

**FIRST AMENDMENT OF LEASE**

THIS FIRST AMENDMENT OF LEASE (the “**Amendment**”) is made by **THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**, a public body corporate and agency of the State of Maryland (the “**Commission**”), and **SIENA LEARNING, LLC**, a Delaware limited liability company, doing business as “The Siena School” (the “**Lessee**”).

**R E C I T A L S:**

A. The Commission and Lessee entered into a Lease Agreement dated July 29, 2011, with an Addendum to Lease dated May 30, 2012 (collectively, the “**Agreement**”), for Lessee’s use of approximately 1.47 acres of Commission property as described in Attachment A (“**Leased Premises**”).

B. The Agreement has a term of 20 years which commenced on June 29, 2012 and expires on June 28, 2032.

C. Lessee is the owner of improved property located at 1300 Forest Glen Road, Silver Spring, Maryland (the “**School**”), which is adjacent to the Leased Premises. A portion of the Leased Premises is used for parking by Lessee’s school staff, student drop-off, and buses.

D. Lessee is in the process of securing a 20-year bank loan (“**Loan**”) for the construction of a new addition to the School. A condition of Lessee securing the Loan, scheduled to close on May 24, 2016, among others, is that Lessee’s Agreement with the Commission must remain in effect during the 20-year loan period, in order that the Loan term and the lease term run concurrently for the same period. The Agreement currently has 16 years remaining on the lease term.

E. To meet the foregoing Loan condition, Lessee made a request to the Commission on April 25, 2016, to modify the Agreement to add four additional years to the lease term, so the Agreement expires 20 years after the effective date of the Loan.

F. The Commission is willing to grant Lessee the term modification pursuant to the terms and conditions herein.

G. Pursuant to Land Use Article, Section 17-204(a)(2)(i), the Montgomery County Council (the “**Council**”) must, by legislative enactment, approve this Amendment as it will cause the Agreement to exceed a 20 year duration.

**NOW THEREFORE**, for and in consideration of the respective covenants, promises and agreements provided herein the Commission and the Lessee agree as follows:

1. **Incorporation of Recital.** The above Recitals are incorporated into this Amendment by reference.

2. **Term and Rent.** Section 3 of the Agreement is deleted in its entirety and replaced with the following:

“3. **Term and Rent.**

- A. **Lease Term.** Subject to Section 42 herein, this Lease shall commence on the date that deed transferring title of the Siena School Property to Lessee is executed and delivered (the “**Lease Commencement Date**”), and shall terminate twenty-four (24) years thereafter, unless the Lease is terminated earlier in accordance with the provisions of this Lease.
- B. **Rent.** Lessee shall pay the Commission an annual rent of One Dollar and No Cents (\$1.00) (“**Base Rent**”) each and every year for twenty (20) years beginning on the Lease Commencement Date, payable annually in advance, without notice or demand, on or before the anniversary of the Lease Commencement Date. Thereafter, Lessee shall pay an annual rent each and every year for four (4) years as defined in the Rent Table below, payable annually in advance, without notice or demand, on or before the anniversary of the Lease Commencement date.

| <b>RENT TABLE</b>        |                                 |
|--------------------------|---------------------------------|
| <b>Lease Year Number</b> | <b>Annual Rent (in dollars)</b> |
| 21                       | \$12,000                        |
| 22                       | \$12,480                        |
| 23                       | \$12,979                        |
| 24                       | \$13,498                        |

- C. **Late Payment and Returned Check Charges.** If the Base Rent and/or other payments due under the Lease is not received by the Commission by the Fifth day from the date the Base Rent and/or such other payment is due, the Lessee shall pay the Commission a late charge equal to 10% of any amount then due. Payment of such late charge shall not excuse or waive the late payment of the Base Rent and/or other payments due. If the Lessee presents a check to the Commission that a bank returns unpaid, the Commission may require the Lessee to make payment by certified check or money order. In addition, the Lessee shall pay to the Commission a returned check fee of \$35.00 for each returned check, plus any other fees, costs, charges, and expenses incurred in collecting the payment.
- D. **Holdover.** In the event Lessee fails to timely vacate and surrender the Leased Premises to the Commission upon expiration or termination of the Lease, Lessee shall pay \$1,667 per month, or any prorated amount thereto, to the Commission as holdover rent for all holdover period until the Commission regains possession of the Leased Premises. In the event

Lessee's holdover lasts longer than one year, there will be four percent annual increase in the applicable holdover year from the preceding year's holdover rent amount.

- E. **Rent Payment Address.** Subject to change by written notice from the Commission, Lessee shall make all payments to the Commission at:

Park Property Management  
Montgomery County Department of Parks  
Maryland-National Capital Park and Planning Commission  
16641 Crabbs Branch Way  
Rockville, MD 20855"

3. **Replacement of Attachment "A".** Attachment "A" to the Lease is deleted and replaced with the Attachment A attached to this Amendment.

4. **Administrative Requests.** Lessee shall submit a written request to Commission a minimum of 30 days in advance for consent of, or for any Lease amendment, extension, assignment, name change, loans, or other administrative processing, and include with such request a non-refundable payment to the Commission for administrative costs in the amount of \$2,500.

5. **Lessee Name.** The Agreement is amended to reflect that the name of the Lessee is Siena Learning, LLC, a Delaware limited liability company, doing business as "The Siena School", with the retroactive effect as of July 29, 2011.

6. **Representation and Warranty.** Lessee represents, warrants, and avers that Lessee is, and has been, in compliance with all terms of the Agreement at all times relevant. Lessee further represents and warrants that entering into this Amendment will not violate any material agreement to which Lessee is a party.

7. **Prior Condition to Amendment.** This Amendment is expressly conditioned upon Lessee's obtaining Bank of Georgetown's prior written consent for entering into this Amendment, in accordance with the requirements set forth in that certain Recognition Agreement dated June 29, 2012, entered into between the Commission and Bank of Georgetown, and Lessee agrees to bear any costs associated with obtaining the foregoing approval from Bank of Georgetown.

8. **Effective Date.** The date of this Amendment shall be the last date written on the signature page herein.

9. **No Other Changes.** Except as modified in this Amendment, all other terms and conditions of the Agreement remain the same.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the Commission and the Lessee have executed this Amendment on the date written below.

**THE SIENA SCHOOL**

By: \_\_\_\_\_  
(Signature)

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Lessee Fed ID # \_\_\_\_\_

**THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION**

By: \_\_\_\_\_  
Patricia Colihan-Barney,  
Executive Director

**ATTEST:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Joseph Zimmerman,  
Secretary-Treasurer