RESOLUTION DECLARING PORTION OF EMMA ELEMENTARY SCHOOL
SURPLUS FOR POTENTIAL LONG-TERM LEASE

WHEREAS, the Buncombe County Board of Education (hereinafter “Board”) owns certain real property being approximately 13.71 acres located at 37 Brickyard Rd, Asheville, NC, and being generally described as the Emma Elementary School campus;

WHEREAS, the Board desires to enter a long-term lease for a portion of the Emma Elementary School campus (the “Property”), the Property being more particularly described in Exhibit A, to allow for the construction and operation of an early childhood care facility;

WHEREAS, N.C. Gen. Stat. § 115C-518 provides that when, in the opinion of the Board, the use of any building site or other real property or personal property owned by the Board is unnecessary for public school purposes, the Board may dispose of such property according to the procedures prescribed in Article 12 of Chapter 160A of the North Carolina General Statutes;

WHEREAS, it is not the intent of the Board to dispose of all interest it has in the Property, rather it is the intent only to enter into a long-term lease of the Property; and

WHEREAS, the Board is a governmental unit of local government as defined in N.C. Gen. Stat. § 160A-274.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. That the Property is declared surplus;

2. That the Superintendent is authorized to offer, for appropriate consideration, the Property to the Buncombe County Board of Commissioners for a long-term lease, as prescribed in N.C. Gen. Stat. § 115C-518; and

3. That if the Buncombe County Board of Commissioners choose not to lease the Property, the Superintendent and Chair are authorized to take any other actions necessary to lease the Property in any manner permitted by Article 12 of North Carolina General Statute 160A.

4. That the Board of Education reserves the right to reject any and all offers to lease the Property, and any offer is subject to final approval by the Board of Education.

READ, APPROVED AND ADOPTED, THIS THE 5th DAY OF DECEMBER 2019.

Ann B. Franklin,
Board Chair

Dr. Tony Baldwin,
Superintendent and Ex-Officio Secretary
September 28, 2020

Avril Pender
County Manager
200 College Street, Suite 300
Asheville, NC 28801

Dear Ms. Pender:

Re: Emma Elementary School- Surplus Property Resolution

This firm represents the Buncombe County Board of Education. On December 5, 2019, the Board of Education adopted a resolution declaring a portion of the real property located at the Emma Elementary School as surplus property. The property is more particularly described in the survey attached hereto as Exhibit A. The Board has entered into a Memorandum of Understanding with the Verner Center for Early Learning to operate an early childhood learning facility on this property, and now desires to enter into a long-term lease agreement to allow for the construction and operation of the facility.

In accordance with North Carolina General Statute § 115C-518(a), the Board of Education is required to offer the property to the County prior to entering into a lease for more than 10 years. The statute states:

When any real property to which the board holds title is no longer suitable or necessary for school purposes, the board of county commissioners in which the property is located shall be afforded the first opportunity to obtain the property. The board of education shall offer the property to the board of commissioners at a fair market price or at a price negotiated between the two boards.

I am requesting that you place this item on the Commissioners’ agenda to discuss and to determine whether the County wants to purchase the property described in Exhibit A or allow the Board of Education to enter into a long-term lease as outlined in Article 12 of Chapter 160A of the General Statutes.

I have attached a copy of the Board’s resolution for your information, as well as a draft resolution for the Commission’s consideration. If you have any questions, please do not hesitate to contact me.
Ms. Avril Pender  
September 28, 2020  
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Best regards,  

CAMPBELL SHATLEY, PLLC  

John F. Henning, Jr.  

Encl: Board Surplus Property Resolution  
Proposed County Resolution w/ Exhibit  

Cc: Mr. Michael Frue  
Ms. Susanne Swanger