

Exhibit "1"

FOURTH AMENDMENT TO PRE-ANNEXATION AGREEMENT

THIS FOURTH AMENDMENT TO PRE-ANNEXATION AGREEMENT ("Fourth Amendment") is made and entered into this _____ day of _____, 2021 by and between the CITY OF COCONUT CREEK, FLORIDA, a municipal corporation ("City"), NORTH BROWARD PREPARATORY SCHOOLS, LLC, a Florida limited liability company and BMOC-MIA (FL) LLC, a Delaware limited liability company, (collectively "School"):

WHEREAS, School operates a private preparatory school on certain property located within the City as more particularly described on Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, portions of the Property were annexed into the City in 1997 pursuant to the terms of a Pre-Annexation Agreement dated November 17, 1997 between City and School (the "Pre-Annexation Agreement") and a First Amendment to Pre-Annexation Agreement between City and School dated May 13, 2004 ("First Amendment"); and

WHEREAS, commencing on a date prior to the effective date of the Pre-Annexation Agreement and continuing thereafter through the date of this Fourth Amendment, the Property has been and continues to be used and operated as a private educational institution, as defined by Section 196.198, Florida Statutes; and

WHEREAS, in 2000 the City enacted Ordinance No. 2000-21 (as amended by Ordinance Nos. 2007-020, 2010-026, AND 2016-37), which provided for a City-wide Fire-Rescue assessment ("Fire-Rescue Assessment") levied against properties within the City, including, but not limited to, private educational institutions, but specifically exempting public educational institutions; and

WHEREAS, City and School entered into that certain Second Amendment to Pre-Annexation Agreement dated December 9, 2010 ("Second Amendment") and Third Amendment to Pre-Annexation

Agreement dated February 12, 2015 (“Third Amendment”) to provide for exemption of the Property from the Fire-Rescue Assessment; and

WHEREAS, the City is in the process of modifying the Fire-Rescue Assessment levied against properties within the City via Ordinance No. 2021-019; and

WHEREAS, the City provides the Property with Fire-Rescue service (“Fire-Rescue Services”); and

WHEREAS; the Pre-Annexation Agreement, First Amendment, Second Amendment and Third Amendment (collectively the “Agreement”) provided that School would pay City an annual payment to reimburse City for the cost of providing, in part, Fire-Rescue Services to the Property; and

WHEREAS, School’s campus has expanded to include dormitories and other support buildings and uses, and School plans to make further improvements to the Property; and

WHEREAS, the parties have agreed to further amend the Agreement to provide for reimbursement to City for the costs associated with School for the demands on City for Fire-Rescue Services; and

WHEREAS, it is the intent of the parties to repeal all references to Payment in Lieu of Taxes (“PILOT”) as well as to remove all references to payments for “Public Facilities and Services” from the Agreement from the date of execution of this Fourth Amendment going forward.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The foregoing recitations are true and correct and are incorporated herein by reference. Any Exhibits to this Fourth Amendment are deemed a part hereof.
2. School and City agree that paragraphs nine (9), fifteen (15) and seventeen (17) of the Agreement is hereby further amended to read and provide as follows:

9. Payment in Lieu of Taxes (PILOT) Fire-Rescue Services Payment:

(A) ~~Effective upon execution of the Second Amendment on December 9, 2010, the City shall~~

~~provide all Public Facilities and Services.~~ The City shall continue to provide all Fire-Rescue Services to the Property, in exchange for the annual payments described in Sections 9. (B) and (C) ("Fire-Rescue Services Fee"). The City and School acknowledge that the ad valorem tax exempt status of the Property shall not affect the annual payments due under Sections 9. (B) and (C) and that the City will continue to provide all services with no additional payment in lieu of taxes should the Property become exempt from ad valorem taxes in the future for the term of this Fourth Amendment. The City and School further acknowledge that as of the date of this Fourth Amendment, the existing square footage of all permanent structures located on the Property is Three Hundred Ninety Six Thousand Twenty (396,020) square feet ("Existing Development Footprint").

(B) For the provision of Fire-Rescue Services to the Existing Development Footprint each year, School further agrees to pay City a Fire-Rescue Services Fee on or before the effective date of the Second Amendment, and on the anniversary date thereof each year thereafter December 31. For FY 2022, the initial Fire-Rescue Services Fee of Eighty Five Thousand Dollars (\$85,000.00) Two Hundred Ninety Nine Thousand Three Hundred Six Dollars and Thirty Three Cents (\$299,306.33) (the "PILOT Payment"), ("the Fire-Rescue Services Fee") is due on December 31, 2021. The Fire-Rescue Services Fee shall to be increased or reduced annually in proportion to the annual increase or reduction to the City Fire-Rescue Assessment levied against properties within the City up to a maximum of four percent (4%) for Fiscal Year 2023 and 2024 and up to a maximum of ten percent (10%) annually thereafter. to City to reimburse City for expenses incurred in providing Public Facilities and Services to the Property. Notwithstanding the foregoing, the PILOT Payment shall not be increased for the first ten (10) years following execution of this Second Amendment, and the increase noted above shall commence on January 1st of the eleventh (11th) year following execution of this Second Amendment. In the event that at any time in the future the Property is no longer tax exempt, the PILOT Payment shall automatically terminate and the Property shall be subject to all

~~such applicable taxes.~~ The City and School acknowledge that School shall not be responsible for any additional payments for Fire-Rescue services except as provided in this Agreement. ~~(B) The parties acknowledge that as of the date of this Third Amendment, the existing square footage of all permanent structures located on the property is Two Hundred Eighteen Thousand Twenty Nine (218,029) square feet.~~

(C) In addition to the ~~PILOT Fire-Rescue Services Payment Fee~~ set forth in Section (A) above, School further agrees to pay City an ~~“Public~~ Additional Fire-Rescue Services Payment” in accordance with the schedule adopted by the City Commission via Ordinance 2021-019, and attached hereto as Exhibit “B”, for the square footage of any permanent buildings constructed on the Property subsequent to the date of this Third Amendment in excess of the square footage of the Existing Development Footprint (“Additional Square Footage”). The Additional Fire-Rescue Services Payment, if applicable, shall be paid simultaneously with the Fire-Rescue Services Fee. The base rate for the ~~Public~~ Additional Fire-Rescue Services Payment shall be the 2014 Fiscal Year 2022 rate as applied to the Additional Square Footage and shall be increased or reduced annually thereafter at a rate of Four percent (4%) per year proportionate to the annual increases or reductions to the City Fire-Rescue Assessment levied against other properties within the City up to a maximum of four percent (4%) for Fiscal Year 2023 and 2024 and up to a maximum of ten percent (10%) annually thereafter. School shall pay the base rate, as adjusted by the annual ~~four percent (4%)~~ increases or reductions up to four percent (4%) for the Fiscal Year 2023 and 2024 and up to ten percent (10%) annually thereafter, in effect at the time a certificate of occupancy is issued by City for any Additional

Square Footage ~~new construction~~ constructed on the Property ~~in excess of the current Two Hundred Eighteen Thousand Twenty Nine (218,029) square feet.~~ Thereafter, the ~~Public~~ Additional Fire-Rescue Services Payment Reimbursement Fee shall be paid annually, ~~adjusted~~ increased or reduced by ~~the~~ up to a maximum of ~~four percent (4%) increases~~ for Fiscal Year 2023 and 2024 and up to a maximum of ten percent (10%) increases annually thereafter during the term of this Agreement and any amendment thereto. Nothing herein shall be construed as permission to construct any new buildings on the Property without first obtaining all necessary permits and approvals in accordance with City, County, and/or State law as applicable.

15. This Pre-Annexation Agreement shall be construed in accordance with the laws of the State of Florida, and any proceeding arising between the parties in any manner pertaining to this Pre-Annexation Agreement shall, to the extent permitted by law, be held exclusively in the Seventeenth Judicial Circuit in and for Broward County, Florida or the United States District Court for the Southern District of Florida.

17. The term of this Agreement shall be for fifty (50) years from the date of execution of this Fourth Amendment. City agrees that, pursuant to the terms and conditions contained herein, Owners shall have vested rights for the improvements located within the Annexation Property at the time of execution of this Pre-annexation Agreement for so long as the Annexation Property is used as a School and those uses directly related thereto.

3. Except as expressly hereby modified, the Pre-Annexation Agreement, First Amendment, Second Amendment, and Third Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to Pre-Annexation Agreement as of the day and year written above.

WITNESSES:

**NORTH BROWARD PREPARATORY SCHOOLS, LLC,
a Florida limited liability company:**

Print Name: _____

By: _____

Print Name: _____

Date: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____ 2021 by _____, as _____ of NORTH BROWARD PREPRATORY SCHOLS, LLC, a Florida limited liability company, on behalf of said company, who is personally known to me or has produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

WITNESSES:

**BMOC-MIA (FL) LLC,
a Delaware limited liability company:**

Print Name: _____

By: _____

Print Name: _____

Date: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____ 2021 by _____, as _____ of BMOC-MIA (FL) LLC, a Delaware limited liability company, on behalf of said company, who is personally known to me or has produced _____ as identification.

Notary Public

Print Name: _____

My Commission Expires:

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

CITY OF COCONUT CREEK, FLORIDA

By: _____
Karen M. Brooks, City Manager

Date: _____

Approved as to Legal Sufficiency
and Form:

ATTEST:

By: _____
Marianne Bowers, Interim City Clerk

By: _____
Terrill C. Pyburn, City Attorney

Date: _____

Date: _____

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____ 2021 by _____, as _____ of the City of Coconut Creek, a Florida Municipal corporation, who () is personally known to me or () has produced his Florida driver's license.

Notary Public
Print Name: _____
My Commission Expires: _____

Exhibit "A"
Legal Description

Parcel 'A', Tract B-1 and Tract B-2, NORTH BROWARD SCHOOL REPLAT, according to the Plat thereof as recorded in Plat Book 183, Page 103, of the Public Records of Broward County, Florida.

LESS the following described land:

A portion of Section 31 & 32, Township 47, Range 42 East, also being a portion of PALM BEACH FARMS CO PLAT No. 3, as recorded in Plat Book 2, Page 45-54, according to the Public Records of Palm Beach County, Florida, being more particularly described as follows:

COMMENCE at the northwest corner of Parcel 'A', THE NORTH BROWARD SCHOOL PLAT, according to the Plat thereof as recorded in Plat Book 163, Page 19, of the Public Records of Broward County, Florida; thence S89°33'27"W, along the south right-of-way line of the Hillsboro Canal, 322.52 feet; thence S00°56'38"E, 210.37 feet to the POINT OF BEGINNING; thence continue S00°56'38"E, 15.00 feet; thence S89°34'58"W, 275.94 feet; thence N00°25'02"W, along the east right-of-way line of Lyons Road, 15.00 feet; thence N89°34'58"E, a distance of 275.81 feet to the POINT OF BEGINNING.

Said lands lying in the City of Coconut Creek, Broward County, Florida, containing 2,637,718 square feet (60.5537 acres) more or less.

Exhibit "B"