

## **PRE-CLOSING USE AGREEMENT**

**THIS PRE-CLOSING USE AGREEMENT** ("Agreement") is made this \_\_\_\_ day of March, 2013, by and between the School Board of Pinellas County, Florida, f/k/a Pinellas Board of Public Instruction, a Florida public school district organized and operating under the Florida Constitution and Florida Statutes ("PCSB"), and University Preparatory Academy, Inc., a Florida not-for-profit corporation ("UPA").

WHEREAS, PCSB owns the real property and improvements consisting of 5.83 acres MOL, including building(s) with building area of 68,380 square feet MOL, generally located at 1701 10<sup>th</sup> Street South, St. Petersburg, FL 33705, and commonly referred to as Southside Fundamental Middle School ("Property");

WHEREAS, UPA is interested in purchasing the Property, and PCSB and UPA are negotiating the terms of a purchase agreement;

WHEREAS, UPA has requested and PCSB has agreed to allow UPA to enter the Property prior to execution of a purchase agreement and/or closing to conduct certain tests, inspections and studies and perform work to abate and remediate certain environmental conditions that may be located on the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. PCSB hereby grants to UPA the right to enter upon the Property during the term of this Agreement as set forth below to inspect, investigate and conduct tests and environmental audits on the Property and take whatever action UPA deems reasonably necessary or desirable to determine the Property's suitability for UPA's intended use and to remediate and abate any hazardous substances discovered on the Property. Any such remediation of hazardous substances shall be in accordance with all applicable laws, ordinances and regulations applicable to the Property and at UPA's sole cost and expense. Notwithstanding anything herein to the contrary, UPA shall have no obligation to perform any tests, audits or inspections or remediate any hazardous substances discovered on the Property; however, if any hazardous substance is exposed through UPA's use of the Property, UPA agrees to complete remediation and abatement of such substance such that the Property will not be returned to PCSB in a condition that requires remediation or abatement of a hazardous substance that was not exposed prior to the effective date of this Agreement.

2. It is the intention of UPA to renovate and remodel the Property after it acquires title. UPA shall have the right to conduct "Pre-Closing Renovation Activities", including having the Property surveyed, moving forward with the preparation of plans and specifications, submitting applications for construction permits and conducting other similar Pre-Closing Renovation Activities. All such Pre-Closing Renovation Activities shall be at the sole cost and expense of UPA, and in no event shall any actual construction or renovation take place prior to Closing. PCSB shall comply with reasonable requests of UPA to facilitate these Pre-Closing Renovation Activities.

3. The term of this Agreement shall commence upon the last of either PCSB or UPA to execute this Agreement ("Effective Date") and shall terminate ninety (90) days thereafter.

4. In the event UPA does not purchase the Property prior to expiration of this Agreement, it shall have no right to any refund, lien or claim for a reimbursement of funds it has expended during the term of this Agreement.

5. UPA shall indemnify and hold PCSB harmless from any damage, liability, expense or claim resulting from UPA's or its agents', contractors', employees' and representatives' use of the Property as described herein and/or UPA's failure to pay any bills, invoices or other charges relating to such use.

6. This writing constitutes the full and entire agreement of the parties regarding the subject matter hereof.

7. This Agreement shall be governed by the laws of the State of Florida.

8. If any paragraph, part, term or provision of this Agreement is construed or held to be void, invalid or unenforceable by order, decree or judgment of a court of competent jurisdiction, the remaining paragraphs, parts, terms or provisions shall not be affected thereby but shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed this \_\_ day of March, 2013.

**WITNESSES**

Sign: \_\_\_\_\_

Print: Michael A. Grego, Ed.D.  
Title: Superintendent

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**PCSB**

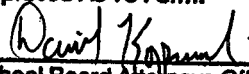
**PINELLAS COUNTY SCHOOL BOARD**

By: \_\_\_\_\_

Name: Carol J. Cook  
Title: Chairperson

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

**Approved As To Form:**

  
School Board Attorneys Office

WITNESSES

Sign:

Print:

Sign:

Print:

UPA

UNIVERSITY PREPARATORY  
ACADEMY OF PINELLAS, INC., a Florida  
corporation

By:

Print:

Title:

Date:

#1329960v3