

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (this “Agreement”), is entered into as of this ____ day of _____, 2024, by and between the **Town of Brookline** (“Town”), acting by and through its Select Board, with its municipal offices located at 333 Washington Street, Brookline MA 02445 and the **Public Schools of Brookline** (“PSB”), acting by and through its School Committee, with its offices also located at 333 Washington Street, Brookline MA 02445, both parties herein referred to jointly as the “Parties”.

WHEREAS, the Town is the owner of certain property located at 110 Fisher Avenue, 150 Fisher Avenue, 146 Hyslop Road (a/k/a 129 Fisher Avenue) and 124 Fisher Avenue in Brookline, Massachusetts (collectively, the “Premises”); and

WHEREAS, PSB needs space to accommodate Grade 6-8 students from the Pierce School during its planned renovation and until the project is complete.

WHEREAS, the Premises contain a building formerly owned by Newbury College (the “Building”) whose certain designated facilities at 150 Fisher Avenue, as displayed on floor plan Exhibit A could be repurposed for use as a Middle school; and

WHEREAS, while the Town is currently using the Building for several municipal purposes, portions of it remain vacant and currently available to address some of the need for space during the Pierce School renovation;

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

1. PSB shall only use the Academic Building on the site. PSB will be able to use the first and second floor portions of the Building as designated on the Floorplan attached hereto as Exhibit A as space for existing designated Pierce School students, teachers and support staff and programs, including all attendant and related uses thereto as necessary, including Rooms 102, 103, and 105 currently utilized by the IT Department, but not Rooms 104A, 105A, 106, 103E1, and 103F1. No other non-Pierce school programs or non PSB staff shall be permitted on the site. PSB shall have the right to enter and exit the Building from the designated entrances, which shall not be entrances to the lower two floors, and the Town shall provide copies of any keys, access codes, identifiers and other means of entrance necessary to access the Building. PSB will not have access to any other building on the Premises. PSB’s use of the Building shall not extend to use for school purposes other than swing space during the Pierce School renovation. There will be no after-school programming allowed at the Building, ~~except that, By mutual written agreement between the Town, by and through its Director of Public Buildings or their designee, and PSB, by and through the Pierce Principal or their designee, the Building may be used after customary school hours for intermittent, informal uses such as back-to-school nights or parent-teacher conferences if a mutual written agreement for such use is made between the Town (by and through its Director of Public Buildings or their designee) and PSB (by and through the Pierce Principal or their designee). In such circumstances, PSB shall be responsible for all associated custodial services, and shall be responsible for securing the building following any such event.~~

PSB may utilize Fisher Hill Park and outdoor areas adjacent to the Academic Building for recess or for satisfying other student needs for outdoor space, but only pursuant to the following requirements:

- PSB may use Fisher Hill Park only when it is designated as “open” by the Parks and Open Space Division of the Department of Public Works. All parties recognize the Park is generally closed during rain and periods of freezing or thawing.
- PSB agrees to repave a designated portion of the parking lot on site and to lay out “hard court” play areas in that space, with all costs borne by PSB.
- PSB will coordinate its schedule for using Fisher Hill Park with the Parks and Open Space Division to insure the Division can adequately prepare Fisher Hill Park for practices and games.
- PSB cannot use Fisher Hill Park after school hours.
- PSB will provide any outdoor seating areas or playground equipment such as basketball hoops, and will be responsible for removing same unless given written authorization from the Town.
- PSB and Department of Public Works may work together to design classroom/educational activities for Fisher Hill Park.

2. Parking. Parking is available on-site in five separate areas delineated Areas A-E as show on the Parking Plan attached hereto as Exhibit B. Under the terms of this Agreement, PSB will have the right to utilize only Parking Areas B and C Monday through Friday. Parking Areas B and C may be used by PSB for staff or visitor parking, as PSB sees fit, but the Town will have the right to use Parking Areas B and C during the weekends. Parking Area D is for Public use. Parking Areas A and E cannot be used for handicap parking. No Parking Area, including Parking Areas B and C, may be used for pick up or drop of students, nor may they be used for deliveries. The driveways on the north side of the building, used to enter and exit Fisher Avenue, are for Town use only; this also include the driveway on the east side of the property that leads to Parking Area A. PSB shall not use these driveways for deliveries, pick-up/drop off, storage, refuse removal, or standing/ non standing parking. All School deliveries are the responsibility of the School Department staff to receive, and shall be received on the first floor area of the Building designated as classroom space. PSB shall not use the parking lot adjacent to Fisher Hill Park for parking. The loading dock servicing the Academic Building shall be solely for use by the Building Department or IT Department.

PSB shall have bus and van service drop off and pickup in front of the building located at 150 Fisher Ave. PSB requests signs be posted designating the space for school bus, van and delivery vehicles only. Staff from the Town and PSB will review the plan for conformance with this MOU.

To the extent parents, PSB staff, or students utilize street parking around the Premises, they shall not, in doing so, block access to any Town parking lots. Parking or standing on Hyslop Road will not be permitted.

PSB shall be responsible for installing all necessary barriers and signage as required.

3. Term. The term of this Agreement shall be from June 1, 2024 to, forty-five (45) days after the New Pierce School obtains a Temporary Certificate of Occupancy, unless extended by mutual agreement memorialized in writing by both parties. Parties may, by mutual agreement, terminate this Agreement at any point.

4. Designated Use: Occupancy shall be based on the same access granted to other PSB school staff. Teachers and support staff shall have access the first weekday on or after August 15 before the school year begins and through five days after the last day of school from the hours of 7 AM to 7 PM, like all other school staff. The Principals, Custodians and Admin shall have access 24/7/365 for cleaning, summer-cleaning and quiet enjoyment of the agreed upon spaces. PSB shall responsible for securing the building to the extent it is utilized after 3:30 PM, including locking all doors and windows and setting all alarms. The building cannot be sublet out to any group. The Town is not responsible for any equipment, materials, or other infrastructure left in the Building by PSB subsequent to the term. PSB shall be responsible for returning all portions of the Building used pursuant to this MOU to their original state, and shall remove all furniture and equipment from said portions of the Building unless: (a) the furniture and equipment pre-dated the term of this MOU, or (b) the Town consents in writing for such furniture and equipment to stay. Any disposal of PSB refuse, including furniture or other large items, shall be the responsibility of PSB. To the extent the Town is forced to incur costs associated with clearing out the Building following PSB usage, PSB will reimburse the Town for those charges.

In the event the Town determines that PSB, or any of its agents, are utilizing the Building for purposes other than those stated in Section 1, in contravention of any other section of this Agreement or in a manner detrimental to the health, welfare or safety of the surrounding neighborhood or the public at large, it may notify PSB in writing. PSB shall be given thirty (30) days from receipt of the writing to address the Town's concern. In the event PSB fails to address the concerns in a manner satisfactory to the Town within the allotted period, the Town shall have the option of terminating this Agreement.

5. Understanding as to Barred Areas. PSB recognizes that the portion of the Building designated as either "IT" or "Building Dept Space Only" on the floorplan attached as Exhibit A ("the Barred Area") is currently used by Town Departments and shall remain in use by Town Departments during the Term. The Barred Area is not included within the space made available to PSB pursuant to Section 1. Moreover, the Barred Areas may contain activities or materials that could be hazardous. The Town shall make reasonable effort and take practical measures to secure spaces and materials so PSB students and staff cannot access them, but all parties recognize that PSB shall be responsible for reasonably insuring that no students, teachers, parents/caregivers or any other individuals present in the Building as invitees, employees, or guests of PSB access the Barred Areas. PSB acknowledges and accedes to the fact that the Town's use of the Barred Area may, at times, cause noise, odor, vibration, or other effects potentially distracting to students or faculty utilizing the Building pursuant to this Agreement.

6. Indemnification. PSB shall at all times save the Town harmless, and exonerate and defend and indemnify the Town from and against any and all claims, liabilities or penalties asserted by or on behalf of any person, firm, corporation or public authority on account of nuisance or injury, death, damage or loss to person or property stemming from the use or occupancy of the Building by PSB or anyone present at the Building as PSB's employee, agent, or guest, including students and parents/caregivers.

7. Rent. As consideration for the use of the Building during the Term, PSB shall pay rent of \$1 to the Town.

8. Maintenance. Major maintenance of the Building, including all Building-wide security, electrical, HVAC, fire prevention, and other systems, shall remain the responsibility of the Town, who shall insure to the best of its ability that all classrooms and associated areas are suitable for the use contemplated by this Agreement. PSB shall provide a full time, site designated custodian who shall be responsible for all minor maintenance, repairs, school operations, security and reporting of work orders. PSB shall also provide all custodial services for the space used, including the elevator, stairs and open areas that are below the first floor by the open stairs. PSB shall be responsible for the installation and maintenance of all technology, furniture, office equipment, network, and wifi, to run the school program. At the end of the term, unless mutually agreed upon, PSB shall remove any and all technology, furniture and office equipment. Building Department staff utilizing the Building will not be expected to support PSB usage any more so than they support any other PSB school property where students and staff occupy space.

9. Staffing. In addition to the custodian described in Section 7, PSB shall have an administrator on-site while school is in session. The on-site administrator will be the point of contact with the Building Department, and all concerns raised by parents, PSB staff, or students will be directed to the administrator, where appropriate.

10. Trash and Refuse. PSB will be responsible for all trash removal, recycling, food composting, large item disposal, disposal of hazardous materials, or other measures taken to deal with waste generated by PSB usage of the Building, including coordination with the Department of Public Works or outside vendors. All pick-up schedules for refuse must be coordinated with the Department of Public Works.

Bins and storage containers for PSB trash will be located in a parking space in a back corner of Parking Area B, as shown on Exhibit A. PSB refuse cannot be stored in Parking Areas A or E. PSB is not permitted to use any Building Department trash containers on-site. PSB shall be responsible for trash and litter pickup in all exterior areas of the Premises used by PSB staff and students and, to the extent PSB utilizes Fisher Hill Park, for Fisher Hill Park.

11. Miscellaneous.

(a) This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

(b) PSB shall coordinate with the Department of Public Works for any snow removal needs.