

Second Amendment to Agreement for Use of School Athletic Fields and Gyms

This **Second Amendment to Agreement for Use of School Athletic Fields and Gyms** (this "Second Amendment") is made and entered to be effective August 25, 2017 by and between the **Town of Huntersville** (the "Licensee" or "Town"), and **The Charlotte-Mecklenburg Board of Education** (the "Owner" or "CMBE").

RECITALS:

- A. CMBE and Town entered into that certain Agreement for Use of School Athletic Fields dated July 1, 2014 (the "Original Agreement") pursuant to which Town is given permission to use certain CMBE facilities when such facilities are not being used for school purposes.
- B. CMBE and Town entered into a "First Amendment" to the Agreement for Use of Schools Athletic Fields and Gyms dated July 15, 2015 ("First Amendment") regarding alterations of and usage of certain CMBE facilities at former J.M. Alexander Middle School ("Former J.M. Alexander Middle School") located at 12201 Hambright Road in Huntersville, NC and Blythe Elementary School at 12202 Hambright Road in Huntersville, NC.
- C. The purpose of this Second Amendment is to add the gymnasium, football field, baseball field and softball field at the new replacement J.M. Alexander Middle School located at 12010 Hambright Road in Huntersville, NC ("New JM Alexander Middle School") as a Facility.

AGREEMENT:

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Town and CMBE agree as follows:

1. **Updated Facilities List Confirmation of Responsibilities.** This Second Amendment adds facilities at the New J.M. Alexander Middle School effective August 25, 2017 under the following conditions:
 - a. The parties agree that the new gym and the athletic fields at the New J. M. Alexander Middle School, scheduled to open on August 25, 2017 are to be added to Agreement. See exhibit A.
 - b. Town agrees to maintain the athletic fields at the New J.M. Alexander Middle School to include mowing, fertilizing, weed control, aerating, maintenance of the clay infields, turf repairs, lining and dragging the baseball and softball fields for all school games and lining of soccer and football fields for all school games. The town will not pay for use of the athletic fields.
 - c. The Town understands that there will be no availability for use of the buildings at the former J.M. Alexander Middle School after June 1, 2017. The Town understands that the buildings consisting of the former J. M. Alexander Middle School are to be demolished. During the demolition process (salvage, hazardous materials abatement, and actual building demolition) the site's fields may still be available for use. CMS will notify the Town regarding the demolition schedule and planned areas outside the buildings that will need to be made available to the demolition contractor. If the Town desires to use the fields at the former J. M. Alexander Middle School, they agree to request usage and reserve the fields through the CMS Community Use of Schools office. The Town understands that indoor facilities will not be available for use during any scheduled activities on these fields.
 - d. In exchange Town will have first rights to the fields and gym at the New J.M. Alexander Middle School when such Facilities are not being used by CMBE for school purposes.

Section 6 of the Original Agreement and Recital C, Section 2 and Section 7 of the First Amendment are hereby revised accordingly.

2. **Revised Termination for Convenience Rights.** The first sentence of Section 6 of the Original Agreement shall be deleted and replaced with the following: Either party may terminate this Agreement, as to all or a portion of the Facilities at Bradley Middle School, Blythe Elementary School, New J.M. Alexander Middle School and

Torrance Creek Elementary School, for convenience with two (2) years advanced written notice to the other party. Either party may terminate this Agreement as to all or a portion of the Facilities, indoor or outdoor, at the Former J.M. Alexander Middle School, for convenience with one (1) months advanced written notice to the other party.

- 3. **Definition of Agreement; Capitalized Terms.** All references in the Original Agreement, the First Amendment or Second Amendment to "Agreement" shall mean the Original Agreement, as amended by the First Amendment and this Second Amendment. All capitalized terms not otherwise defined in this Second Amendment shall have the meanings given to them in the Original Agreement.
- 4. **Unmodified Terms.** Terms and provisions of the Original Agreement and First Amendment which are not expressly modified by this Second Amendment shall remain in full force and effect.
- 5. **Counterparts.** This Second Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but one and the same instrument. This Second Amendment may also be executed and delivered via fax or pdf/e-mail.

IN WITNESS WHEREOF, the parties do hereby execute this Second Amendment for the purposes above stated.

Town of Huntersville

By: _____

Its: _____

ATTEST

Approved as form

The Charlotte-Mecklenburg Board of Education

By: _____

Ann Clark, Superintendent

Reviewed by:

Carol Stamper, Chief Operating Officer

Approved as to Form:

Kevin M. Bringewatt, Board Attorney