

**DUNAY
MISKEL
BACKMAN** LLP

Gary Dunay
Bonnie Miskel
Scott Backman

Hope Calhoun
Dwayne Dickerson
Ele Zachariades

Christina Bilenki
Heather Jo Allen
Andres Keiser

November 22, 2016

Sheila Rose
Director, Department of Sustainable Development
4800 West Copans Road
Coconut Creek, FL 33063

Re: North Broward Preparatory School – Extension of Temporary Use Agreement

Dear Ms. Rose,

As you are aware, this firm represents North Broward Preparatory Schools, LLC (“NBPS”), a private preparatory school operating on the +/- 69.50 acre property located at 7600 Lyons Road, which is generally located at the southeast corner of Lyons Road and the Hillsboro Canal (“Property”) within the City of Coconut Creek (“City”). North Broward Preparatory School includes elementary, middle and high schools and was recently approved for construction of a +/- 40,000 square foot athletic and wellness center and residential dormitories.

On July 11, 2013, the City entered into a Temporary Use Agreement (“Agreement”) with NBPS to permit the location of two (2) temporary modular dormitories for a period of three (3) years. A copy of the Agreement is attached hereto as Exhibit “A”. The Agreement included certain timing obligations intended to ensure NBPS was proactively pursuing a permanent solution for housing students on or off campus. More Specifically, Section 3 of the Agreement requires NBPS to meet the following deadlines:

- (a) Within six (6) months of the effective date, NBPS shall submit any required plat and rezoning applications; **COMPLIED**
- (b) Within eighteen (18) months of the effective date, NBPS shall submit a site plan application; **COMPLIED**
- (c) Within thirty (30) months of the effective date, NBPS shall submit building permit applications and obtain a building permit. **PENDING**

The Agreement was originally set to expire on July 11, 2016. An extension of the Agreement was granted on January 26, 2015 in order to extend the expiration of the Agreement and all relevant

dates by one (1) year. A copy of the letter granting the extension of the Agreement is attached hereto as Exhibit "B". In the initial request, NBPS outlined its efforts in conducting a nationwide search for a developer through an RFP process and the narrowed down plans for the permanent dormitories that NBPS intended to pursue.

Following the original extension (but still within the initial three year term), on March 24, 2015, NBPS submitted a formal site plan application for the development of a three-story, +/-150,000 square foot residential village (PZ-15030002) ("Residential Village"). After review by the City's Development Review Committee and resubmittal of revised plans, the site plan application for the Residential Village was approved by the Planning & Zoning Board on June 17, 2015.

At the time NBPS submitted the Residential Village site plan application, NBPS was owned and operated by Meritas, a private entity that owned and operated several national and international private preparatory schools. The site plan was carefully planned to ensure it met the program requirements and ultimate vision for Meritas. Unbeknownst to NBPS at the time, Meritas was in the process of selling six (6) of its schools, including NBPS, to Nord-Anglia Education ("Nord"). Nord is a global and leading premium school organization with a family of forty-one (41) international schools, located within fifteen (15) countries and educating over thirty-two thousand (32,000) students from pre-school through the end of secondary education. With that, Nord also has its own set of procedures and processes to confirm that the development plans fit within its platform, program and funding.

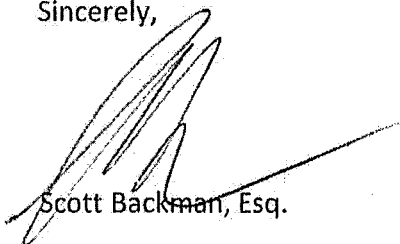
The ownership transfer to Nord subjected the Residential Village to further internal review that included building design and funding mechanisms. Ultimately, Nord settled on a sale and leaseback of the Property, and on May 10, 2016 the Property was sold to BMOC-MIA (FL). BMOC-MIA(FL) LLC is an entity held under the W.P. Carey Inc. umbrella. W.P. Carey Inc. is a leading global net-lease REIT that provides long-term sale-leaseback and built-to-suit financing solutions for companies worldwide. By engaging in the sale-leaseback, Nord sold the underlying NBPS Property in order to obtain sufficient funding for planned capital improvements, while leasing the Property back to operate the school. Unfortunately, the sale-leaseback of the Property and corporate hold-ups with the new ownership of the Property has caused additional delays in moving forward with construction of the Residential Village.

NBPS has continuously and in good faith been working towards construction of the Residential Village. Specifically, in May 2016, NBPS issued an RFP to secure a builder. Proposal packages were scrutinized this past summer and a final decision was reached in September. At this time, NBPS is ready to continue moving forward through the building permit and construction process and intends to open the Residential Village in August 2018. A copy of the anticipated construction schedule for the Residential Village is attached hereto as Exhibit "C".

As evident by the steps taken towards finalizing the plans for the permanent dormitories, NBPS has been working diligently and in good faith to meet the deadline for submittal of the building permits for the Residential Village, which constitutes "good cause" as contemplated by Section 5 of the Agreement. Considering the foregoing, NBPS is requesting a one (1) year extension of all

relevant dates established in the Agreement and an extension of the expiration of the Agreement through July 11, 2018. I look forward to hearing back from you concerning this matter. If you have any questions or concerns, please do not hesitate to contact me at 561-405-3325.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Backman', with a long horizontal line extending to the right.

Scott Backman, Esq.

cc: Scott Stoudenmire
John Lehman
Craig Ditman

Exhibit "A"

Temporary Use Agreement

THIS Temporary Use Agreement ("Agreement") is made and entered into this 11th day of July, 2013, by and between NORTH BROWARD PREPARATORY SCHOOLS, LLC, hereinafter referred to as "NBPS," and the CITY OF COCONUT CREEK, Broward County, Florida, hereinafter referred to as "City."

WHEREAS, NBPS owns the property generally located at 7600 Lyons Road, Coconut Creek, FL 33073 ("Property"); and

WHEREAS, NPBS desires to locate two (2) temporary modular dormitories, (one for 80 student beds and one for 72 student beds, totaling 152 student beds), on the Property as depicted on the site plan attached hereto as Exhibit "A"; and

WHEREAS, because the City codes do not provide for a temporary dormitory facility, it is necessary to enter into this Agreement; and

WHEREAS, this Agreement is in the best interest of the City and citizens of Coconut Creek.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. The term of this Agreement shall be three (3) years from the effective date. The City and NBPS acknowledge that the Term of this Agreement may be extended upon the mutual written consent of both parties as provided for herein.
2. City acknowledges that NBPS currently has development applications and permits pending with the City for placement of the temporary modular dormitories on the Property. If issued by the City, such approvals will be valid for a period not to exceed three (3) years from the effective date of this Agreement, subject to any extensions that may be agreed to by the parties hereto.
3. As material consideration for entering into this Agreement, NBPS hereby agrees to file with City all development and permit applications necessary to receive City approval to construct permanent dormitories on the Property in accordance with the following schedule:
 - a. Within six (6) months of the effective date, NBPS shall submit any required plat and rezoning applications;
 - b. Within eighteen (18) months of the effective date, NBPS shall submit a site plan application;
 - c. Within thirty (30) months of the effective date, NPBS shall submit building permit applications and obtain a building permit.

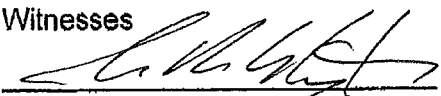
4. NBPS acknowledges and agrees that it shall diligently pursue, and work in good faith towards obtaining, the approvals noted hereinabove.
5. City acknowledges that the timeframes set forth herein are subject to review and approval periods by City personnel, as well as NBPS consultants, and such timeframes may be extended upon a showing of good cause.
6. Notwithstanding the foregoing, City acknowledges that, prior to the expiration of the three (3) year term of this Agreement, NBPS may pursue alternatives for housing the students located in the modular dorms other than constructing permanent dormitories on campus. If NBPS elects to pursue such an alternative, NBPS shall notify City prior to the twenty-fourth (24) month of this Agreement that it will remove the modular dormitories from the Property upon expiration of this Agreement.
7. NBPS agrees that immediately upon expiration of this Agreement, it shall remove the temporary modular dormitories and restore the Property to a condition satisfactory to the City.
8. In the event NBPS violates any of the terms and conditions of this Agreement, including the agreement to immediately cease use of the temporary modular dormitories at the time required by this Agreement, the parties agree to submit to the jurisdiction of the Special Magistrate upon the City issuing a code enforcement violation to NBPS. NBPS shall be subject to a fine of FIVE HUNDRED DOLLARS (\$500) per day, upon a finding and order issued by the Special Magistrate that shall commence to accrue retroactively to the date of said violation.
9. All of the above provisions shall survive the term of this Agreement and shall not merge and shall thereafter be binding upon the parties.
10. NBPS, its successors and assigns, shall indemnify and hold harmless the City of Coconut Creek, from and against any and all claims, damages, losses and expense, including attorney's fees, and costs whether incurred in litigation, appeals, or otherwise, up to and including the United States Supreme Court, arising out of or resulting from the use of the temporary modular dormitories under this Agreement or the maintenance thereof, provided that any such claim, damages, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury or to destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of NBPS any contractor or subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for NBPS, or any contractor or sub-contractor, under worker's compensation acts, disability benefit acts or other employee benefit acts. Nothing in this section shall affect the immunity of the City pursuant to Chapter 768, Florida Statute.

11. Any waiver by either party of any breach of any term or condition of this Agreement shall not operate as a waiver of any other breach of such term or condition or of any other term or condition, nor shall any failure to enforce such provision hereof operate as a waiver of such provision or of any other provision hereof, nor constitute nor be deemed a waiver or release of any other party for anything arising out of, connected with, or based upon this Agreement. No waiver shall be binding on a party unless it is in writing and signed by the party to be bound.
12. This Agreement has been negotiated and drafted by all parties hereto and shall not be more strictly construed against any party because of such parties' preparation of this Agreement.
13. All parties to this Agreement have been represented by their respective counsel. The parties hereto acknowledge having read this Agreement and discussed the terms of this Agreement with their respective counsel and elected officials (in the City of Coconut Creek) and that the approval and execution of this Agreement has been made freely and voluntarily with full knowledge of its legal effect.
14. This Agreement shall be binding upon the parties hereto and their successors.
15. In the event it becomes necessary for any reason to construe this Agreement as permitted by the rules of evidence of the State of Florida, this Agreement will be construed as being jointly prepared and drafted by all parties hereto. Venue, should litigation arise from this agreement, shall be in Broward County, Florida.
16. The Non-Prevailing Party shall be liable to the Prevailing Party for all costs, expenses, attorneys' fees and damages at the trial and appellate levels, up to and including the U.S. Supreme Court, which shall be incurred or sustained by the Prevailing Party by reason of the Non-Prevailing Party's breach of any of the provisions of this Agreement, whether or not litigation is involved in any such breach.
17. The invalidity of any one or more of the phrases, sentences, clauses, or sections contained in this Agreement shall not affect the validity of the remaining portions of the Agreement so long as the material purpose of this Agreement can be determined and effectuated.
18. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality of this Agreement and executed by each party hereto.
19. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil communications, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense. In no event shall a lack of funds on the part of either party be deemed force majeure.

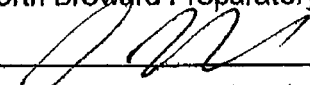
20. Each person signing this Agreement on behalf of either party individually warrants that he/she has full legal power and authority to execute this Agreement on behalf of the party for whom he/she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.


IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT on this 11th day of July, 2013.

Witnesses

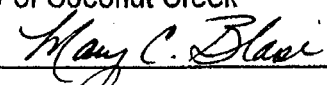

Printed Name: Joshua R Slayton

North Broward Preparatory Schools, LLC

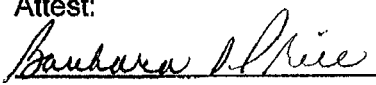
By: 
Printed Name: JOHN PARK
Title: PRESIDENT


Printed Name: ALICE HERMAN


City of Coconut Creek

By: 
Printed Name: Mary C. Blasi
Title: Interim City Manager

Attest:


Barbara S. Price, MMC, City Clerk

Approved as to Form:


Paul S. Stuart, City Attorney
asst.

NANCY A. COUSINS

Exhibit "B"



SHEILA N. ROSE
DEPARTMENT DIRECTOR

January 26, 2015

Scott Backman
Dunay, Miskel, and Backman
14 SE 4th Street
Suite 36
Boca Raton, FL 33432

**RE: North Broward Preparatory School
Extension of Temporary Use Agreement**

Dear Mr. Backman:

As you are aware, the Temporary Use Agreement was originally set to expire July 11, 2016. We received your written request for an extension for one additional year. Upon review of the pertinent details associated with this agreement, it has been determined that the provisions are applicable. Therefore, your request for an extension of the Temporary Use Agreement has been granted for a period of one (1) year and now has a new expiration date of July 11, 2017.

Should you have any questions or require additional information, do not hesitate to contact me at 954-973-6756.

Sincerely,

SHEILA N. ROSE, AICP, Director
Department of Sustainable Development

SNR:jw

\\pd\data\Development Services\Common\Documents\PLANNING & ZONING\Project Coordinator\Letters\L-15011NBPS Temp Dorm Extension.docx

Exhibit "C"

