

AMENDMENT OF NEIGHBORHOOD LONG TERM COOPERATION AGREEMENT

THIS AMENDMENT OF THE NEIGHBORHOOD LONG TERM COOPERATION AGREEMENT (this "*Amendment*") is made and entered into by and between **PACE ACADEMY, INC.** ("*Pace*"), and the **WEST PACES/NORTHSIDE NEIGHBORHOOD ASSOCIATION, INC.** (the "*Association*"), on December ____, 2018 (the "*Effective Date*," determined in accordance with Section 9(f) below). Pace and the Association are sometimes referred to herein severally as a "*Party*" and collectively as the "*Parties*".

WITNESSETH:

WHEREAS, Pace owns and operates a private school on a campus located on West Paces Ferry Road in the City of Atlanta, Fulton County, Georgia;

WHEREAS, the Association represents and acts on behalf of the interests of the homeowners in the neighborhood that borders the Pace campus (the "*WPNA Neighborhood*");

WHEREAS, the Parties entered into a Neighborhood Long Term Cooperation Agreement (the "*2007 Agreement*") dated September 4, 2007, to evidence various agreements, arrangements and understandings reached by the Parties relative to Pace's use and future development of its campus; and

WHEREAS, the Parties have agreed to amend the 2007 Agreement in connection with Pace's proposed expansion of the lower school (the "*Lower School*") depicted on the "Master Campus Plan" attached to the 2007 Agreement (the "*2007 Master Campus Plan*");

NOW, THEREFORE, in consideration of the mutual agreements by each Party hereto, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the foregoing provisions and recitals as integral to this Amendment and agree as follows:

1. **Definitions.** Capitalized terms utilized in this Amendment which are not defined herein but are defined in the 2007 Agreement, shall have the definitions ascribed thereto in the 2007 Agreement.

2. **Expansion of Lower School Buildings.** The Association hereby agrees that Pace may demolish the portion of its existing Lower School known as the "Randall House" and construct a new building in the place thereof containing approximately 36,375 square feet of space, to be used for additional classroom, meeting room, administrative, and related purposes (the "*2018 Lower School Expansion*"), subject to the following conditions:

(a) The new Lower School building shall be located entirely within Building Area A at approximately the location shown in the site plan attached hereto as *Exhibit A*;

(b) The new building shall have a maximum height not exceeding that of the current Lower School building;

(c) Construction of the new Lower School building shall be subject to the receipt of all necessary permits and approvals from the City of Atlanta and compliance with all Building Regulations applicable thereto.

(d) Demolition of the existing Randall House and construction of the new Lower School building shall be designed and performed in a manner that complies with current City of Atlanta construction standards for management of surface water runoff, without regard to any so called "grandfathering" provisions which may be applied to such new construction.

3. **Storm Water Management.** Pace covenants and agrees to regularly inspect and monitor, and at all times to maintain in good operating condition and repair, all new and existing storm water collection and management areas and facilities located within the Property in accordance with current ordinances and regulations of the City of Atlanta and engineering best practices in order to assure the proper performance thereof in accordance with their respective designs.

4. **Neighborhood Security.** In order to promote security in the WPNA Neighborhood, beginning in calendar year 2019 and continuing through the remaining term of this Agreement, Pace agrees to fund the cost, not to exceed \$25,000.00 per year, of installation, operation, and maintenance of either a Flock Safety camera system or a "Bluelight" police observation camera system, at the election of the Association, on the neighborhood streets within the WPNA Neighborhood. Selection of the preferred camera security system, decisions regarding the location of equipment installed in connection with the selected system, and coordination and performance of the operation, maintenance, and monitoring of the selected system shall be the sole responsibility of the Association.

5. **Neighborhood Relations Committee.** The Parties hereby amend and restate Section 4 of Exhibit C of the 2007 Agreement, relating to the structure and purpose of the Neighborhood Relations Committee (the "***NRC***"), in its entirety as follows:

"4. **Neighborhood Relations Committee.**

(a) In order to facilitate transparency of communications between Pace and the Association as well as to facilitate review and consideration of future modifications to the Master Campus Plan or to the Conditions of Agreement which may be proposed by Pace from time to time in connection with Pace's desire to update and improve the physical facilities on the Property, the Parties establish a standing committee called the "Neighborhood Relations Committee" (the "***NRC***"). The NRC shall be comprised of six (6) members, three (3) of which shall be designated by each Party.

(b) The representatives of the Association on the NRC shall be nominated by the President of the Association and approved by the Association's Board of Directors (the "***Association Board***"). Such representatives may not be current Pace parents or grandparents, and may not be Pace employees, trustees, or spouses of same. Each representative shall serve for a term of three (3) years; provided, however, at the option of the Association Board, the term of one (1) of the Association's initial representatives may be extended for one (1) additional year, and the term of one (1) of the Association's

initial representatives may be extended for two (2) additional years, in order to create “staggered” terms for the Association’s representatives. Subject to the foregoing extensions, a representative of the Association may not serve on the NRC for consecutive terms. At least one (1) of the representatives of the Association on the NRC must reside on either Rilman Road, Wood Valley Road, Asheworth Court, or Gatewood Court. The other representatives of the Association shall not be limited to such streets but must be members of the Association. Members of the Association Board and officers of the Association shall not be prohibited from serving on the NRC.

(c) The representatives of Pace on the NRC shall be selected by the chair of the Pace Board of Trustees (the “Pace Board”). Each such representative of Pace shall serve for a term of three (3) years, subject to extension at the option of Pace.

(d) The purpose of the NRC will be to (i) review and consider future modifications to the Master Campus Plan or to the Conditions of Agreement which may be proposed by Pace from time to time in connection with Pace’s desire to update and improve the physical facilities on the Property, (ii) maximize transparency of communications between the Association and Pace in regard to such matters through regular quarterly open meetings and additional meetings as necessary to consider any “Proposed Modifications” described in Paragraph 6 below, or as may otherwise be necessary to perform its designated responsibilities pursuant to this Agreement; and (iii) monitor compliance by the Parties with the conditions set forth in the Agreement.

(e) The NRC will receive annually from Pace an in-person affirmation of the terms of this Agreement. In addition, the Pace Board, in a certificate signed by the Chair of the Pace Board and the Head of School, will annually affirm to the Association Board Pace’s compliance with the terms of this Agreement and the various conditions contained in all then existing special use permits pertaining to the Property that are then in force from this and prior agreements, including the conditions of U-93-22. The Pace Board will also affirm, as part of the certificate referenced above, Pace’s compliance with each of such conditions including, without limitation, the limits on the number of students then enrolled. The foregoing certificate will be delivered on or before June 30th of each fiscal year for the term of this Agreement.

(f) The affirmative vote of four of the six members of the NRC shall be required for any action to be approved by the NRC.”

6. **Future Amendments.** In the event that Pace at any time desires to propose additional modifications to the Master Campus Plan or to the Conditions of Agreement (a “*Proposed Modification*”), the following procedures shall apply:

(a) Any such Proposed Modification shall first be presented to the NRC for review and consideration. Pace will make reasonable efforts to address any concerns or objections regarding such a Proposed Modification which are identified by the representatives of the Association, which concerns or objections may reasonably include, without limitation, the types of concerns defined as “Qualified Objections” in the 2007 Agreement. The members of the NRC shall work together in good faith in the consideration of any Proposed Modification submitted by

Pace. The NRC shall vote on any Proposed Modification within sixty (60) days after the initial submission of such Proposed Modification.

(b) Promptly following the vote upon the Proposed Modification by the NRC, the Association Board shall (unless Pace desires to postpone, or to discontinue pursuit of, the Proposed Modification) notify the membership of the Association of such Proposed Modification and shall schedule a special meeting of the members of the Association (a “*Special Meeting*”) at which Pace shall present such Proposed Modification. Any such Special Meeting shall be scheduled on a weeknight other than Friday on a date not sooner than fourteen (14) days after the date on which notice of the Special Meeting is distributed to the Association membership; provided, however, no such meeting shall be scheduled on a holiday or between May 1 and August 15 of any year. Pace will make reasonable efforts to address any reasonable concerns and objections raised by any adjoining property owners or members of the Association regarding the Proposed Modification. Subject to any request for an extension by Pace, the Association Board shall vote to either approve or disapprove any such Proposed Modification within sixty (60) days after the Special Meeting, provided that the failure of the Association Board to take any action within such time period (as the same may be extended at the request of Pace) shall be deemed to constitute approval of such Proposed Modification by the Board.

(c) In the event that the Association Board does not approve of a Proposed Modification, Pace may require that the Association Board participate in a nonbinding mediation proceeding of at least eight hours of mediation with a mediator agreeable to both Parties. The Parties agree to share equally in the cost of the mediation. Mediation involves both parties sitting down with an impartial person, the mediator, to attempt to reach a voluntary settlement. Mediation involves no formal court procedures and the mediator has no authority to render a binding decision or force an agreement of the Parties. If an agreement of the Parties is reached, said agreement shall be memorialized in writing. The Parties agree that neither shall take any action with respect to any matter which has been submitted to the dispute resolution procedure pending completion of the foregoing dispute resolution procedures.

(d) The Association Board shall act in good faith in connection with any request for a Proposed Modification. If the Board does not act in good faith, Pace may seek a Declaratory Judgment to such effect and, if such proceeding determines that the Board has not acted in good faith, Pace may proceed to pursue any governmental approvals required in order to permit the Proposed Modification, without the approval of the Association Board.

(e) Except as described in subparagraph (d) above, Pace will not submit any application to the City of Atlanta or any department thereof for an amendment to Pace’s Special Use Permit in connection with a Proposed Modification until the Association Board has approved such Proposed Modification.

7. **Extension of Term.** Section 4(a) of the 2007 Agreement is hereby amended to extend the term of the 2007 Agreement, as amended hereby, until October 31, 2028.

8. **Support of Applications.** Implementation of the 2018 Lower School Expansion will require Pace to apply to the City of Atlanta for one or more special use permits, amendments to existing special use permits, variances, or special exceptions (collectively, “*Permits;*” any

severally, a “**Permit**”). Notwithstanding anything to the contrary provided in the 2007 Agreement, the Association agrees Pace may apply for such Permits for the 2018 Lower School Expansion consistent with the approval of the Association in this Amendment at any time after the Effective Date of this Agreement, i.e. without a thirty (30) day notification period. Based upon the agreements of Pace contained in this Amendment, the Association consents to the 2018 Lower School Expansion and agrees (a) to support all applications or requests for Permits for the 2018 Lower School Expansion consistent with the terms of this Amendment to the City of Atlanta or any department thereof for any Permit (collectively, “**Applications;**” any individually, an “**Application**”); (b) if deemed necessary by Pace, to have at least one (1) representative appear on behalf of the Association and make a statement at any hearing of the Neighborhood Planning Unit A, Board of Zoning Adjustment, Zoning Review Board and Atlanta City Council supporting any Application for the 2018 Lower School Expansion; (c) that it shall not authorize any representative of the Association to oppose Pace’s Applications for the 2018 Lower School Expansion; (d) that it shall not commence any action seeking to void or overturn any Application or Permit for the 2018 Lower School Expansion; (e) that it shall not voluntarily intervene in a suit commenced by a third party seeking to void or overturn any Application or Permit for the 2018 Lower School Expansion; and (f) that, should any person residing in the geographic area subsumed by the Association commence any action seeking to oppose, overturn or void an Application or Permit for the 2018 Lower School Expansion, the Association will not in any manner participate in or directly or indirectly support such action, in each case provided that such Applications and Permits are consistent with the terms of this Amendment.

9. **Miscellaneous.**

(a) The 2007 Agreement, including without limitation the enrollment cap contained therein, remains in full force and effect as amended by this Amendment. The 2007 Agreement as modified by this Amendment (collectively the “**Amended Agreement**”) contains all the agreements of the Parties regarding the Property. No other agreement or understanding between the Parties pertaining to the Property shall be effective for any purpose. The Amended Agreement may not be further amended or modified in any manner whatsoever except by an agreement in writing signed by the Parties. The Exhibit referenced in and attached to this Amendment is incorporated into this Amendment as integral hereto.

(b) This Amendment may be executed and delivered (including in PDF format by email transmission) in one or more counterparts, by the different Parties hereto in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one agreement.

(c) This Amendment shall be binding upon and shall inure to the benefit of the Parties and their respective successors. Notwithstanding anything contained in this Amendment to the contrary, nothing in this Amendment, expressed or implied, confers on any person other than the Parties and their respective successors any rights or remedies. Each Party expressly acknowledges and agrees that in the event of a breach or threatened breach of any provision of the Amended Agreement, the respective rights and obligations of the Parties shall be enforceable by specific performance, injunction, or other equitable remedy, it being agreed that damages at law may be an inadequate remedy.

(d) If any term or other provision of this Amendment is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Amendment and of the Amended Agreement shall nevertheless remain in full force and effect so long as the legal substance of the agreements contemplated hereby and thereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Amendment so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner to the fullest extent permitted by applicable law in order that the agreements contemplated hereby may be consummated as originally contemplated to the fullest extent possible.

(e) The descriptive headings contained in this Amendment are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Amendment. The Parties have participated jointly in the negotiation and drafting of this Amendment. In the event an ambiguity or question of intent or interpretation arises, this Amendment shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Amendment.

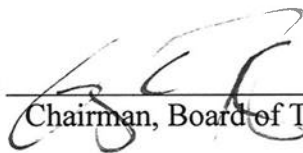
(f) The Effective Date is the latter of the two dates of execution and delivery of this Amendment by the Parties, as set forth below their respective signatures.

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[Signature Page Immediately Follows]

IN WITNESS WHEREOF, the undersigned duly authorized representatives of, the Parties to this Amendment to Neighborhood Long Term Cooperation Agreement, have hereunto set our hands and seals on the Effective Date.

PACE ACADEMY, INC.

By: 
Chairman, Board of Trustees

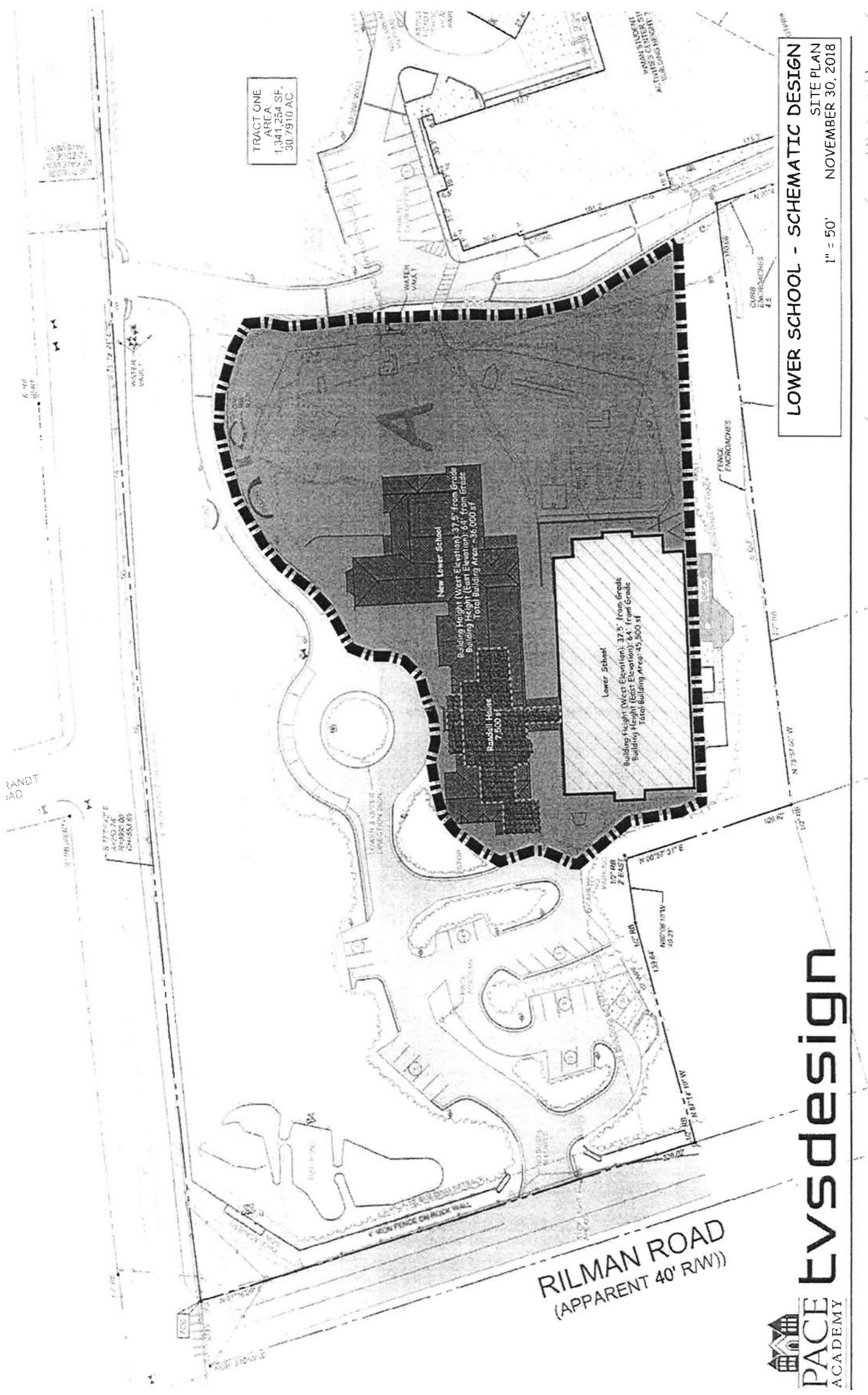
Date: 1/17/19

**WEST PACES/NORTHSIDE
NEIGHBORHOOD ASSOCIATION, INC.**

By: 
Name: Steve Dickson
Office: President

Date: 12/18/18

EXHIBIT A
Site Plan for Lower School Expansion



LOWER SCHOOL - SCHEMATIC DESIGN
 SITE PLAN
 1" = 50'
 NOVEMBER 30, 2018


PACE
 ACADEMY
tvsdesign