, but not limited to, the COLLEGE Facility, which is damaged, destroyed or lost, resulting from USER Event and related activities.
 - j. USER MEMBERS must obtain any and all licenses or permits required by law or ordinance, including structural permits for tents, plumbing permits (if using portable restroom facilities), electrical permits (for tent lights, electrical outlets, etc.), and all other necessary permits that apply to the USER's Event. USER MEMBERS must provide all licenses and permits for internal review/approval by the COLLEGE's Building Official no less than three (3) business days prior to the USER's Event.
 - k. USER MEMBERS must remove all equipment from the College Facility and clean-up and restore the College Facility to its original conditions and at its sole expense, immediately following the conclusion of the USER's Event. Failing to satisfactorily clean-up and restore the College Facility, in the COLLEGE's sole and absolute discretion, will subject the USER to a clean-up fee. COLLEGE assumes no liability for the USER MEMBER's equipment or materials which are left on the College's property following the USER's Event will be deemed abandoned and the COLLEGE may elect to store or dispose of same and the USER will be charged for any costs or fees incurred by the COLLEGE as a result.
 - l. Food may only be served by COLLEGE-approved caterers and at approved locations. USER must notify and obtain approval from the COLLEGE in advance of any special food preparation needs or requirements, including the use of fryers, grills, or open flame cooking. Food service shall be for

- onsite consumption only and USER MEMBERS shall not promote or sell foods to persons outside of USER's Event.
- m. COLLEGE equipment shall not be taken or removed from the COLLEGE under any circumstances. USER is responsible for any missing equipment.
 - n. COLLEGE retains all concession rights and USER MEMBERS may not engage in selling of any items except programs, unless otherwise authorized herein.
 - o. USER, for itself and on behalf of the artist or promoter of the Program, represents and warrants to COLLEGE that all copyrighted or trademarked programming to be presented has been duly licensed or authorized by the owners of all respective intellectual property or their representatives. USER shall obtain, at its own expense, any licenses, and pay any royalties which USER may owe for the sale or distribution of copyrighted or trademarked material at any activities contemplated under this Agreement. USER hereby indemnifies and holds COLLEGE harmless from and against any and all claims, losses or expenses that may arise in connection with this provision.
 - p. Filming and Photography:
 - i. USER agrees that no filming or photography ("Recordings") of students, faculty, or staff will be done without specific written releases from such persons. USER represents and warrants that it has or will obtain all required releases and agrees to indemnify COLLEGE against any resulting claims, damages, and attorney's fees if it fails to obtain said written releases. Without limiting the foregoing, USER further acknowledges, warrants and represents that no person filmed or photographed, as contemplated herein, shall be filmed or photographed wearing COLLEGE branding depicting the name, logos, marks, trademarks and/or likeness of COLLEGE unless otherwise authorized in writing by COLLEGE.
 - ii. COLLEGE agrees to provide USER with a limited, non-exclusive license to use the photographic images of COLLEGE Property ("COLLEGE IP") solely for the limited purpose of the filming expressly identified under this Agreement, subject to the subsection below and provided that the product of any such filming does not include COLLEGE branding depicting the name, logos, marks, trademarks and/or likeness of COLLEGE (including, but not limited to, any COLLEGE branding depicting the name, logos, marks, trademarks and/or likeness of COLLEGE on any clothing or other items worn by individuals, if any, or on any other objects filmed as part of the filming contemplated herein). USER agrees that all right, title, and interest in and to the COLLEGE IP is and shall remain the sole and exclusive property of COLLEGE and that USER shall acquire no rights therein by reason of this Agreement other than this limited non-exclusive license. USER further agrees that it shall not portray or use the COLLEGE IP in a negative, harmful or otherwise inappropriate manner, and will not display or otherwise associate the COLLEGE IP with content related to tobacco, alcohol, illegal or legal drugs, drug paraphernalia, or sexually explicit material. USER will not sell, display or otherwise use the COLLEGE IP in any manner except for the limited purpose stated herein. Additionally, USER acknowledges, agrees and understands that this Agreement does not confer upon USER any rights to use the name, logos, marks and/or likeness of COLLEGE unless otherwise authorized in writing by COLLEGE.
 - iii. USER acknowledges that many of the sculptures or other works of art located throughout the COLLEGE are on loan to COLLEGE and understands that COLLEGE may not hold or own any copyrights related thereto. USER agrees to obtain the advance written consent of the individual artist and/or copyright holder prior to filming, taping, recording or photographing any work of art exhibited at the COLLEGE. USER agrees to release, indemnify, and hold harmless COLLEGE from and against any third-party claim relating to the unauthorized use, filming, taping, recording or photographing of any work of art located or displayed at the COLLEGE.
 - q. USER shall arrange for all deliveries of any equipment or materials for USER Event to be delivered on the date, time and location designated by the Campus Representative.
 - r. USER MEMBERS shall not use or store or permit to be stored in or on any part of the COLLEGE's property any substance or thing prohibited by any law or ordinance, or by standard insurance policies or fire insurance companies operating in the State of Florida.

- s. In accordance with the Jeanne Clery Disclosure of Campus Security Police and Campus Crime Statistics Act, 20 U.S.C. §1092(f), as amended from time to time (the "Clery Act"), the USER shall immediately notify the COLLEGE's Campus Public Safety Office in the event of an alleged crime or public safety emergency at the COLLEGE Facility during the term of the USER's Event.
4. **COLLEGE Rights and Responsibilities:**
- a. COLLEGE shall furnish light, heat and water by means of the appliances already installed for ordinary purposes, but for no other purposes. Interruptions, delays, or failure in furnishing any of the same caused by anything beyond the control of COLLEGE shall not be chargeable to the COLLEGE.
 - b. COLLEGE shall not be responsible for any damage, accidents or injury that may happen to the USER, USER MEMBERS, any and all other participants and/or property from any cause whatsoever arising out of or resulting from USER EVENT during the period covered by this Agreement.
 - c. COLLEGE activities have first priority. COLLEGE reserves the right to alter USER Event by notifying as soon as practicable, but not later than forty-eight (48) hours prior to the start of USER Event.
 - d. COLLEGE may request an advance security and/or damage deposit of 25% of the total amount due up to \$1,000 on the day the USER Event is confirmed. This deposit shall be either a check, cashier's check, money order, electronic wire transfer or bond made payable to "Miami Dade College." The deposit will be applied towards the total amount due in the event a cancellation is made by the USER. If there is no cancellation, the deposit will be returned after all financial obligations have been fulfilled.
5. **Service or Sale of Alcohol:** The possession, service, sale, consumption and distribution of alcohol on COLLEGE property is strictly governed by all appropriate state and federal laws, local county ordinances, and COLLEGE's policies and procedures regarding alcoholic beverages. The possession, sale, consumption of any alcoholic beverage on COLLEGE property is subject to COLLEGE's prior approval, in its sole and absolute discretion. USER must disclose the desire to bring alcohol to the COLLEGE Facility when requesting a reservation. **ANY REQUEST TO HAVE ALCOHOL ON COLLEGE PROPERTY MADE WITHIN THREE (3) WEEKS OF USER'S EVENT MAY NOT RECEIVE TIMELY APPROVAL.** USER must provide the COLLEGE with a valid copy of all licenses, permits, and required insurance, including host liquor liability, no less than twenty-four (24) hours before the USER's Event. Alcohol must be served by a licensed bartender and must provide evidence of current and valid Florida TIPS Training. Alcohol service must end one (1) hour prior to the scheduled end of the USER's Event. Alcoholic beverages may not be used in USER's marketing, as prizes or awards, or any publicity. Responsible consumption of alcohol shall be encouraged. Any activities that encourage drinking, drinking contests, or alcoholic intoxication, and the advertisement of any such activities are strictly prohibited. No individual under the legal drinking age (minimum of 21 years of age) may possess, serve, sell, consume or distribute alcohol on any COLLEGE property. Service of any alcohol on any COLLEGE property to individuals under the legal drinking age of 21 years is strictly prohibited. COLLEGE may require USER to provide, at its sole expense, additional licensed security and/or law enforcement officers. COLLEGE retains the right to remove, or require USER to remove, any persons from COLLEGE property it determines, in its sole discretion, is intoxicated.
6. **Parking:** USER shall notify the Campus Representative should there be a need for parking for USER MEMBERS in connection with the USER Event. COLLEGE shall designate parking location(s) for USER MEMBERS. COLLEGE reserves the right to limit the amount of allotted parking spaces and type(s) of vehicle(s) permitted to park on its properties. All USER MEMBERS must comply with all COLLEGE parking rules and regulations. Unless otherwise approved by the Campus Representative, there shall be no parking overnight, on the grass, sidewalks, fire zones, handicapped spaces (without valid, state-issued placards), walkways, or in any manner which blocks or impedes any ramps, fire hydrants, or entrances or exits. Any vehicles found in violation of any of these rules may be cited, immobilized, or towed at the vehicle owner's sole expense.
7. **Insurance:**
- a. No later than three (3) business days' before USER's Event, USER shall provide COLLEGE's Risk Management Department with an original Certificate of Insurance as evidence of the insurance required below. The Certificate of Insurance must include a description of the Agreement and be signed by an authorized representative of the insurer(s), licensed in the State of Florida. The Certificate of Insurance must be approved by the COLLEGE's Director, Risk Management, prior to the commencement of any activities contemplated under this Agreement.
 - b. USER agrees to maintain, and require and ensure that its vendors, contractors, subcontractors, agents, representatives maintain, the following insurance throughout term of this Agreement:

- i. General Liability Insurance, including contractual liability and products and completed operations coverage, with minimum limits of liability of \$1 million per occurrence and \$1 million in the aggregate, with policy endorsed to name "The District Board of Trustees of Miami Dade College, Florida" as an Additional Insured.
 - ii. Workers compensation insurance at the statutory limits and employer's liability of \$1,000,000.00 each accident/disease-each employee & policy limit, for its protection and the protection of COLLEGE.
 - iii. If alcohol is being served, USER, or its caterer or bartender must provide evidence of Host Liquor Liability Insurance. If alcohol is being sold by USER or any USER MEMBER, including a caterer or bartender, they must provide evidence of Liquor Liability Insurance. Said Liquor Liability coverage shall have include minimum limits of liability and additional insured endorsement requirements as stated above.
- c. All insurers providing coverage shall have and maintain a minimum A.M. Best's rating of A as to management and Class VII as to financial size. The Certificate(s) of Insurance will indicate that there will be no cancellation without thirty (30) days prior written notice to the COLLEGE's Director of Risk Management. USER shall be in default of this Agreement for failure to maintain the insurance required herein, and the COLLEGE may immediately suspend or cancel the Reservation and terminate the Agreement.
 - d. Any insurance provided by the COLLEGE shall be excess of and not contributing with the insurance provided by or on behalf of USER or USER MEMBERS. Compliance with the insurance requirements above shall not limit USER's liability, its officer's agents, employees, contractors, subcontractors or suppliers to the COLLEGE or others.
 - e. **Public Entities:** In the event USER is a self-insured public entity ("PUBLIC ENTITY USER") with a general and automobile liability risk management program, including the administration of general and automobile liability claims, settlement of claims, a loss control program and trust fund pursuant to Florida law. PUBLIC ENTITY USER agrees to maintain in full force and effect and throughout the Use Period, at PUBLIC ENTITY USER's sole cost and expense, the insurance program pursuant to Florida law. PUBLIC ENTITY USER shall provide COLLEGE's Director of Risk Management with proof of self-insurance no less than three (3) business days prior to the commencement of USER Event.
8. **No Joint Venture:** This Agreement does not authorize USER to do business under the name of "The District Board of Trustees of Miami Dade College, Florida", the "Miami Dade College", any of the COLLEGE's departments, programs, or events, or any name of similar thereto ("COLLEGE Entities"), or to enter into any contracts or agreements of any type in the name of, or on behalf of any of the COLLEGE Entities. USER is not empowered to state or imply, neither directly nor indirectly, that USER or its activities, other than pursuant to the limited license permitted herein, if any, are supported, endorsed or sponsored by the COLLEGE Entities and upon the direction of the COLLEGE shall issue express disclaimers to the effect. Nothing herein shall be construed to place the parties in the relationship of partners or joint ventures agents nor shall any similar relationship be deemed to exist between them.
9. **Conflict of Interest:** USER represents that it has no employee who has, or whose relative has, a relationship with COLLEGE, in a manner that will violate the Code of Ethics for Public Officers and Employees, including, but not limited to, Florida Statute, Sections 112.313(3) and (7), and Florida Statute, Section 112.3185(6), thereof, by reason of USER entering into this Agreement.
10. **Assignment:** USER shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of COLLEGE.
11. **Indemnification:** USER, shall indemnify and hold harmless The District Board of Trustees of Miami Dade College, Florida, The Miami Dade College Foundation, Inc., and their trustees, officers, employees, agents, contractors, and instrumentalities ("COLLEGE Indemnitees") from any and all liability, losses or damages, including attorney's fees and costs of defense, which COLLEGE Indemnities may incur as a result of claims, demands, suits, or causes of actions or proceedings of any kind or nature, arising out of, relating to or resulting from the negligence or misconduct in the performance of this Agreement by USER, USER MEMBERS, or their officers, employees, agents, contractors or instrumentalities servants, partners, principals or subcontractors ("USER Indemnitors"). USER Indemnitors shall pay all claims and losses in connection therewith and shall investigate and defend all claims suits or actions of any kind or nature in the name of the COLLEGE Indemnitees, upon the written request of the COLLEGE Indemnitees, including appellate proceedings, and shall pay all cost, judgments, and attorney's fees which may issue thereon.

12. **Force Majure:** Neither Party hereto shall be responsible for a failure to perform its obligations hereunder due to events directly affecting or impacting USER Event beyond either Parties' reasonable control including, without limitation, acts of God, natural disasters, government regulations, acts of war, acts of terror, strikes or other labor disputes, severe weather, earthquakes, fires, floods, riots civil disorder, failure of power or utilities, government acts, curtailment of transportation facilities preventing or unreasonably delaying USER Event attendees, exhibitors, or guests from appearing at USER Event, or other similar cause beyond the control of either Party making it inadvisable or illegal to hold USER Event.
13. **Default:** If either Party fails to comply with any material term or condition of this Agreement and/or fails to perform any of its obligations hereunder, then that Party shall be in default. Upon the occurrence of a default hereunder which is not cured within seven (7) days after receipt of notice of default either in writing or via e-mail, the non-defaulting Party, in addition to all remedies available to it by law, may immediately, upon notice to the defaulting party in writing or via e-mail, terminate this Agreement. If USER is the defaulting party, all deposits, payments, advances, or other compensation paid by USER to COLLEGE shall be forfeited and become the property of COLLEGE. In no event shall COLLEGE be liable to USER for any consequential, incidental, special and/or indirect damages or losses (in contract or tort), including, but not limited to, any lost revenues or savings in connection with this Agreement and/or any breach and/or default by COLLEGE hereunder.
14. **Cancellation:** COLLEGE reserves the right, in the exercise of its sole discretion, to rescind and cancel this Agreement and take any other lawful action at any time when, in its sole opinion, the purpose or purposes for which it is used or intended to be used, shall be obnoxious or inimical to the COLLEGE's best interests, including, but not limited to those which endanger the health or safety of any person or are anticipated to cause damage to any property, COLLEGE's image or reputation; anything herein contained notwithstanding.
15. **Notice:** All notices required or permitted under this Agreement shall be in writing, reference this Agreement and be deemed given when: (i) delivered personally; (ii) sent by confirmed facsimile or email (iii) five (5) days after having been sent by registered mail, return receipt requested, postage prepaid; or (iv) one (1) day after deposit with a commercial overnight carrier, with written verification of receipt. All communications, including notices and billing, shall be sent to the addresses set forth below:

| USER | COLLEGE |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Town Of Surfside Police Department | Fermin Vazquez. Senior Director Campus Administration. |
| | with copies to: |
| Julio Yero, Chief of Police 9293 Harding Avenue, Surfside Fl. 33154 305-861-4862 | Javier A. Ley-Soto, Esq. College Legal Counsel Miami Dade College Office of Legal Affairs 300 N.E. 2 nd Avenue, Room 1453 Miami, FL 33132 |

16. **Governing Law-Venue:** This Agreement shall be governed and interpreted under the laws of the State of Florida. Proper venue shall lie solely in Miami-Dade County, Florida.
17. **Prevailing Party Fees and Costs:** In the event of any legal proceedings arising, directly or indirectly, out of or related to this Agreement, the prevailing party in such proceeding shall be entitled to an award of their reasonable attorneys' fees, collection fees and costs for each such proceeding, trial and for all levels of appeal.
18. **Waiver of Jury Trial:** THE PARTIES EACH HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY FOR ANY LEGAL PROCEEDING ARISING, DIRECTLY OR INDIRECTLY, OUT OF OR RELATING TO THIS AGREEMENT. BOTH OF THE PARTIES (I) CERTIFY THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; AND (II) ACKNOWLEDGE THAT EACH OF THE PARTIES HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS WAIVER OF JURY TRIAL.
19. **Counterparts:** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument. To the extent permissible

under Florida law, a facsimile/electronic (e.g. sent as a PDF attached to an email) signature shall be deemed to constitute an original signature for the purposes of this Agreement.

20. **Certification:** USER certifies that it possesses the legal authority to enter into this Agreement authorizing the person(s) identified as the official representatives(s) of USER, to act in connection with the Agreement, and to provide such additional information as may be required from time to time by the COLLEGE.
21. **Taxes:** USER acknowledges sole responsibility for the payment of all applicable federal, state, and local taxes and fees of whatever nature that are associated with the use of COLLEGE Property. USER must provide the COLLEGE a current copy of certificate confirming tax exemption before the COLLEGE will remove the assessment of sales taxes.
22. **Entire Agreement; Amendments:** This Agreement represents the entire Agreement between the Parties and supersedes any prior Agreement or representations between the Parties with regard to the subject. This Agreement may not be modified orally, by supplement, modification, waiver, change, extension, discharge or amendment, unless by a written document signed by a duly authorized representative of each Party.
23. **Survival:** Any provision of this Agreement providing for performance by either party after termination of this Agreement shall survive such termination and continue to be effective and enforceable.
24. **Severability of Provisions:** In the event any part of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction or as the result of the adoption of an ordinance, statute or regulation, that holding or adoption will not affect the validity and enforceability of the remainder of this Agreement, which will remain in full force and effect in accordance with its terms.
25. **Addendums:** Any addendums to this Agreement shall be identified below, attached to and made a part of this Agreement.
 - a. Addendum "A" Modification of Payment Requirements
 - b. Addendum Title.
 - c. Addendum Title.
 - d. Addendum Title.
 - e. Addendum Title.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date last signed below:

**THE DISTRICT BOARD OF TRUSTEES OF
MIAMI DADE COLLEGE, FLORIDA**

USER: Town of Surfside Police Department

COLLEGE Authorized Signer
Print Name: Malou C. Harrison
Title: Campus President
Date: _____

USER Authorized Signer
Print Name: Julio Yero
Title: Chief of Police
Date: _____

**ADDENDUM A TO
AGREEMENT FOR TEMPORARY USE OF
MIAMI DADE COLLEGE FACILITIES**

MODIFICATION OF PAYMENT REQUIREMENTS

Authority:

MDC Procedure 3908 requires final payment for the use of the College's facilities and grounds to be received at least 48 hours in advance of the event unless agreed upon in writing and in advance.

DECISION:

Section 2. **Fees for the use of College Facility** of the Agreement for the Temporary Use of Miami Dade College Facilities is hereby deleted and replaced as follows:

2. **Fees for the use of College Facility:** The USER agrees to pay the COLLEGE the daily amount of \$ \$107.00 per hour for track use, \$30.00 per hour/per vehicle for skid cars ("College Facility Use Fee"), plus all applicable Florida sales tax of \$ 0.00, for a total daily amount of \$ To be determined for the rights granted under this Agreement. Payment(s) shall be made pursuant to the following payment terms and schedule:
 - a. The College Facility is reserved for USER on the following day(s):
10/01/2019 – 12/31/2019 as needed.
 - b. In the event USER is unable to use the College Facility on any reserved day, due to no fault by the USER, including, but not limited to, weather conditions ("Cancellation"), the COLLEGE and USER will agree to either reschedule for another date and/or time, or the COLLEGE will not assess Total Daily Amount for the Cancellation.
 - c. COLLEGE shall submit an invoice to the USER following the month of usage to include all fees assessed for the respective month. For example, the COLLEGE will send USER an invoice in February reflecting fees assessed for the month of January.
 - d. USER shall submit payment to the COLLEGE within thirty (30) days of the date of the invoice, and as otherwise provided for herein.

All payments must be made by check, cashier's check, money order or electronic wire transfer payable to "Miami Dade College". **All payments will be delivered to the Campus Administration's Office no later than thirty (30) days from the date of the invoice as noted above.** All payments are non-refundable unless provided for in this Agreement. The calculation of final charges shall be completed by the COLLEGE at the end of the USER's Event and any additional charges shall be paid by the USER within thirty (30) days from the date of the COLLEGE's final invoice to the USER detailing the final charges. Before the COLLEGE will remove the assessment of sales taxes, USER must provide the COLLEGE a current copy of certificate confirming tax exemption.

In the event any payment by the USER to the COLLEGE is returned for any reason, USER will responsible for any charges, including fines, assessed the COLLEGE. Reservation will be suspended pending USER's payment of all outstanding amounts, including all additional charges and fines. Any USER who fails to make any payments as set forth herein will authorize the COLLEGE to cancel the Reservation and immediately terminate this Agreement. USER will not be granted the use of any College Facility until all outstanding amounts are paid in full.

This is the end of this Amendment.

ADDENDUM B
TO AGREEMENT FOR
TEMPORARY USE OF MIAMI-DADE COLLEGE FACILITIES

THIS ADDENDUM B TO AGREEMENT (“Addendum”) is made and entered into as of this ___ day of _____, 2019, by and between **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation (the “Town” or “User”) and **MIAMI-DADE COLLEGE**, a public educational institution and political subdivision of the State of Florida (the “College”).

WITNESSETH:

WHEREAS, the Town and College wish to enter into that certain Agreement, and this Addendum, for the purpose of authorizing the Town’s temporary use of the College’s School of Justice Driving Range (the “College Facility”) for the Town’s Police Citizen’s Academy vehicle operations student training (the “User Event”) (hereinafter, the “Agreement”); and

WHEREAS, the Town and College desire to add to and amend certain provisions of the Agreement as hereinafter provided.

NOW, THEREFORE, for and in consideration of the mutual promises herein contained, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Town and College desiring to be legally bound, do hereby agree and covenant, notwithstanding the terms and conditions of the Agreement, as follows:

1. **Addendum Controls.** In the event of any conflict between this Addendum and the Agreement, the terms of this Addendum shall prevail and govern.
2. **Defined Terms.** All initial capitalized terms used in this Addendum shall have the same meaning as set forth in the Agreement unless otherwise provided.
3. **Recitals.** The recitals set forth above are incorporated herein and made a part of this Addendum.
4. **Counterparts.** This Addendum may be executed in counterparts and any counterpart evidencing signature by one party may be delivered by telecopy, facsimile or electronic mail. Each executed counterpart of this Addendum will constitute an original document and all executed counterparts, together, will constitute the same Agreement.
5. **Paragraph 11 of Agreement.** Paragraph 11 of the Agreement is replaced in its entirety as follows:

11. Indemnification:

(a) Subject to the provisions and monetary limitations of Section 768.28(5), Florida Statutes, which limitations shall be applicable regardless of whether such provisions would otherwise apply, and to the extent permitted by laws, USER shall indemnify and hold harmless The District Board of Trustees of Miami Dade College,

Florida, The Miami Dade College Foundation, Inc., and their trustees, officers, employees, agents, contractors, and instrumentalities (“COLLEGE Indemnitees”) from any and all liability, losses or damages, including attorney’s fees and costs of defenses, which COLLEGE Indemnities may incur as a result of claims, demands, suits, or causes of actions or proceedings of any kind of nature, arising out of, relating to or resulting from the negligence or misconduct in the performance of this Agreement by USER, USER MEMBERS, or their officers, employees, agents, contractors or instrumentalities, servants, partners, principals, or subcontractors (“USER Indemnitors”). USER Indemnitors shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the COLLEGE Indemnitees, upon the written request of the COLLEGE Indemnitees, including appellate proceedings, and shall pay all costs, judgments, and attorney’s fees which may issue thereon.

(b) Subject to the provisions and monetary limitations of Section 768.28(5), Florida Statutes, which limitations shall be applicable regardless of whether such provisions would otherwise apply, and to the extent permitted by laws, COLLEGE shall protect, defend, indemnify, save and hold harmless the USER, all departments, agencies, boards and commissions, its officers, agents, servants and employees (the “USER Indemnitees”), from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss of destruction of any property which may occur or in any way grow out of the Agreement and any negligent act or omission of the College, The District Board of Trustees of Miami Dade College, Florida, The Miami Dade College Foundation, Inc., and their trustees, officers, employees, agents, contractors, and instrumentalities, the College’s agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the USER as a result of any claim, demands, and/or causes of action.

(c) Nothing in this indemnification or the Agreement is intended to act as a waiver of either party’s sovereign immunity rights, including those provided under section 768.28, Florida Statutes. This indemnification shall survive the expiration or termination of the Agreement.

6. Paragraph 13 of Agreement. Paragraph 13 of the Agreement is replaced in its entirety as follows:

13. Default: If either Party fails to comply with any material term or condition of this Agreement and/or fails to perform any of its obligations hereunder, then that Party shall be in default. Upon the

occurrence of a default hereunder which is not cured within seven (7) days after receipt of notice of default either in writing or via e-mail, the non-defaulting Party, in addition to all remedies available to it by law, may immediately, upon notice to the defaulting party in writing or via e-mail, terminate this Agreement. If USER is the defaulting party, all deposits, payments, advances, or other compensation paid by USER to COLLEGE shall be forfeited and become the property of COLLEGE. In no event shall either party be liable to the other for any consequential, incidental, special and/or indirect damages or losses (in contract or tort), including, but not limited to, any lost revenues or savings in connection with this Agreement and/or any breach and/or default by either party hereunder.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have caused this Addendum on the dates set forth below their respective signatures.

TOWN OF SURFSIDE, FLORIDA, a Florida municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

Town Clerk

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Town Attorney

THE DISTRICT BOARD OF TRUSTEES OF MIAMI DADE COLLEGE, FLORIDA, a public educational institution and political subdivision of the State of Florida

By: _____

Name: Malou C. Harrison

Title: Campus President

Date: _____

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

College Legal Counsel