

January 31, 2019

**MEMORANDUM OF AGREEMENT BETWEEN
THE ANDOVER BOARD OF EDUCATION AND THE TOWN OF ANDOVER
REGARDING SHARED USE OF ANDOVER ELEMENTARY SCHOOL**

This Memorandum of Agreement (the "Agreement") is made as of the date of the final signatures, 2019, by and between the **ANDOVER BOARD OF EDUCATION** (the "Board") and the **TOWN OF ANDOVER** (the "Town"), together, the "Parties," and each a "Party".

WHEREAS, the Board, as of the effective date of this Agreement, is not fully utilizing the building (the "School Building") that houses the Andover Elementary School (the "School") due to declining student enrollment in recent years; and

WHEREAS, the Town is in need of a new location to perform certain functions outlined in this Agreement; and

WHEREAS, pursuant to Connecticut General Statutes Section 10-239, the Board wishes to permit the Town to utilize a portion of the School Building, on a temporary basis, for the purposes set forth in this Agreement; and

WHEREAS, the Parties wish to memorialize their agreement with respect to the temporary shared use of the School Building.

NOW THEREFORE, the parties agree as follows.

**ARTICLE I
PROGRAM SCOPE, LOCATION, AND HOURS OF OPERATION**

- 1.1 The Town operates the program and services described in Exhibit A, attached hereto and made a part hereof (the "Program"). The Parties may mutually agree to modify the Program in writing. The Town is solely responsible for the Program and shall supply all necessary equipment, services, labor, licenses, permits, insurance, materials, and supplies to run the Program, except as otherwise expressly provided in this Agreement.
- 1.2 The Program shall be located in the areas of the School Building described in Exhibit B, attached hereto and made a part hereof (the "Program Space"). The terms used in Exhibit B shall have the same meaning as the terms used in this Agreement. The Town understands and agrees that it shall not have access to the elevator in the School Building, and that the Town is solely responsible for complying with any applicable laws and/or codes notwithstanding such lack of access to the School Building elevator. The Town may use additional space in the School Building with the prior written consent of the Board or the Superintendent of Schools for the Andover Public Schools (the "Superintendent"). Although it is owned by the Town, the Parties acknowledge and agree that the School Building, including, without limitation, the Program Space, are under the jurisdiction and control of the Board pursuant to Connecticut General Statutes Section 10-220.

- applicable. The Board may determine, after consultation with the Town, that based on information received pursuant to this Section 2.4 a Town User may not use the Program Space.
- 2.5 If any of the Town Users are disruptive to the Board's operations at the School, the Board shall notify the Town and request removal of any such Town User from the Program Space and the Board's property, and the Town shall reasonably comply with any such request.
 - 2.6 The Town is solely responsible for all Town Users during any period in which such Town Users are using the Program Space. The Town shall be responsible for any equipment or other personal property it keeps in the Program Space.
 - 2.7 The Town shall ensure that the Town Users do not enter any other part of the School. The Town acknowledges and agrees that the Town's use of the Program Space is not exclusive. The Town further acknowledges and agrees that the Board and its employees, agents, and contractors may access the Program Space in the event of an emergency and the Board and its employees, agents, and contractors may access the Program Space, upon reasonable notice to the Town, to (i) inspect the same or (ii) perform obligations of the Board, required or permitted, as provided in this Agreement.
 - 2.8 The Town shall be responsible for maintaining the Program Space at its expense (except as otherwise expressly provided in this Agreement) in a clean, neat, and orderly condition.
 - 2.9 The Town shall not cause or permit any damages to Board premises, property, furnishings, fixtures, or equipment and will not do or allow anything to be done which would damage or change the finish or appearance of the Program Space, or its furnishings, fixtures, or equipment, except as otherwise expressly provided in this Agreement. The Town is responsible for the cost to repair any damage done.
 - 2.10 The Town understands and acknowledges that animals, except for service animals, are expressly prohibited from entering the School Building, including, without limitation, the Program Space. The Town shall comply, and shall cause anyone using the Program Space to comply, with such rule.
 - 2.11 The Town expressly acknowledges and agrees that the Town is prohibited from utilizing Board resources, supplies, and services which may be located in the School Building (*e.g.*, nursing services, copy machines, cafeteria, food) except as otherwise expressly permitted under this Agreement or by the prior written agreement of the Board or the Superintendent.
 - 2.12 The Town understands and agrees that the Board has sole discretion to determine the nature and extent of the participation by Town Users in fire drills and other safety and emergency drills held in the School Building during such times that the Town is

perform any alterations, modifications, or changes to the Program Space, its contents, or any other part or contents of the School Building (“Other Renovations”) without the prior written consent of the Board. If the Town wishes to perform any Other Renovations to the Program Space, the Town shall submit to the Board a written description of such Other Renovations for review and consideration. Costs of such changes will be paid by the Town.

- 3.2.2 The Program Space Access and any Other Renovations performed under this Agreement shall be constructed in accordance with all applicable local and state laws, regulations, and building codes. The Town will comply with the Board insurance requirements and indemnify the Board.
- 3.3 The Board shall provide the Town with parking spaces for general use in connection with the Program. The Parties shall mutually agree on the number of parking spaces that the Board shall provide the Town, provided that the Board shall not be required to provide more than twenty (20) regular parking spaces and four (4) handicapped parking spaces to the Town. Such parking spaces shall be located in the area of the School Building’s upper parking lot adjacent to the School Building’s main entrance and east of the Program Space, unless the Parties mutually agree otherwise. On days on which a major School-wide event is being held at the School, the Board may limit the number of dedicated parking spaces to the Town. The Parties shall mutually agree on the number of parking spaces that the Board shall provide the Town on days when a major School-wide event is being held at the School, with advance notice to the Town, provided that the Board shall not be required to provide more than fifteen (15) regular parking spaces and two (2) handicapped parking spaces to the Town on such days. The Superintendent and the Town’s Contact will jointly create a master schedule that reflects the days of such major School events.
- 3.4 The Board shall provide and pay any costs associated with utilities (*i.e.*, electricity, heating) for the Program Space (the “Utility Costs”), except that the Town shall pay the full cost of any air conditioning, including usage and equipment. Notwithstanding the foregoing, the Parties agree that if the Board determines that the Utility Costs have increased by five percent (5%) or more after the first twelve (12) months following the beginning of the Term of this Agreement, the Board may require the Town to contribute to the Utility Costs in an amount to be mutually agreed by the Parties. The Parties shall mutually agree on the division of any additional utility costs that may arise during the Term of this Agreement.
- 3.5 Telephone and internet access needs of the Town in and/or related to the Program Space will be determined and any additional costs will be borne by the Town.
- 3.6 The Board shall provide all maintenance and facility reviews necessary for the maintenance and improvement of the indoor air quality of the Program Space in accordance with all laws, rules, regulations, and Board policies applicable to the indoor

- 4.4 The Parties expressly acknowledge, understand, and agree that the Board has and reserves the right to reclaim part or all of the Program Space during the Term of this Agreement in order to meet the operational needs of the Andover Public Schools. If the Board determines that it will reclaim part or all of the Program Space during the Term of this Agreement, the Board will provide the Town with written notice of its decision to reclaim part or all of the Program Space no later than November 1 of any year during the Term of this Agreement, and the Board will reclaim such part or all of the Program Space effective July 1 of the following year.
- 4.5 In the event of any taking of or damage to all or any part of the School Building prior to the expiration or earlier termination of this Agreement and by reason of any exercise of the power of eminent domain (whether by condemnation proceedings or otherwise) or by reason of any transfer of all or any part of the School Building made in avoidance of such an exercise, this Agreement shall terminate as of the date of such taking or transfer.
- 4.6 If any material part of the Program Space is damaged or destroyed by fire or other casualty the Board may terminate this Agreement by reasonable notice to Town.
- 4.7 By the expiration of the Term or on any termination of this Agreement, the Town shall vacate and remove all of its equipment and other personal property from the Program Space and leave it in good order and condition. The cost of any such removal shall include the cost of repairing any damage to the Program Space by such removal and shall be borne solely by Town. If this Agreement is terminated by the Board before the end of the Term for any reason set forth in Section 4.4 of this Agreement, the Board shall pay for the cost of removal by the Town except for the cost of repairing any damage to the Program Space caused by such removal.

**ARTICLE V
MISCELLANEOUS PROVISIONS**

- 5.1 The Town shall assume all liability for the Program. The Board shall not be liable for the Program or any activity related to the Program. The Board shall not be liable for any loss or damage to property or injury to persons resulting from theft, fire, or other casualty, except to the extent such theft, fire, or other casualty is caused by an employee of the Board. The Town shall give prompt notice to the Board in case of a casualty or accident in the Program Space. The provisions of this Section shall survive termination or expiration of this Agreement.
- 5.2 If any provision of this Agreement is found to be invalid or illegal by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect, and the Parties agree to substitute for the invalid provision another which most closely effectuates the legal and economic intent of the invalid provision within the bounds of the law.

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assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other Party, or to bind the other Party in any matter or thing whatsoever. No Party shall make representations that it is an employee, agent, or representative of the other Party. The Town shall be accountable for any violations of applicable laws, rules, or regulations which result from acts or omissions of the Town Users or other third parties utilizing the Program Space. The Town shall not be accountable for any such violation which results from any act or omission of an employee of the Board, or of any third party who is not authorized to use the Program Space in accordance with this Agreement.

[The signature page follows.]

January 31, 2019

IN WITNESS WHEREOF, the Parties to these presents have hereunto set their hands and seals
as of the 12th day of April, 2019.

WITNESS

Diane Kane
Jared Owen

ANDOVER BOARD OF EDUCATION

By: Gale & Dayer 4/12/19
Shannon Q. Gaudin

WITNESS

Diane Kane

TOWN OF ANDOVER

By: Robert J. Bourbonnais
1ST Selectman

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EXHIBIT A

The following programs and services provided by the Town of Andover are outlined below. Both Boards can agree to modify these programs and activities through mutual agreement. The following activities are presented for the first two years of the program, realizing that changes and modifications will most likely be made.

❖ **2019-2020**

- The usage of the program space during the school day of the first year will be limited to the Andover Senior Citizens' activities. Use of the facility for any other purpose must be scheduled in advance and approved by the Town Administrator and the Superintendent of Schools, or designees.
- Events will be scheduled by the month with the monthly schedule being completed before a new month begins.
- Entrances and exits to the program space will be locked during school hours and the Senior representative will arrange to have the entrance staffed so that only appropriate attendees may enter. A buzzer will be installed at the entrance doors to the space.
- Attendees at the programs will not enter the rest of the school building.
- Specifics as to cost-sharing and other shared services are outlined in the MOA.
- Written checklists will be developed that will outline the guidelines for usage of the space for the attendees, including cleaning and any unusual situations. This sheet will be completed and signed by the program designee. It will be submitted to the Town Administrator when completed. A second evaluation checklist will be developed to be completed by AES custodial staff members who are assigned to clean the space on a periodic basis. These two documents will be used to determine appropriate usage of the space and address any concerns or issues that either party may have.
- A weekly phone conversation will be held between the Town Administrator and Superintendent of Schools as a way to keep informed on program space usage and any issues that might have arisen.
- A periodic report (on a quarterly basis) will be presented to the Board of Education and the Board of Selectmen. At any point, either Board may suspend activities in the program space in order to ensure that safety and security guidelines are being followed, or if any situation occurs that may require that activities be suspended for a certain period of time.

2019-2020 Summary

The 2019-2020 school year will be considered a pilot for the space usage and a determination could be made by either Board to modify or suspend the programming in that space.

❖ 2020-2021

A review of the first year will be completed prior to the beginning of year two of the space usage. The Senior program coordinator will complete a report and share it with the Town Administrator and the Superintendent of Schools, to be communicated to the two Boards.

EXHIBIT A

Needs:

1. Seniors dedicated space
2. Meeting space small and medium
3. Show movies and have lectures with projector capability
4. Exercise area
5. Summer programs
6. Activities space
7. Afterschool area for students

EXHIBIT B

The Program Space, which is part of the School Building, is located off the upper parking lot in the southwest corner of the School Building. When facing the main entrance to the School Building, the Program Space is located to the left. It is separated from the rest of the School Building by an interior door, off the main entrance lobby. A ramp and entranceway to the Program Space is currently located at the south end of the wing, facing the upper parking lot area. The interior of the Program Space consists of four rooms, each measuring approximately thirty (30) feet by twenty-four (24) feet, a girls' lavatory, a boys' lavatory, a room currently occupied by the school nurse, and a small conference room which measures sixteen (16) feet by sixteen (16) feet. The aforementioned spaces are connected by a U-shaped corridor which measures eight (8) feet wide, and which is lined by lockers along two of the corridor walls. In total, the Program Space consists of approximately five thousand four hundred (5,400) square feet. Each classroom space has exterior windows, and windows face west at the end of one of the corridors.

A floor plan of the Program Space follows.

