

Board of Selectmen Meeting
Notice & Agenda
May 13, 2020

Notice is hereby given that the Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority will hold a public meeting on Wednesday, May 13, 2020 at 9:00 a.m. Pursuant to the Governor's Executive Order No. 7B, there is no physical location for this meeting. It will be held electronically, live streamed on www.westportct.gov, and broadcast on Westport's Optimum Government Access Channel 79 and Frontier Channel 6020. Emails to the Board of Selectmen prior to the meeting may be sent to selectman@westportct.gov. Comments to be read during the public comment portion of the meeting may be emailed to BOScomments@westportct.gov. We will use our best efforts to read public comments if they are received during the public comment period, include your name and are brief; no longer than 3 minutes. Agenda to include but not be limited to the following (subject to revision):

1. To take such action as the meeting may determine to approve the minutes of the Board of Selectmen's Public Meeting and the Water Pollution Control Authority's Public Meeting of April 22, 2020.
2. To take such action as the meeting may determine to approve the Lease between the Town of Westport and The Parent Child Center, Inc. for town property known as 90 Hillspoint Road.
3. To take such action as the meeting may determine, upon the request of the Department of Human Services, to approve documents associated with the FY 2020-2021 CT Department of Housing CDBG Grant Application.
4. To take such action as the meeting may determine to approve the Award of Contract RFP #20-994T (Coleytown Middle School: Furniture, Fixtures and Equipment) to Insalco Corporation in the amount of \$257,492.82.
5. To take such action as the meeting may determine to approve the Microsoft Enterprise Volume Licensing Agreement between the Town of Westport and Microsoft Corporation.
6. To take such action as the meeting may determine to approve the Gold Maintenance Agreement between the Town of Westport and Weissco Power LLC for the maintenance of uninterrupted power supply equipment.

James S. Marpe, First Selectman
May 6, 2020

1. To take such action as the meeting may determine to approve the minutes of the Board of Selectmen's Public Meeting and the Water Pollution Control Authority's Public Meeting of April 22, 2020.

Board of Selectmen Meeting
April 22, 2020
Minutes (DRAFT)

The Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority held a public meeting on Wednesday, April 22, 2020 at 9:00 a.m. Pursuant to the Governor's Executive Order No. 7B, it was held electronically, live streamed on www.westportct.gov, and broadcast on Westport's Optimum Government Access Channel 79 and Frontier Channel 6020. In attendance were Jim Marpe, Jennifer Tooker, Melissa Kane, Eileen Flug, Peter Ratkiewich, Bryan Thompson, Susan Pfister, Susan Stefenson, presenters as noted in the minutes, and Eileen Francis, recording secretary.

MINUTES

1. Jen Tooker presented Item #1. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the minutes of the Board of Selectmen's meeting of April 1, 2020 are hereby APPROVED.

APPROVE ACCEPTANCE OF THE SCULPTURE KNOWN AS ROCK, PAPER, SCISSORS MONUMENT TO THE WESTPORT PUBLIC ARTS COLLECTION

2. Town Curator and WAAC member Kathie Bennewitz and WAAC Co-chair Nancy Diamond presented Item #2. Ms. Bennewitz provided the history of the art sculpture and the possible areas in Town where it may be installed, noting that other town bodies will be reviewing that aspect of the gift acceptance process. She also noted that the ongoing maintenance of the sculpture will be managed by the Arts Advisory Committee and the cost of such maintenance is included in its budget. Ms. Diamond concurred with Ms. Bennewitz. The WAAC and the Board of Selectmen thanked the donors, Bill Scheffler and Ann Sheffer, for their generous gift and their longstanding contributions to the art community in Westport. While there was an e-mail question posed during the meeting, technical difficulties prevented reading it into the record during the public comment portion meeting. The comment was recorded and the response to the resident's question, concerning potential options for the placement of the sculpture on other town property, was answered. It was noted that there would be two additional opportunities to request details about the options for the sculpture's potential location at public meetings of the P&Z Commission and RTM. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that upon the recommendation of the Westport Arts Advisory Committee and in accordance with the Policy for Gifts to the Town, to accept the donation of the sculpture known as *Rock, Paper, Scissors Monument* (2013) to the Westport Public Arts Collection is hereby APPROVED; and

FURTHER RESOLVED, that the First Selectman is hereby AUTHORIZED to recommend its acceptance by the Representative Town Meeting.

APPROVE MOU BETWEEN FOR EXPANSION OF PROGRAM TO INCLUDE FROZEN MEALS TO GO SERVICES FOR SENIORS

3. Director of the Westport Center for Senior Activities Sue Pfister presented Item #3. Ms. Pfister explained that due to the COVID-19 pandemic, there was a need to include frozen meals to go in the plan currently utilized by the Senior Center. The MOU updated the agreement between the Southwestern Connecticut Agency on Aging and the Town. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the MOU between the Town of Westport and Southwestern Connecticut Agency on Aging, Inc. as it relates to the process and requirements of the Elderly Nutrition Program (ENP) expansion for providing frozen to go meals services at the Westport Center for Senior Activities is hereby APPROVED.

APPROVE CATERING AGREEMENT BETWEEN THE TOWN AND CREATIVE CULINARY SERVICES, LLC

4. Director of the Westport Center for Senior Activities Sue Pfister presented Item #4. Ms. Pfister and Assistant Town Attorney Eileen Flug provided background on the Agreement. Creative Culinary has an existing Agreement with the Western Connecticut Council on Aging, and this Agreement formalizes the arrangement between Creative Culinary and the Town of Westport. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the Catering Agreement between the Town of Westport and Creative Culinary Services, LLC for the provision of catering services to the Center for Senior Activities for its Senior Nutrition Program is hereby APPROVED.

ITEM #10 - Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, the Board approved revising the agenda to hear Item #10 after Item #4.

APPROVE MOU BETWEEN TOWN OF WESTPORT AND CT UNITED WAY FOR COVID-19 RESPONSE FUNDS

***REVISION 2 Added 04-20-2020*

10. Susan Stefenson representing the Human Services Department presented Item #10. Ms. Stefenson and Assistant Town Attorney Eileen Flug explained that the MOU is necessary so that the Human Services Department personnel have the authority to distribute and administer the funds collected by the CT United Way specifically for the COVID-19 pandemic. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the Memorandum of Understanding between the Town of Westport and the United Way of Coastal Fairfield County as it relates to the administration of the Connecticut United Way's COVID-19 Response Fund (CTUW Fund) is hereby APPROVED.

ITEMS 5-8

WPCA Collection Systems Supervisor Bryan Thompson presented Items 5-8. For each, Mr. Thompson explained how the process proceeded from petition to final assessment, including the schedules of public meetings where the Board of Selectmen, the Planning and Zoning Commission, the Board of Finance and the RTM reviewed the applicable components for the project, including but not limited to, review of the CGS Sec 8-24 requests, bids and appropriations approvals, and cost analyses before, during and after the construction. Mr. Thompson noted that questions concerning the assessment notices were reviewed and answered prior to the meeting.

APPROVE FINAL BENEFIT ASSESSMENTS FOR WATER MAIN EXTENSION CONTRACT W7

5. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that in accordance with Chapter 147, Article III, of the Town of Westport Code the final benefit assessments for the extension and installation of a public water main to service properties located in all or part of Broad Street, Cavalry Road and Crooked Mile Road (Contract W7) are hereby APPROVED.

APPROVE FINAL BENEFIT ASSESSMENTS FOR WATER MAIN EXTENSION CONTRACT W8

6. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that in accordance with Chapter 147, Article III, of the Town of Westport Code, to approve the final benefit assessments for the extension and installation of a public water main to service properties located in all or part of Elwil Drive (Contract W8) are hereby APPROVED.

ITEMS 7 AND 8 WERE APPROVED BY THE BOARD ACTING IN ITS CAPACITY AS THE WATER POLLUTION CONTROL AUTHORITY

APPROVE FINAL BENEFIT ASSESSMENTS FOR PROPERTIES THAT OBTAINED SEWER SYSTEM UNDER CONTRACT 71

7. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that acting in its capacity as the Water Pollution Control Authority (WPCA) and in accordance with Connecticut General Statutes, the final benefit assessments to be levied against properties that obtained a sewer system affecting properties located in all or part of the following areas: Clinton Avenue, Fillow Street, Breezy Knoll, Richmondville Avenue, Sniffen Road, Loren Lane, Calumet Road, Stone Drive (Contract No. 71) are hereby APPROVED.

APPROVE FINAL BENEFIT ASSESSMENTS FOR PROPERTIES THAT OBTAINED SUPPLEMENTAL SANITARY SEWER CONNECTION APPROVAL DURING 2019

8. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that acting in its capacity as the Water Pollution Control Authority (WPCA) and in accordance with Connecticut General Statutes, the final benefit assessments to be levied against properties that that obtained supplemental sanitary sewer connection approval during 2019 are hereby APPROVED.

APPROVE CONTRACT BETWEEN THE TOWN OF WESTPORT AND CONTE CONSTRUCTION FOR SAND REDISTRIBUTION

**REVISION 1 Added 04-17-2020*

9. Director of Parks and Recreation Jennifer Fava presented Item #9. Ms. Fava described the RFP process and the costs associated with the winning bid. She explained that Conte Company's bid was less than previous years. Due to CT DEEP requirements, the sand distribution was in progress and need to be complete before May 1. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the contract between the Town of Westport and Conte Company, LLC as it relates to the annual sand redistribution at Town beaches is hereby APPROVED.

ADJOURNMENT

Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, the meeting was adjourned at 10:40 AM

Eileen Francis, Recording Secretary

2. To take such action as the meeting may determine to approve the Lease between the Town of Westport and The Parent Child Center, Inc. for town property known as 90 Hillspoint Road.



WESTPORT, CONNECTICUT

OFFICE OF THE TOWN ATTORNEY

MEMORANDUM

Date: February 24, 2020

To: Members of the Board of Finance

CC: James S. Marpe, First Selectman
Gary Conrad, Finance Director
Helen Garten, Chair of First Selectman's Real Property Committee

From: Eileen Lavigne Flug, Assistant Town Attorney

Re: 2020 Lease between the Town of Westport and the Parent Child Center, Inc. ("PCC")
(the "Hillspoint School Lease")

In preparation for your review of the new Hillspoint School Lease, and in compliance with the Policy on the Lease of Town Property, attached are following documents:

- 1) Term Sheet and Lease, including a redline of the Lease back to the 2005 Lease.
- 2) Letters from PCC dated April 10, 2019 requesting renewal of the lease and dated May 28, 2019 regarding use of the space, programming, and financial matters. (Attachments are excluded as they are replaced with the current financials (item 3 below) and current report of property expenses paid by PCC (item 7 below).
- 3) Current financial statements of PCC and its subtenants: the Learning Community Day School, Inc., Saugatuck Child Care Services, and The Children's Community Development Center, Inc. (attached separately in the email to you).
- 4) Background Report prepared by Helen Garten, attaching Report of the First Selectman's Real Property Committee dated February 10, 2020.
- 5) Fire Marshall Nathaniel Gibbons' inspection report dated January 31, 2020.
- 6) Superintendent Mike Frawley (DPW)'s Annual Facility Inspection dated February 19, 2020 including list of capital/major maintenance projects anticipated through 2029.
- 7) Report of property expenses paid out of PCC Account for past 3 years.
- 8) Report of property improvements made and paid for by PCC and the 3 schools, for past 3 years.
- 9) Lease revenues for the past 3 years.
- 10) Compliance Statement from Town Attorney's Office.
- 11) Field card showing appraised value.

If you need any further information or have any questions in advance of the meeting, please let me know. Thank you.

90 HILLSPPOINT ROAD

PARENT CHILD CENTER INC. LEASE

LEASE TERM SHEET

1. **LANDLORD:** Town of Westport
2. **TENANT:** Parent Child Center, Inc. ("PCC")
3. **SUBTENANTS:** Learning Community Day School, Inc., Saugatuck Child Care Services, Inc., and Children's Community Development Center, Inc.
4. **LEASED PROPERTY:** 90 Hillspoint Road. The property is a 6.9 acre parcel located in a residential district. The building is roughly 39,000 sq. ft. The property has been leased to the PCC and occupied by the three non-profit organizations since 1980. Since that time, the P&Z Commission has consistently issued positive §8-24 reports for the continued leasing of the building. The last positive §8-24 report was issued in 2004 for the current lease. The Board of Finance also recommended the prior Hillspoint School Lease in April 2005 and a five-year renewal in 2015, which expires August 31, 2020.
5. **RENT:** The first year's rent will be \$64,726.95 with a 2.5% annual increase thereafter. See Schedule A to the Lease for the escalation chart.
6. **TERM:** Ten years commencing September 1, 2020, with one 5-year option to renew.
7. **SECURITY DEPOSIT:** None
8. **TOWN SERVICES REQUIRED:** The Town reserves the right to use the playing fields located in the rear of the building and is responsible for maintaining such fields. The Lessee is responsible for all other maintenance of the building and grounds, except that major repairs and maintenance are paid out of the Parent Child Center Account as described below. The Lessee is also responsible for all operating costs, including utilities.
9. **ESCROW ACCOUNT FOR MAJOR REPAIRS:** Out of each year's rent, \$15,000 is deposited into the General Fund, and the remaining amount is deposited into an escrow account entitled the "Parent Child Center Account" ("PCC Account"), which is owned and administered by the Town and used to pay for the repair or replacement of structural and/or mechanical components in excess of \$1,500. The \$15,000 General Fund deposit is an increase from the \$10,000 deposit in the 2005 lease, and the \$1,500 threshold repair and maintenance amount is an increase from \$1,000 in the 2005 lease. These amounts were determined based on the current balance of the PCC Account and anticipated major repairs. The current balance of the PCC Account is \$387,370.25 as of January 30, 2020. The two major capital projects anticipated are a new roof (\$250,000 estimated) and repaving the driveway ((\$250,000 estimated). The PCC Account is not available for ordinary repairs or maintenance, which are the responsibility of the

Lessee. To the extent any structural or mechanical repair in excess of \$1,500 is necessary and neither the Town nor the Lessee elects to make or pay for the excess cost of such repair, the lease will terminate.

10. **TOWN'S RIGHT TO RECLAIM THE PROPERTY:** Section 13 of the Lease gives the Town the right to terminate the Lease and reclaim the premises for municipal purposes with notice to the tenant, in which event the tenant must vacate no later than twelve (12) months after the end of the current school year. If the termination is due to the Board of Education's need to use the premises as a school due to an Act of God or other casualty, the notice period is shortened to twelve (12) months after the date of the termination notice.

**TOWN OF WESTPORT, CONNECTICUT
THE PARENT CHILD CENTER, INC. LEASE**

This lease, (hereinafter the "Lease") is made this _____ day of _____ 20__ by and between the Town of Westport, (hereinafter the "TOWN"), a municipal corporation of the State of Connecticut, acting herein by James S. Marpe, its First Selectman, and the PARENT CHILD CENTER, INC., (the "PCC") a non-profit corporation of the State of Connecticut, (hereinafter the "LESSEE") acting herein by its President.

WHEREAS, the TOWN is interested in maintaining an educational use at the Hillspoint Elementary School and in maintaining the character of the community immediately surrounding the School; and

WHEREAS, the LESSEE oversees a preschool/day care center at the Hillspoint Elementary School; and

WHEREAS, the TOWN desires to rent the School and the real property of which the School is a part to the LESSEE subject to the terms and conditions of this Lease;

NOW, THEREFORE, in consideration of the mutual covenants of the parties, it is hereby agreed as follows:

1) Lease

The TOWN hereby demises and leases unto the LESSEE and the LESSEE hereby hires and takes from the TOWN for the term and covenants and upon the rentals hereinafter specified, the premises known as the Hillspoint Elementary School together with the real property of which the School is a part, owned by the TOWN and located at 90 Hillspoint Road, Westport, Connecticut, as shown on Westport Land Records Map Number 7434 (hereinafter, the "Premises").

2) Term; Option to Renew

Unless earlier terminated pursuant to the provisions hereof, the initial term of the Lease shall be for ten (10) years commencing September 1, 2020 and ending August 31, 2030. At the expiration of the initial term, this Lease shall be renewable for one additional five (5) year term as follows: The LESSEE shall notify the TOWN of its intention to renew this Lease no later than May 31, 2029. The TOWN shall, no later than August 31, 2029,

notify the LESSEE of its acceptance or rejection of the renewal. If the TOWN fails to notify the LESSEE by such date, it shall be considered as acceptance of the renewal, and this Lease shall thereby be renewed through August 31, 2035.

3) Rent; Terms of Payment

The annual rents will be those outlined in Schedule A. The annual rent shall be payable in twelve equal monthly payments, due and payable on the first day of each month, commencing on September 1, 2020. Rents received after the 10th day of the month will be considered a late payment and the TOWN may, at its option, assess interest on the late payment at the rate of one and one-half percent (1 ½ %) per month. Failure to pay rent shall be a default as provided in paragraph 23. Any liability for unpaid rent shall survive the termination of this Lease.

Rents shall be paid directly to the Town of Westport and sent to the office of the Finance Director, 110 Myrtle Avenue, Westport, CT. The TOWN will deposit the annual rental amounts outlined in Schedule A as follows:

- (i) \$15,000 of each annual rental amount shall be deposited into the TOWN'S General Fund; and
- (ii) The remaining portion of each annual rental amount shall be deposited into an escrow fund entitled the Parent-Child Center Escrow Fund (hereinafter referred to as, "the PCC Account") which includes all assets and liabilities of the account formerly known as the "Hillspoint Account." Funds in the PCC Account will be the property of the TOWN.

4) Maintenance; Repairs; Option to Terminate

(a) LESSEE shall keep the Premises, including all improvements, furniture and fixtures therein, in good order and repair throughout the term of this Lease. Except as provided in subparagraph (b) hereof, all operating expenses and all maintenance of and repairs to the Premises, (and the personal property installed thereon), shall be the responsibility of the LESSEE, and except as provided in paragraph 5, shall be performed at the expense of the LESSEE.

For purposes of this paragraph 4, the term "operating expenses" shall include all expenses and costs payable in connection with the operation of the Premises including, but not

limited to, the cost of utilities (e.g. water, electricity, fuel, telephone, garbage removal, alarm systems), and all supplies and materials used in the operation of the Premises. Repairs and maintenance shall include, but not be limited to, all major and minor, capital or ordinary repairs to the Premises, interior alterations, installation and repair of fencing and playscapes, mowing, snow removal and grounds maintenance. The LESSEE shall also keep the sidewalks, driveways and parking areas of the Premises clean and free of obstructions, including snow and ice.

The TOWN reserves the right to make reasonable inspections, upon reasonable notice, of the Premises to ensure that appropriate steps are being taken to maintain the Premises. If it is determined by the TOWN, in its sole discretion, that necessary repairs and/or maintenance are/is not taking place, the TOWN shall direct the LESSEE to undertake such repairs or maintenance. Such repair or maintenance shall be done by appropriately licensed professionals. If the LESSEE fails to comply with any such reasonable directive, the TOWN may, at its option, terminate this Lease immediately or undertake the repairs and/or maintenance, in which case the LESSEE agrees to reimburse the TOWN for any expenses incurred for such repair or maintenance within thirty (30) days of the completion thereof. If the LESSEE fails to reimburse the TOWN for all expenses incurred within the required thirty (30) day limit, the TOWN may, at its option, terminate this Lease immediately and proceed in accordance with the provisions of paragraph 23.

(b) The Town shall be responsible for the grounds keeping of the playing fields as designated on Exhibit A hereto and shall be responsible for the maintenance and repair of the two (2) baseball backstops located on such fields. Any other equipment (for example, playground equipment or fences) installed on such fields by LESSEE or any Agency (as defined herein) or other subtenant shall be maintained by LESSEE or such Agency or subtenant, as the case may be.

5) The PCC Account; Replacement and/or Repair of Major Components

The PCC Account will be administered by the TOWN and will be used to pay for the replacement or repair of major components. For purposes of this paragraph, the term “major components” shall mean all structural and/or mechanical repairs or replacements in excess of one thousand five hundred dollars (\$1,500).

Requests for replacement or repair of major components will be initiated by LESSEE and submitted to the Department of Public Works (DPW) of the Town of Westport. Upon approval of the request, DPW will follow established Town procedures to accomplish the replacement or repair of such major component(s). The Controller of the Town of Westport will also follow established Town procedures to accomplish payments for the replacement or repair of the major component(s) and to charge the PCC Account accordingly.

6) Limit on the Repair or Replacement of Major Components

Notwithstanding anything in this Lease to the contrary, to the extent the TOWN has any obligation to replace or repair major components, such obligation shall be limited to the funds in the PCC Account. If the repair or replacement of a major component is necessary, or if any other repair or replacement of a major component not contemplated as of the date of this Lease is necessary, and the cost of such repair or replacement exceeds the amount in the PCC Account, then the LESSEE shall be responsible for the excess cost and will make such repair or replacement in accordance with the provisions of paragraph 4 hereof. If LESSEE fails to make or pay for the excess cost of a repair or replacement described in the preceding sentence and the TOWN elects not to pay the excess cost, then this Lease shall terminate as follows:

- (i) Twelve months after the conclusion of the school year in which the notice to terminate is delivered by either party in the case of a repair or replacement which does not jeopardize the health or safety of individuals occupying the Premises; or
- (ii) Immediately upon the determination by any state or local authority that the failure to make such repair or replacement could jeopardize the health or safety of individuals occupying the Premises.

The period between the date of delivery of the termination notice and the effective date of termination shall be referred to as the "Notice Period". If the Lease is terminated in accordance with Subparagraph 6(i), then, during the Notice Period: (a) LESSEE shall be relieved of any responsibility for the cost of the repair or replacement of major components; and (b) LESSEE'S obligation to otherwise maintain the Premises in accordance with the terms of this Lease as well as all other obligations of the LESSEE hereunder, including the obligation to pay rent, shall continue in full force and effect.

7) Compliance with State Fire Safety Code; Option to Terminate

In addition to the responsibilities of the LESSEE set forth in paragraph 4 and 6 and notwithstanding the provisions of paragraph 5, the LESSEE shall comply with the requirements of the Connecticut Fire Safety Code and shall be responsible for any and all minor and major work including, but not limited to, renovations and structural alterations required at any time during the period of this Lease, to bring the leased Premises into compliance with said Code. The TOWN reserves the right to make reasonable inspections, of the Premises, upon reasonable notice, to ensure that the appropriate steps are being taken by the LESSEE to comply with the aforesaid Code. If it is determined by the TOWN, in its sole discretion, that the necessary work is not done or not being done, the TOWN shall direct the LESSEE to perform such work. All work shall be done by appropriately licensed professionals. If the LESSEE fails to comply with such reasonable directive, the TOWN may, at its option, terminate this Lease immediately or undertake the necessary work to bring the building "up to code," in which case the LESSEE agrees to reimburse the TOWN for any expenses incurred in and as the result of such work within thirty (30) days of the completion of the work. If the LESSEE fails to reimburse the TOWN for all expenses incurred within the required thirty (30) day limit, as the case may be, the TOWN may, at its option, terminate this Lease immediately and proceed in accordance with the provisions of paragraph 23.

LESSEE will not permit the parking of any vehicles in any manner which interferes with the driveways, sidewalks and fire lanes and any other areas desired to be kept clear by the TOWN.

8) No Assignment or Subletting

The TOWN acknowledges that the Premises are currently being sublet to The Learning Community Day School, Inc., Saugatuck Child Care Services, Inc. and the Children's Community Development Center, Inc. (hereinafter "the AGENCIES"). It is anticipated that the LESSEE and the AGENCIES will be able to resolve among themselves which days and hours the gymnasium, playing fields and other facilities will be used by each Agency.

Prior to the effectiveness of this Lease, the LESSEE shall provide to the TOWN originally signed indemnity and hold harmless agreements from each AGENCY in the form attached hereto as Exhibit B hereto, as well as the insurance certificate(s) required thereby. LESSEE shall notify the TOWN immediately if there is any AGENCY no longer sublets space at the Premises.

The LESSEE may neither sublet the Premises, or any portion thereof, to an entity other than specified herein, nor may it assign this Lease without the prior written approval of the TOWN, which approval shall not be unreasonably withheld. A condition precedent to the Town's approving an assignment of the Lease is a review of and adjustment to the annual rent schedule. (See Schedule A).

9) Use of Premises

(a) The Premises shall be used only for child care and educational purposes and fundraising activities in connection therewith. The LESSEE expressly agrees not to use or permit the Premises to be used for any other purpose without the prior written approval of the TOWN. It shall not be deemed unreasonable to withhold approval for uses other than for child care, education and fundraising activities associated therewith.

(b) The LESSEE shall have exclusive use of the Premises, subject to such rights of inspection and use as are reserved to the TOWN in this Lease. The LESSEE shall have the exclusive use of the parking areas between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. The outside playing fields described in Exhibit A attached hereto and incorporated herein shall be used in common with the TOWN and others to whom such right may be given, subject to the right of the TOWN to adopt a schedule of

use of the outside play areas by the LESSEE and others. It is understood that, in the event the TOWN and the LESSEE propose events that would conflict with each other, the TOWN event is to be accorded priority. The LESSEE may submit to the TOWN a list of proposed restrictions on use of the play areas by others. Upon approval by the TOWN, the LESSEE may enforce those restrictions against others who use the play areas.

(c) The TOWN reserves the right to utilize the gymnasium and common area for programs sponsored by TOWN departments or agencies at any time after 6:00 p.m., daily, and all day on Saturdays, Sundays and holidays upon reasonable notice to the LESSEE. In addition, the common area shall be made available to the Registrars of Voters for voting purposes for any regular or special election from 6:00 a.m. to 8:00 p.m. on the day of such election, plus reasonable set-up and breakdown time before and after any election day, and for any other occasion when it is needed for voting purposes. The TOWN shall keep a record of expenses attributable to the TOWN'S use of the building and shall be responsible for paying for these expenses directly.

(d) Where outside groups or agencies wish to use the leased Premises, or any portion thereof, for any planned event, permission shall be obtained from the TOWN and the LESSEE and such outside group or agency shall submit evidence of insurance in amounts satisfactory to the TOWN. The LESSEE shall have no liability for any damage or injuries sustained by any person or property during the course of, or as the result of, such use.

(e) Except as provided herein, the LESSEE agrees that its use of the leased Premises shall not interfere with the use of the grounds by the TOWN.

10) Quiet Enjoyment

The LESSEE shall peaceably and quietly have, hold and enjoy the leased Premises for the terms aforesaid in common with others, subject to performance of the covenants of this Lease in all respects on the part of the LESSEE.

11) Condition of Premises; Alterations and Improvements

The Premises are leased from the TOWN "as is" and as they stand at the time of the

commencement of this Lease and without any representations on the part of the TOWN or its agents. Except as provided in paragraphs 4, 6, and 7, no improvements, alterations, additions or changes of a structural nature shall be made to the Premises without the prior written consent of the TOWN, which consent shall not be unreasonably withheld. No playground or playground equipment except for that which exists as of the date of this Lease may be erected without the prior written permission of the TOWN. All improvements, alterations, additions or changes shall be made in accordance with all applicable laws, codes, ordinances and regulations including but not limited to all applicable zoning regulations. Prior to the commencement of any alteration or improvement by any contractor, the TOWN will be provided with a certificate of insurance for such contractor, showing public liability coverage, workers' compensation coverage and any other coverage reasonably required by the TOWN, which certificate names the TOWN as an additional insured and provides that the coverage will not be canceled or not renewed without at least fifteen (15) days advance notice to the TOWN.

12) Compliance with Laws

The LESSEE shall observe and comply with all Federal and State laws, rules and regulations, including licensing laws, which regulate the operation of LESSEE'S and the AGENCIES' activities. LESSEE also agrees to observe and comply with all State and Federal laws and the ordinances, rules and regulations of the TOWN insofar as the Premises, and the LESSEE's use thereof, are concerned. LESSEE shall indemnify and save the TOWN harmless from and against any damage, liability, fines, penalties and costs imposed upon the TOWN for LESSEE'S or any AGENCY'S violation of or non-compliance with same.

13) Right to Reclaim Premises

The TOWN shall have the right to terminate this Lease and reclaim the Premises for any municipal purpose. For purposes of this paragraph, the term "municipal purpose" shall include, but shall not be limited to, reactivation of the Premises as a school within the Westport School system, use of the Premises for Town or Board of Education administrative offices, or the sale of the Premises for any purpose to any party. In the event the TOWN wishes to terminate this Lease and reclaim the Premises, the TOWN will give the LESSEE notice, in writing, of its intention to do so and the LESSEE shall

vacate the Premises no later than twelve (12) months from the conclusion of the school year within which the TOWN notifies LESSEE of its intention to reclaim the Premises. In addition to the foregoing, the TOWN may, at its option, terminate or suspend this Lease upon twelve (12) months written notice in the event that, through an Act of God or other casualty beyond the control of the parties, it becomes necessary for the Board of Education of the Town of Westport to utilize the leased Premises for school purposes.

14) Vacating Premises

The LESSEE will commit no waste, nor suffer the same to be committed on the Premises, nor injure nor misuse the same. The LESSEE will deliver the Premises at the expiration of the Lease term, or sooner termination, free of all personal property, in as good condition as they now are in, or as they may be placed by reason of any improvements, alteration, additions or changes, subject to reasonable use and wear.

15) Option to Purchase

Upon the receipt of a bona fide offer to purchase the Premises which the TOWN is willing to accept, the TOWN will notify LESSEE of such offer in writing and will grant to LESSEE the option to purchase the Premises at the same price and upon the same terms and conditions offered. The option granted to LESSEE by the TOWN hereunder shall be effective provided notice of the exercise of the option by LESSEE is given pursuant to paragraph 16 of this Agreement and a contract to purchase the Premises is delivered in accordance with the provisions of paragraph 16 of this Agreement.

16) Exercise of Option

LESSEE must exercise the option set forth in paragraph 15 by: (1) giving notice in writing of its intention to exercise the option to the TOWN on the date that is fifteen (15) calendar days from the date on which LESSEE received written notice from the TOWN of a bona fide offer to purchase as prescribed in paragraph 15 of this Agreement; and (2) signing a mutually agreeable contract to purchase the Premises and returning such contract to the TOWN on the date that is thirty (30) calendar days from the date on which LESSEE received written notice from the TOWN of a bona fide offer to purchase as prescribed in paragraph 15. Thereafter, LESSEE shall close the sale of the Premises within a reasonable period of time.

17) Time is of the Essence: Termination of Option

Time is of the essence with respect to the option set forth in paragraph 15 and all dates set forth in paragraph 16, and such option shall cease and terminate in the event that it is not exercised as hereinabove stated. In the event LESSEE fails to effectively exercise the option in accordance with the provisions of paragraph 16, the option shall cease, expire, and terminate. In such event, the TOWN shall be free to offer for sale and negotiate with any third party or entity with respect to the sale of the Premises and convey and/or sell the Premises to any other third party.

18) Signage

No sign, advertisement or notice shall be affixed to or placed upon any part of the exterior of the demised Premises by the LESSEE, except in such manner and of such size, design and color as shall be approved in advance by the Planning and Zoning Commission.

19) No Liability for Loss or Damage

Except for those periods of time when the TOWN uses the building or grounds and except for the TOWN's failure to perform any of its obligations set forth herein, the TOWN shall not be responsible for the loss or damage to property, or injury to persons, occurring in or about the demised Premises by reason of any existing or future condition, defect, manner or thing of said Premises or the property of which the Premises are a part, or for the acts, omissions or negligence of other persons or subtenants in and about the Premises. The LESSEE shall indemnify and save the TOWN harmless against and from any final judgments rendered by courts of competent jurisdiction, including attorney's fees, by reason of any injury to a person or persons or damages to the property of the LESSEE or arising out of the use and occupancy of the demised Premises, including playground equipment erected by the LESSEE or any of the AGENCIES, sidewalks connecting the demised Premises with the parking lots, and the parking lot and driveways of the TOWN, provided said injury or damage is not caused by a breach of the TOWN's covenants and agreement hereunder. The LESSEE shall also be responsible for and indemnify the TOWN for any damages resulting from the acts or omissions of its sub-

tenants, if any.

20) Insurance

LESSEE and the AGENCIES shall each secure and keep in force the following insurance coverages during the term of this Lease, ensuring the TOWN, its agents, officers and employees against any and all claims arising from the use of the leased Premises, (including without limitation the sidewalks connecting the Premises with the parking lot, the parking lot, the driveways and the grounds), by the LESSEE, the AGENCIES and/or its or their officers, agents, employees , students, business and/or social guests::

- A. Workers compensation insurance required by law with employers liability limits for at least the amounts of liability for bodily injury by accident of \$ 500,000 each accident and bodily injury by disease of \$500,000 including a waiver of subrogation.
- B. Commercial general liability insurance policy, including abuse and molestation, with an edition date of 1986 or later including products and completed operations. Limits shall be at least: Bodily injury & property damage with an occurrence limit of \$1,000,000; Personal & advertising injury limit of \$1,000,000 per occurrence; General aggregate limit of \$2,000,000 (other than products and completed operations); and Products and completed operations aggregate limit of \$2,000,000. The policy shall name the TOWN as an additional insured and include ISO Form CG 2026 or equivalent.

- Such coverage will be provided on an occurrence basis and will be primary and shall not contribute in any way to any insurance or self-insured retention carried by the TOWN.
- The policy shall contain a waiver of subrogation in favor of the TOWN.

- Such coverage shall contain a broad form contractual liability endorsement or wording within the policy form to comply with the hold harmless and indemnity provision of the contract
 - Deductible and self-insured retentions shall be declared and are subject to the approval of the TOWN.
- C. Umbrella or excess liability policy in the amount of \$5,000,000 each occurrence and \$5,000,000 in the aggregate. Such umbrella or excess liability policies of the LESSEE and each AGENCY shall apply to all of the underlying insurance requirements of this Lease, including but not limited to abuse and molestation coverage.
- D. Professional Liability. Professional liability insurance for errors and omissions arising out of any breach of duty, neglect, error, misstatement, or omission committed in the course of their duties. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$3,000,000 in the aggregate.
- E. Abuse and Molestation. Separate abuse and molestation insurance policy if not included in commercial general liability insurance. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$2,000,000 in the aggregate.

All liability coverages shall name the TOWN as an additional insured.

Except as provided herein, upon the renewal of this Lease as provided in paragraph 2, the amount of liability insurance may be reviewed and increased or decreased as is deemed necessary by the TOWN. It shall be the responsibility of the LESSEE and each AGENCY to notify each of their carriers of its primary status. Certificates of Insurance indicating that such policies are in full force and effect shall be delivered to and retained by the TOWN upon execution of this LEASE; and, such certificates shall be executed by a licensed representative of the participating insurer(s). Said certificates must name the

TOWN as additional insured, contain the required endorsements, and contain a clause granting at least thirty (30) days written notice to the TOWN of the intent to effect cancellation, non-renewal or other material change which may have an adverse effect on the policies of insurance referred to in the certificate. The premiums shall be paid by the LESSEE and the AGENCIES.

Notwithstanding the foregoing, in the event the TOWN is notified by its insurance carrier, prior to the date of renewal of this Lease, that industry standards require an increase in the liability insurance coverage required pursuant to this paragraph 20, the TOWN shall notify LESSEE, in writing, of such increase and the LESSEE and each AGENCY shall have one (1) year from the date of such notice to deliver to the TOWN a certificate of insurance evidencing such increased liability insurance.

21) Damage to Premises

It is further agreed that, in case the Premises are damaged by fire or other cause to the extent which, in the sole discretion of the TOWN, renders the repair or reconstruction thereof impractical, this Lease shall terminate and LESSEE's obligation to maintain and repair shall terminate. Rent shall be paid up to the time of such destruction. However, the TOWN shall take into consideration the TOWN's fire insurance policy on the Premises and shall consult with the LESSEE in determining the practicality of repairing or reconstructing the Premises, with a view towards effectuating the intent of the Lease. The termination of this Lease under this paragraph shall not constitute breach of contract.

22) Holding Over

In the event that the LESSEE shall remain in the demised Premises after the expiration of the term of this Lease and any renewal period without having executed a new written lease with the TOWN, such holding over shall not constitute a renewal or extension of this Lease. The TOWN may, at its option, elect to treat the LESSEE as one who had not removed at the end of its term, and thereupon be entitled to all the remedies against the LESSEE provided by law in that situation, or the TOWN may elect, at its option, to construe such holding over a tenancy from month-to-month, subject to all the terms and conditions of this Lease, except as to duration thereof.

23) Default; Termination

This Lease shall terminate in accordance with the provisions of paragraphs 4, 6 and 7. Further, if the rent shall remain unpaid thirty (30) days after the same shall become due and payable as required in paragraph 3, or if the LESSEE fails to comply with any other term or condition of this Lease and such failure continues for a period of ninety (90) days after notice thereof has been given to LESSEE, this Lease shall thereupon by virtue of this express stipulation, at the option of the TOWN, expire and terminate, and the TOWN may, at any time thereafter, re-enter the Premises, and recover possession thereof in the manner prescribed by the statute relating to summary process. The foregoing rights and remedies are not intended to be exclusive, but are additional to all rights and remedies the parties would otherwise have by law.

24) No Waiver

No waiver by the TOWN of any violation or breach of condition by the LESSEE shall constitute or be construed as a waiver of any other violation or breach of condition, nor shall acceptance of rent after default or lapse of time after breach of condition by the LESSEE before the TOWN shall exercise its option under paragraph 23 operate to defeat the right of the TOWN to declare this Lease null and void and to re-enter upon the demised Premises after the said breach or violation.

25) Costs of Enforcing Lease

The LESSEE agrees to be responsible for and reimburse the TOWN for reasonable attorney's fees and disbursements which the TOWN may be obligated to expend in connection with any breach by the LESSEE of any of the terms, conditions or provisions of this Lease upon final judgment being rendered by a court of competent jurisdiction.

26) Notices

All notices required under the terms of this Lease must be in writing. Notices from the LESSEE to the TOWN shall be sent by registered or certified mail or delivered to the TOWN at the First Selectman's Office, Town Hall, Westport, Connecticut 06880. Notices from the TOWN to the LESSEE shall be sent by registered or certified mail to the LESSEE at its corporate office located at 90 Hillspoint Road, Westport, Connecticut 06880.

All notices shall be effective upon receipt. Notice must be given to the other party at the address indicated in this paragraph 26 or to such other address designated by a party by notice. Provided however, the TOWN shall not be required to give notice to more than one address, and if more than one address is specified, TOWN may choose any one address of those designated by LESSEE.

27) Severability

The provisions of this Lease are severable, and if any provision shall be determined to be invalid or unenforceable, the provision shall be enforced to the extent permitted by law and, to the extent any provision or portion thereof remains unenforceable or invalid, it shall be severed from this Lease and the remainder of the Lease shall be valid and enforced to the fullest extent permitted by the law.

Dated and signed this _____ day of _____ 20__.

WITNESS:

TOWN OF WESTPORT:

By: _____
James S. Marpe
First Selectman

WITNESS:

PARENT CHILD CENTER, INC.:

By: _____
Print Name:
Its President, duly authorized

Approved as to form:

**Approved as to compliance with the
Charter of the Town of Westport:**

Eileen Lavigne Flug
Assistant Town Attorney

Gary Conrad
Finance Department

STATE OF CONNECTICUT)
)
COUNTY OF FAIRFIELD)

ss. Westport _____, 20__

Personally appeared before me James S. Marpe, First Selectman, Signer and Sealer of the foregoing instrument, being duly authorized, he acknowledged the same to be his free act and deed, before me.

Notary Public
My Commission Expires: _____

STATE OF CONNECTICUT)
)
COUNTY OF FAIRFIELD)

ss. Westport _____, 20__

Personally appeared before me _____, President, The Parent Child Center, Inc., Signer and Sealer of the foregoing instrument, being duly authorized, she acknowledged the same to be her free act and deed, before me.

Notary Public
My Commission Expires: _____

SCHEDULE A			
Annual Rents			
<u>YEAR</u>	<u>RENT</u>		<u>YEAR</u>
<u>2020-2021</u>	<u>\$64,726.95</u>		<u>2028-2029</u>
<u>2021-2022</u>	<u>\$66,345.12</u>		<u>2029-</u> <u>2030</u>
<u>2022-2023</u>	<u>\$68,003.75</u>		<u>2030-2031</u>
<u>2023-2024</u>	<u>\$69,703.84</u>		<u>2031-2032</u>
<u>2024-2025</u>	<u>\$71,446.44</u>		<u>2032-2033</u>
<u>2025-2026</u>	<u>\$73,232.60</u>		<u>2033-2034</u>
<u>2026-2027</u>	<u>\$75,063.41</u>		<u>2034-</u> <u>2035</u>
<u>2027-2028</u>	<u>\$76,940.00</u>		

2019-2020 rent is \$63,148.24.

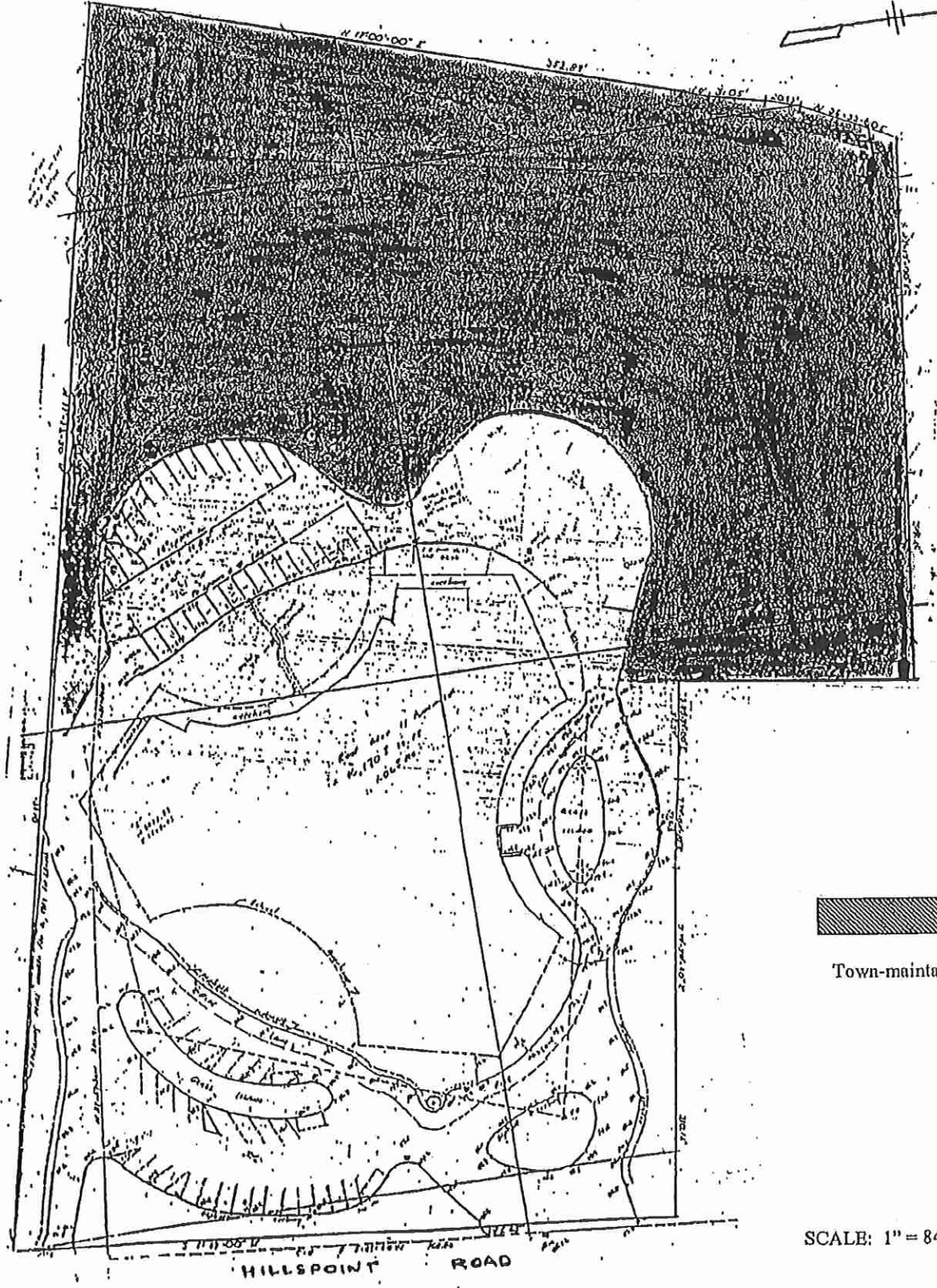
Note: \$15,000 of each annual rental amount shall be deposited into the Town's General Fund.

EXHIBIT A

OUTSIDE PLAYING FIELDS (TOWN MAINTAINED AREAS)

TOWN OF WESTPORT LEASE WITH PCC
HILLSPPOINT SCHOOL PROPERTY

EXHIBIT A
Town-Maintained Areas



Town-maintained area:

SCALE: 1" = 84' ±

EXHIBIT B

INDEMNITY AND HOLD HARMLESS AGREEMENT
TO BE OBTAINED FROM AGENCIES

INDEMNITY AND HOLD HARMLESS AGREEMENT

This Indemnity and Hold Harmless Agreement ("Agreement") is made this _____ day of _____, 20____, by _____ [PRINT NAME OF AGENCY] ("Indemnitor") of _____ [PRINT ADDRESS] for the benefit of the Town of Westport, a municipality in the State of Connecticut ("Town").

WHEREAS, Indemnitor is authorized, pursuant to Section 8 of that certain lease between The Parent Child Center, Inc. and the Town of Westport entitled "The Parent Child Center, Inc. Lease," dated as of _____, 2020, (the "Lease," a copy of which is attached hereto as Exhibit A), to sublet a portion of the Town-owned premises at 90 Hillspoint Road, Westport, Connecticut (**the "Premises"**);

NOW THEREFORE, in consideration of Indemnitor's receipt of said authorization from the Town, Indemnitor agrees as follows:

1. Indemnitor's authorization by the Town to sublet the Premises is subject to all termination provisions of the Lease. This Agreement shall survive any such termination of the Lease, and Indemnitor shall remain bound by the terms of this Agreement.
2. Indemnitor shall indemnify, defend and hold harmless the Town and its agents, officers and employees, to the fullest extent permitted by law, from and against any and all losses, claims, allegations, actions, awards, costs and expenses (including but not limited to, court costs and attorney's fees), judgments, subrogations and damages of every kind and character which may arise out of or result from, in whole or in part, Indemnitor's use of the Premises, or from the negligent or willful acts or omissions of the Indemnitor or any of its employees or agents, subcontractors, third parties invited or authorized by the Indemnitor to enter the Premises, and/or anyone else for whose acts Indemnitor may be liable, in connection with the Indemnitor's use of the Premises.
3. Indemnitor shall (i) make no improvements or alterations to the Premises that are not permitted by the Lease, (ii) relinquish the Premises upon expiration or termination of the Lease, and (iii) use the Premises in strict compliance with the terms and conditions of the Lease and all policies, procedures and conditions relating to the use of Town-owned properties, and in accordance with all applicable laws, rules, regulations and ordinances of all governmental authorities.
4. Indemnitor shall safeguard all who come upon the Premises and shall protect against any personal injuries and property damage resulting from Indemnitor's use of the Premises.
5. Indemnitor shall secure and keep in force the following insurance coverages during the term of the Lease, ensuring the Town, its agents, officers, and employees against any and all claims arising from the use of

the Premises (including without limitation the sidewalks connecting the Premises with the parking lot, the parking lot, the driveways and the grounds), by the Indemnitor and/or its officers, agents, employees, students, business and/or social guests:

- a. Workers compensation insurance required by law with employers liability limits for at least the amounts of liability for bodily injury by accident of \$ 500,000 each accident and bodily injury by disease of \$500,000 including a waiver of subrogation.
- b. Commercial general liability insurance policy, including abuse and molestation, with an edition date of 1986 or later including products and completed operations. Limits shall be at least: Bodily injury & property damage with an occurrence limit of \$1,000,000; Personal & advertising injury limit of \$1,000,000 per occurrence; General aggregate limit of \$2,000,000 (other than products and completed operations); and Products and completed operations aggregate limit of \$2,000,000.
 - i. The policy shall name the Town as an additional insured and include ISO Form CG 2026 or equivalent.
 - ii. Such coverage will be provided on an occurrence basis and will be primary and shall not contribute in any way to any insurance or self-insured retention carried by the Town.
 - iii. The policy shall contain a waiver of subrogation in favor of the Town.
 - iv. Such coverage shall contain a broad form contractual liability endorsement or wording within the policy form to comply with the hold harmless and indemnity provision of the contract
 - v. Deductible and self-insured retentions shall be declared and are subject to the approval of the Town.
- c. Umbrella or excess liability policy in the amount of \$5,000,000 each occurrence and \$5,000,000 in the aggregate. Such umbrella or excess liability policies of the Indemnitor shall apply to all of the underlying insurance requirements of this Agreement, including but not limited to abuse and molestation coverage.
- d. Professional Liability. Professional liability insurance for errors and omissions arising out of any breach of duty, neglect, error, misstatement, or omission committed in the course of the duties of the Indemnitor or its agents, officers or employees. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$3,000,000 in the aggregate.
- e. Abuse and Molestation. Separate abuse and molestation insurance policy if not included in commercial general liability insurance. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$2,000,000 in the aggregate.

All liability coverages shall name the Town as an additional insured.

Except as provided herein, upon the renewal of the Lease as provided in paragraph 2 thereof, the amount of liability insurance may be reviewed and increased or decreased as

is deemed necessary by the Town. It shall be the responsibility of the Indemnitor to notify each of its carriers of its primary status. Certificates of Insurance indicating that such policies are in full force and effect shall be delivered to and retained by the Town upon execution of the Lease; and, such certificates shall be executed by a licensed representative of the participating insurer(s). Said certificates must name the Town as additional insured, contain the required endorsements, and contain a clause granting at least thirty (30) days written notice to the Town of the intent to effect cancellation, non-renewal or other material change which may have an adverse effect on the policies of insurance referred to in the certificate. The premiums shall be paid by the Indemnitor.

Notwithstanding the foregoing, in the event the Town is notified by its insurance carrier, prior to the date of renewal of the Lease, that industry standards require an increase in the liability insurance coverage required pursuant to paragraph 20 of the Lease, the Town shall notify the Parent Child Center, Inc., in writing, of such increase and the Indemnitor shall have one (1) year from the date of such notice to deliver to the Town a certificate of insurance evidencing such increased liability insurance.

6. This Agreement and the Town's authorization of the Indemnitor to use the Premises shall not be assigned by Indemnitor without the prior written approval of the Town.
7. This Agreement supersedes any and all prior agreements and understandings between the Town and the Indemnitor regarding the subject matter of this Agreement. This Agreement shall be governed and interpreted in accordance with the laws of the State of Connecticut. No provision of this Agreement shall be deemed waived by the Town unless the waiver is in a signed writing. Any provision of this Agreement that is deemed unenforceable by a court of competent jurisdiction shall be deemed amended and construed to have a valid meaning that is the most protective to the Town, and if no such validating construction is possible shall be severed from this Agreement, and the enforceability of the remaining provisions shall not be impaired thereby.
8. This Agreement shall be binding on Indemnitor and its heirs, executors, administrators, successors and assigns and shall inure to the benefit of the Town of Westport and its agents, employees, elected and appointed officials, boards, commissions, committees, volunteers, representatives and assigns.

[NAMES APPEAR ON FOLLOWING PAGE]

WITNESS

INDEMNITOR

Print Name:
Print Address:

Print Name of the Corporation, LLC, or other Entity

By _____
Signature of Authorized Signatory
Print Name: _____
Print Title: _____

STATE OF CONNECTICUT)

) ss:

_____, Connecticut, _____ 20__

COUNTY OF _____)

Personally appeared _____ signer(s) and sealer of the foregoing instrument, and acknowledged before me the same to be his/her/their free act and deed, and acknowledged before me that he or she is authorized to execute this agreement on behalf of the Indemnitor and to bind the Indemnitor to its terms and that he or she holds the title with the Indemnitor that is written below his or her name above.

Notary Public
Print Name:
Print Address:
My Commission Expires: _____
Commissioner of the Superior Court

TOWN OF WESTPORT, CONNECTICUT
THE PARENT CHILD CENTER, INC. LEASE

This ~~indenture~~ lease, (hereinafter the "Lease") is made this _____ day of _____
200520 by and between the Town of Westport, (hereinafter the "TOWN"), a municipal corporation of the State of Connecticut, acting herein by ~~Diane Goss Farrell~~ James S. Marpe, its First ~~Selectwoman~~ Selectman, and the PARENT CHILD CENTER, INC., (the "PCC") a non-profit corporation of the State of Connecticut, (hereinafter the "LESSEE") acting herein by its President.

WHEREAS, the TOWN is interested in maintaining an educational use at the Hillspoint Elementary School and in maintaining the character of the community immediately surrounding the School; and

WHEREAS, the LESSEE oversees a preschool/day care center at the Hillspoint Elementary School; and

WHEREAS, the TOWN desires to rent the School and the real property of which the School is a part to the LESSEE subject to the terms and conditions of this Lease;

NOW, THEREFORE, in consideration of the mutual covenants of the parties, it is hereby agreed as follows:

1) Lease

The TOWN hereby demises and leases unto the LESSEE and the LESSEE hereby hires and takes from the TOWN for the term and covenants and upon the rentals hereinafter specified, the premises known as the Hillspoint Elementary School together with the real property of which the School is a part, owned by the TOWN and located at 90 Hillspoint Road, Westport, Connecticut, as shown on Westport Land Records Map Number 7434 (hereinafter, the "Premises").

2) Term; Option to Renew

Unless earlier terminated pursuant to the provisions hereof, the initial term of the Lease shall be for ten (10) years commencing September 1, 20052020 and ending August 31, 20152030. At the expiration of the initial term, this Lease shall be renewable for one

additional five (5) year term as follows: The LESSEE shall notify the TOWN of its intention to renew this Lease no later than May 31, ~~2014~~2029. The TOWN shall, no later than August 31, ~~2014~~2029, notify the LESSEE of its acceptance or rejection of the renewal. If the TOWN fails to notify the LESSEE by such date, it shall be considered as acceptance of the renewal, and this Lease shall thereby be renewed through August 31, ~~2020~~2035.

3) Rent; Terms of Payment

The annual rents will be those outlined in Schedule A. The annual rent shall be payable in twelve equal monthly payments, due and payable on the first day of each month, commencing on September 1, ~~2005~~2020. Rents received after the 10th day of the month will be considered a late payment and the TOWN may, at its option, assess interest on the late payment at the rate of one and one-half percent (1 ½ %) per month. Failure to pay rent shall be a default as provided in paragraph 23. Any liability for unpaid rent shall survive the termination of this Lease.

Rents shall be paid directly to the Town of Westport and sent to the office of the Finance Director, 110 Myrtle Avenue, Westport, CT. The TOWN will deposit the annual rental amounts outlined in Schedule A as follows:

- (i) ~~\$10~~15,000 of each annual rental amount shall be deposited into the TOWN'S General Fund; and
- (ii) The remaining portion of each annual rental amount shall be deposited into an escrow fund entitled the Parent-Child Center Escrow Fund (hereinafter referred to as, "the PCC Account") which includes all assets and liabilities of the account formerly known as the "Hillspoint Account." Funds in the PCC Account will be the property of the TOWN.

4) Maintenance; Repairs; Option to Terminate

(a) LESSEE shall keep the Premises, including all improvements, furniture and fixtures therein, in good order and repair throughout the term of this Lease. Except as provided in subparagraph (b) hereof, all operating expenses and all maintenance of and repairs to the Premises, (and the personal property installed thereon), shall be the responsibility of the

LESSEE, and except as provided in paragraph 5, shall be performed at the expense of the LESSEE.

For purposes of this paragraph 4, the term "operating expenses" shall include all expenses and costs payable in connection with the operation of the Premises including, but not limited to, the cost of utilities (e.g. water, electricity, fuel, telephone, garbage removal, alarm systems), and all supplies and materials used in the operation of the Premises. Repairs and maintenance shall include, but not be limited to, all major and minor, capital or ordinary repairs to the Premises, interior alterations, installation and repair of fencing and playscapes, mowing, snow removal and grounds maintenance. The LESSEE shall also keep the sidewalks, driveways and parking areas of the Premises clean and free of obstructions, including snow and ice.

The TOWN reserves the right to make reasonable inspections, upon reasonable notice, of the Premises to ensure that appropriate steps are being taken to maintain the Premises. If it is determined by the TOWN, in its sole discretion, that necessary repairs and/or maintenance are/is not taking place, the TOWN shall direct the LESSEE to undertake such repairs or maintenance. Such repair or maintenance shall be done by appropriately licensed professionals. If the LESSEE fails to comply with any such reasonable directive, the TOWN may, at its option, terminate this Lease immediately or undertake the repairs and/or maintenance, in which case the LESSEE agrees to reimburse the TOWN for any expenses incurred for such repair or maintenance within thirty (30) days of the completion thereof. If the LESSEE fails to reimburse the TOWN for all expenses incurred within the required thirty (30) day limit, the TOWN may, at its option, terminate this Lease immediately and proceed in accordance with the provisions of paragraph 23.

(b) The Town shall be responsible for the grounds keeping of the playing fields as designated on Exhibit A hereto and shall be responsible for the maintenance and repair of the two (2) baseball backstops located on such fields. Any other equipment (for example, playground equipment or fences) installed on such fields by LESSEE or any Agency (as defined herein) or other subtenant shall be maintained by LESSEE or such Agency or subtenant, as the case may be.

5) The PCC Account; Replacement and/or Repair of Major Components

The PCC Account will be administered by the TOWN and will be used to pay for the replacement or repair of major components. For purposes of this paragraph, the term “major components” shall mean all structural and/or mechanical repairs or replacements in excess of one thousand five hundred dollars (\$1,000500).

Requests for replacement or repair of major components will be initiated by LESSEE and submitted to the Department of Public Works (DPW) of the Town of Westport. Upon approval of the request, DPW will follow established Town procedures to accomplish the replacement or repair of such major component(s). The Controller of the Town of Westport will also follow established Town procedures to accomplish payments for the replacement or repair of the major component(s) and to charge the PCC Account accordingly.

6) Limit on the Repair or Replacement of Major Components

Notwithstanding anything in this Lease to the contrary, to the extent the TOWN has any obligation to replace or repair major components, such obligation shall be limited to the funds in the PCC Account. If the repair or replacement of a major component is necessary, or if any other repair or replacement of a major component not contemplated as of the date of this Lease is necessary, and the cost of such repair or replacement exceeds the amount in the PCC Account, then the LESSEE shall be responsible for the excess cost and will make such repair or replacement in accordance with the provisions of paragraph 4 hereof. If LESSEE fails to make or pay for the excess cost of a repair or replacement described in the preceding sentence and the TOWN elects not to pay the excess cost, then this Lease shall terminate as follows:

- (i) Twelve months after the conclusion of the school year in which the notice to terminate is delivered by either party in the case of a repair or replacement which does not jeopardize the health or safety of individuals occupying the Premises; or

(ii) Immediately upon the determination by any state or local authority that the failure to make such repair or replacement could jeopardize the health or safety of individuals occupying the Premises.

The period between the date of delivery of the termination notice and the effective date of termination shall be referred to as the "Notice Period". If the Lease is terminated in accordance with Subparagraph 6(i), then, during the Notice Period: (a) LESSEE shall be relieved of any responsibility for the cost of the repair or replacement of major components; and (b) LESSEE'S obligation to otherwise maintain the Premises in accordance with the terms of this Lease as well as all other obligations of the LESSEE hereunder, including the obligation to pay rent, shall continue in full force and effect.

7) Compliance with State Fire Safety Code; Option to Terminate

In addition to the responsibilities of the LESSEE set forth in paragraph 4 and 6 and notwithstanding the provisions of paragraph 5, the LESSEE shall comply with the requirements of the Connecticut Fire Safety Code and shall be responsible for any and all minor and major work including, but not limited to, renovations and structural alterations required at any time during the period of this Lease, to bring the leased Premises into compliance with said Code. The TOWN reserves the right to make reasonable inspections, of the Premises, upon reasonable notice, to ensure that the appropriate steps are being taken by the LESSEE to comply with the aforesaid Code. If it is determined by the TOWN, in its sole discretion, that the necessary work is not done or not being done, the TOWN shall direct the LESSEE to perform such work. All work shall be done by appropriately licensed professionals. If the LESSEE fails to comply with such reasonable directive, the TOWN may, at its option, terminate this Lease immediately or undertake the necessary work to bring the building "up to code," in which case the LESSEE agrees to reimburse the TOWN for any expenses incurred in and as the result of such work within thirty (30) days of the completion of the work. If the LESSEE fails to reimburse the TOWN for all expenses incurred within the required thirty (30) day limit, as the case may be, the TOWN may, at its option, terminate this Lease immediately and proceed in accordance with the provisions of paragraph 23.

LESSEE will not permit the parking of any vehicles in any manner which interferes with the driveways, sidewalks and fire lanes and any other areas desired to be kept clear by the TOWN.

8) No Assignment or Subletting

The TOWN acknowledges that the Premises are currently being sublet to The Learning Community Day School, Inc., ~~SCCS~~Saugatuck Child Care Services, Inc. and the Children's Community Development Center, Inc. (hereinafter "the ~~Agencies~~"AGENCIES"). It is anticipated that the LESSEE and the ~~Agencies~~AGENCIES will be able to resolve among themselves which days and hours the gymnasium, playing fields and other facilities will be used by each Agency.

Prior to the effectiveness of this Lease, the LESSEE shall provide to the TOWN originally signed indemnity and hold harmless agreements from each AGENCY in the form attached hereto as Exhibit B hereto, as well as the insurance certificate(s) required thereby. LESSEE shall notify the TOWN immediately if there is any AGENCY no longer sublets space at the Premises.

The LESSEE may neither sublet the Premises, or any portion thereof, to an entity other than specified herein, nor may it assign this Lease without the prior written approval of the TOWN, which approval shall not be unreasonably withheld. A condition precedent to the Town's approving an assignment of the Lease is a review of and adjustment to the annual rent schedule. (See Schedule A).

9) Use of Premises

(a) The Premises shall be used only for child care and educational purposes and fundraising activities in connection therewith. The LESSEE expressly agrees not to use or permit the Premises to be used for any other purpose without the prior written approval of the TOWN. It shall not be deemed unreasonable to withhold approval for uses other than for child care, education and fundraising activities associated therewith.

(b) The LESSEE shall have exclusive use of the Premises, subject to such rights of inspection and use as are reserved to the TOWN in this Lease. The LESSEE shall have the exclusive use of the parking areas between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. The outside playing fields described in Exhibit A attached hereto and incorporated herein shall be used in common with the TOWN and others to whom such right may be given, subject to the right of the TOWN to adopt a schedule of use of the outside play areas by the LESSEE and others. It is understood that, in the event the TOWN and the LESSEE propose events that would conflict with each other, the TOWN event is to be accorded priority. The LESSEE may submit to the TOWN a list of proposed restrictions on use of the play areas by others. Upon approval by the TOWN, the LESSEE may enforce those restrictions against others who use the play areas.

(c) The TOWN reserves the right to utilize the gymnasium and common area for programs sponsored by TOWN departments or agencies at any time after 6:00 p.m., daily, and all day on Saturdays, Sundays and holidays upon reasonable notice to the LESSEE. In addition, the common area shall be made available to the Registrars of Voters for voting purposes for any regular or special election from 6:00 a.m. to 8:00 p.m. on the day of such election, plus reasonable set-up and breakdown time before and after any election day, and for any other occasion when it is needed for voting purposes. The TOWN shall keep a record of expenses attributable to the TOWN'S use of the building and shall be responsible for paying for these expenses directly.

(d) Where outside groups or agencies wish to use the leased Premises, or any portion thereof, for any planned event, permission shall be obtained from the TOWN and the LESSEE and such outside group or agency shall submit evidence of insurance in amounts satisfactory to the TOWN. The LESSEE shall have no liability for any damage or injuries sustained by any person or property during the course of, or as the result of, such use.

(e) Except as provided herein, the LESSEE agrees that its use of the leased Premises shall not interfere with the use of the grounds by the TOWN.

10) Quiet Enjoyment

The LESSEE shall peaceably and quietly have, hold and enjoy the leased Premises for the terms aforesaid in common with others, subject to performance of the covenants of this Lease in all respects on the part of the LESSEE.

11) Condition of Premises; Alterations and Improvements

The Premises are leased from the TOWN "as is" and as they stand at the time of the commencement of this Lease and without any representations on the part of the TOWN or its agents. Except as provided in paragraphs 4, 6, and 7, no improvements, alterations, additions or changes of a structural nature shall be made to the Premises without the prior written consent of the TOWN, which consent shall not be unreasonably withheld. No playground or playground equipment except for that which exists as of the date of this Lease may be erected without the prior written permission of the TOWN. All improvements, alterations, additions or changes shall be made in accordance with all applicable laws, codes, ordinances and regulations including but not limited to all applicable zoning regulations. Prior to the commencement of any alteration or improvement by any contractor, the TOWN will be provided with a certificate of insurance for such contractor, showing public liability coverage, workers' compensation coverage and any other coverage reasonably required by the TOWN, which certificate names the TOWN as an additional insured and provides that the coverage will not be canceled or not renewed without at least fifteen (15) days advance notice to the TOWN.

12) Compliance with Laws

The LESSEE shall observe and comply with all Federal and State laws, rules and regulations, including licensing laws, which regulate the operation of LESSEE'S and the ~~Agencies~~ AGENCIES' activities. LESSEE also agrees to observe and comply with all State and Federal laws and the ordinances, rules and regulations of the TOWN insofar as the Premises, and the LESSEE's use thereof, are concerned. LESSEE shall indemnify and save the TOWN harmless from and against any damage, liability, fines, penalties and costs imposed upon the TOWN for LESSEE'S or any ~~Agency's~~ AGENCY'S violation of or non-compliance with same.

13) Right to Reclaim Premises

The TOWN shall have the right to terminate this Lease and reclaim the Premises for any municipal purpose. For purposes of this paragraph, the term "municipal purpose" shall include, but shall not be limited to, reactivation of the Premises as a school within the Westport School system, use of the Premises for Town or Board of Education administrative offices, or the sale of the Premises for any purpose to any party. In the event the TOWN wishes to terminate this Lease and reclaim the Premises, the TOWN will give the LESSEE notice, in writing, of its intention to do so and the LESSEE shall vacate the Premises no later than twelve (12) months from the conclusion of the school year within which the TOWN notifies LESSEE of its intention to reclaim the Premises. In addition to the foregoing, the TOWN may, at its option, terminate or suspend this Lease upon twelve (12) months written notice in the event that, through an Act of God or other casualty beyond the control of the parties, it becomes necessary for the Board of Education of the Town of Westport to utilize the leased Premises for school purposes.

14) Vacating Premises

The LESSEE will commit no waste, nor suffer the same to be committed on the Premises, nor injure nor misuse the same. The LESSEE will deliver the Premises at the expiration of the Lease term, or sooner termination, free of all personal property, in as good condition as they now are in, or as they may be placed by reason of any improvements, alteration, additions or changes, subject to reasonable use and wear.

15) Option to Purchase

Upon the receipt of a bona fide offer to purchase the Premises which the TOWN is willing to accept, the TOWN will notify LESSEE of such offer in writing and will grant to LESSEE the option to purchase the Premises at the same price and upon the same terms and conditions offered. The option granted to LESSEE by the TOWN hereunder shall be effective provided notice of the exercise of the option by LESSEE is given pursuant to paragraph 16 of this Agreement and a contract to purchase the Premises is delivered in accordance with the provisions of paragraph 16 of this Agreement.

16) Exercise of Option

LESSEE must exercise the option set forth in paragraph 15 by: (1) giving notice in writing of its intention to exercise the option to the TOWN on the date that is fifteen (15) calendar days from the date on which LESSEE received written notice from the TOWN of a bona fide offer to purchase as prescribed in paragraph 15 of this Agreement; and (2) signing a mutually agreeable contract to purchase the Premises and returning such contract to the TOWN on the date that is thirty (30) calendar days from the date on which LESSEE received written notice from the TOWN of a bona fide offer to purchase as prescribed in paragraph 15. Thereafter, LESSEE shall close the sale of the Premises within a reasonable period of time.

17) Time is of the Essence: Termination of Option

Time is of the essence with respect to the option set forth in paragraph 15 and all dates set forth in paragraph 16, and such option shall cease and terminate in the event that it is not exercised as hereinabove stated. In the event LESSEE fails to effectively exercise the option in accordance with the provisions of paragraph 16, the option shall cease, expire, and terminate. In such event, the TOWN shall be free to offer for sale and negotiate with any third party or entity with respect to the sale of the Premises and convey and/or sell the Premises to any other third party.

18) Signage

No sign, advertisement or notice shall be affixed to or placed upon any part of the exterior of the demised Premises by the LESSEE, except in such manner and of such size, design and color as shall be approved in advance by the Planning and Zoning Commission.

19) No Liability for Loss or Damage

Except for those periods of time when the TOWN uses the building or grounds and except for the TOWN's failure to perform any of its obligations set forth herein, the TOWN shall not be responsible for the loss or damage to property, or injury to persons, occurring in or about the demised Premises by reason of any existing or future condition, defect, manner or thing of said Premises or the property of which the Premises are a part,

or for the acts, omissions or negligence of other persons or subtenants in and about the Premises. The LESSEE shall indemnify and save the TOWN harmless against and from any final judgments rendered by courts of competent jurisdiction, including attorney's fees, by reason of any injury to a person or persons or damages to the property of the LESSEE or arising out of the use and occupancy of the demised Premises, including playground equipment erected by the LESSEE or any of the AGENCIES, sidewalks connecting the demised Premises with the parking lots, and the parking lot and driveways of the TOWN, provided said injury or damage is not caused by a breach of the TOWN's covenants and agreement hereunder. The LESSEE shall also be responsible for and indemnify the TOWN for any damages resulting from the acts or omissions of its subtenants, if any.

20) Insurance

~~LESSEE, The Children's Community Development Center, Inc., The Learning Community Day School, Inc., and SCCS, Inc., the AGENCIES shall each secure and keep in force a Comprehensive General Liability Insurance policy the following insurance coverages during the term of this Lease, ensuring the TOWN, its agents, officers and employees against any and all claims arising from the use of the leased Premises, (including without limitation the sidewalks connecting the Premises with the parking lot, the parking lot and the driveways and the grounds), by the LESSEE, each Agency the AGENCIES and/or its or their respective officers, agents, employees, students, business and/or social guests, in the amount of:~~

~~A. Workers compensation insurance required by law with employers liability limits for at least ONE MILLION (\$1,000,000) DOLLARS per occurrence covering the amounts of liability for bodily injury by accident of \$ 500,000 each accident and property damage with an annual bodily injury by disease of \$500,000 including a waiver of subrogation.~~

B. Commercial general liability insurance policy, including abuse and molestation, with an edition date of 1986 or later including products and completed operations. Limits shall be at least: Bodily injury & property damage with an occurrence limit of \$1,000,000; Personal & advertising injury limit of \$1,000,000 per occurrence; General aggregate limit of TWO MILLION (\$2,000,000) DOLLARS including contractual liability coverage. Such (other than products and completed operations); and Products and completed operations aggregate limit of \$2,000,000.

The policy shall name the TOWN as an additional insured and include ISO Form CG 2026 or equivalent.

- Such coverage will be provided on an occurrence basis and will be primary and shall not contribute in any way to the any insurance or self-insured retention carried by the Town. Insurance companies shall be licensed to do business in the State of Connecticut and must have a current A.M. Best rating of not less than A-VII-TOWN.
- The policy shall contain a waiver of subrogation in favor of the TOWN.
- Such coverage shall contain a broad form contractual liability endorsement or wording within the policy form to comply with the hold harmless and indemnity provision of the contract
- Deductible and self-insured retentions shall be declared and are subject to the approval of the TOWN.

C. Umbrella or excess liability policy in the amount of \$5,000,000 each occurrence and \$5,000,000 in the aggregate. Such umbrella or excess liability policies of the LESSEE and each Agency shall also secure and keep in force Workers' Compensation insurance in accordance with the laws of the State of Connecticut. AGENCY shall apply to

all of the underlying insurance requirements of this Lease, including but not limited to abuse and molestation coverage.

D. Professional Liability. Professional liability insurance for errors and omissions arising out of any breach of duty, neglect, error, misstatement, or omission committed in the course of their duties. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$3,000,000 in the aggregate.

E. Abuse and Molestation. Separate abuse and molestation insurance policy if not included in commercial general liability insurance. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$2,000,000 in the aggregate.

All liability coverages shall name the TOWN as an additional insured.

Except as provided herein, upon the renewal of this Lease as provided in paragraph 2, the amount of liability insurance may be reviewed and increased or decreased as is deemed necessary by the TOWN. It shall be the responsibility of the LESSEE and each AGENCY to notify each of their carriers of its primary status. Certificates of Insurance indicating that such policies are in full force and effect shall be delivered to and retained by the TOWN upon execution of this LEASE; and, such certificates shall be executed by a licensed representative of the participating insurer(s). Said certificates must name the TOWN as additional insured, contain the required endorsements, and contain a clause granting at least thirty (30) days written notice to the TOWN of the intent to effect cancellation, non-renewal or other material change which may have an adverse effect on the policies of insurance referred to in the certificate. The premiums shall be paid by the LESSEE and the AGENCIES.

Notwithstanding the foregoing, in the event the TOWN is notified by its insurance carrier, prior to the date of renewal of this Lease, that industry standards require an increase in the liability insurance coverage required pursuant to this paragraph 20, the

TOWN shall notify LESSEE, in writing, of such increase and the LESSEE and each AGENCY shall have one (1) year from the date of such notice to deliver to the TOWN a certificate of insurance evidencing such increased liability insurance.

21) Damage to Premises

It is further agreed that, in case the Premises are damaged by fire or other cause to the extent which, in the sole discretion of the TOWN, renders the repair or reconstruction thereof impractical, this Lease shall terminate and LESSEE's obligation to maintain and repair shall terminate. Rent shall be paid up to the time of such destruction. However, the TOWN shall take into consideration the TOWN's fire insurance policy on the Premises and shall consult with the LESSEE in determining the practicality of repairing or reconstructing the Premises, with a view towards effectuating the intent of the Lease. The termination of this Lease under this paragraph shall not constitute breach of contract.

22) Holding Over

In the event that the LESSEE shall remain in the demised Premises after the expiration of the term of this Lease and any renewal period without having executed a new written lease with the TOWN, such holding over shall not constitute a renewal or extension of this Lease. The TOWN may, at its option, elect to treat the LESSEE as one who had not removed at the end of its term, and thereupon be entitled to all the remedies against the LESSEE provided by law in that situation, or the TOWN may elect, at its option, to construe such holding over a tenancy from month-to-month, subject to all the terms and conditions of this Lease, except as to duration thereof.

23) Default; Termination

This Lease shall terminate in accordance with the provisions of paragraphs 4, 6 and 7. Further, if the rent shall remain unpaid thirty (30) days after the same shall become due and payable as required in paragraph 3, or if the LESSEE fails to comply with any other term or condition of this Lease and such failure continues for a period of ninety (90) days after notice thereof has been given to LESSEE, this Lease shall thereupon by virtue of this express stipulation, at the option of the TOWN, expire and terminate, and the TOWN may, at any time thereafter, re-enter the Premises, and recover possession thereof in the

manner prescribed by the statute relating to summary process. The foregoing rights and remedies are not intended to be exclusive, but are additional to all rights and remedies the parties would otherwise have by law.

24) No Waiver

No waiver by the TOWN of any violation or breach of condition by the LESSEE shall constitute or be construed as a waiver of any other violation or breach of condition, nor shall acceptance of rent after default or lapse of time after breach of condition by the LESSEE before the TOWN shall exercise its option under paragraph 23 operate to defeat the right of the TOWN to declare this Lease null and void and to re-enter upon the demised Premises after the said breach or violation.

25) Costs of Enforcing Lease

The LESSEE agrees to be responsible for and reimburse the TOWN for reasonable attorney's fees and disbursements which the TOWN may be obligated to expend in connection with any breach by the LESSEE of any of the terms, conditions or provisions of this Lease upon final judgment being rendered by a court of competent jurisdiction.

26) Notices

All notices required under the terms of this Lease must be in writing. Notices from the LESSEE to the TOWN shall be sent by registered or certified mail or delivered to the TOWN at the First ~~Selectperson's~~Selectman's Office, Town Hall, Westport, Connecticut 06880. Notices from the TOWN to the LESSEE shall be sent by registered or certified mail to the LESSEE at its corporate office located at 90 Hillspoint Road, Westport, Connecticut 06880.

All notices shall be effective upon receipt. Notice must be given to the other party at the address indicated in this paragraph 26 or to such other address designated by a party by notice. Provided however, the TOWN shall not be required to give notice to more than one address, and if more than one address is specified, TOWN may choose any one address of those designated by LESSEE.

27) Severability

The provisions of this Lease are severable, and if any provision shall be determined to be invalid or unenforceable, the provision shall be enforced to the extent permitted by law and, to the extent any provision or portion thereof remains unenforceable or invalid, it shall be severed from this Lease and the remainder of the Lease shall be valid and enforced to the fullest extent permitted by the law.

Dated and signed this _____ day of _____ 2005.20.

WITNESS:

TOWN OF WESTPORT:

By: _____
~~Diane Goss Farrell~~
James S. Marpe
First Selectwoman ~~Selectman~~

WITNESS:

PARENT CHILD CENTER, INC.:

By: _____
~~Stacie E. Curran~~
Print Name:
Its President, duly authorized

Approved as to form:

~~Gail Kelly~~
Eileen Lavigne Flug
Assistant Town Attorney

**Approved as to compliance with the
Charter of the Town of Westport:**

~~Donald J. Miklus~~ Gary Conrad
Finance Department

STATE OF CONNECTICUT)
) ss. Westport _____, 200520
COUNTY OF FAIRFIELD)

Personally appeared before me ~~Diane Goss Farrell~~ James S. Marpe, First
Selectwoman ~~Selectman~~, Signer and Sealer of the foregoing instrument, being duly authorized,
she ~~he~~ acknowledged the same to be her ~~his~~ free act and deed, before me.

Notary Public
My Commission Expires: _____

STATE OF CONNECTICUT)
) ss. Westport _____, 200520
COUNTY OF FAIRFIELD)

Personally appeared before me Stacie E. Curran, _____, President, The
Parent Child Center, Inc., Signer and Sealer of the foregoing instrument, being duly authorized,
she acknowledged the same to be her free act and deed, before me.

Notary Public
My Commission Expires: _____

<u>SCHEDULE A</u>			
<u>Annual Rents</u>			
<u>YEAR</u>	<u>RENT</u>	<u>YEAR</u>	<u>RENT</u>
2020-2021	\$64,726.95	2028-2029	\$78,863.50
2021-2022	\$66,345.12	2029-2030	\$80,835.09
2022-2023	\$68,003.75	2030-2031	\$82,855.96
2023-2024	\$69,703.84	2031-2032	\$84,927.36
2005/062024- 2025	\$51,500.0071,446.44	2013/142032- 2033	\$87,050.55,832.83
2006/072025- 2026	\$51,915.0073,232.60	2014/152033- 2034	\$56,749.4989,226.81
2007/082026- 2027	\$52,334.1575,063.41	2015/1620 34-2035	\$57,68491,457.48
2008/092027- 2028	\$52,757.4976,940.00	2016/17	\$58,638.17
2009/10	\$53,185.07	2017/18	\$60,097.31
2010/11	\$53,616.92	2018/19	\$61,600.23
2011/12	\$54,053.09	2019/20	2019-2020 rent is \$63,148.24.
2012/13	\$54,934.15		

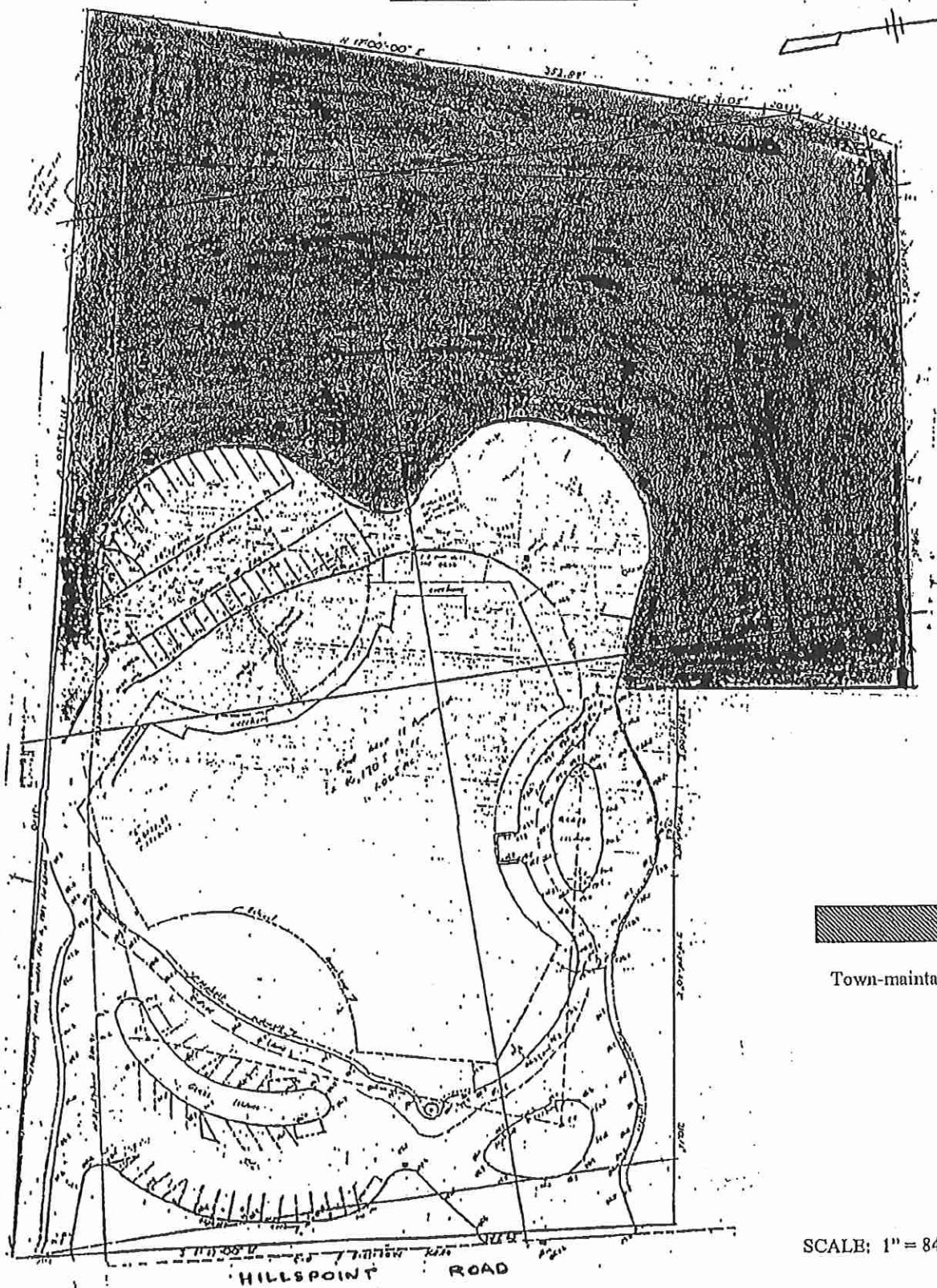
Note: \$1015,000 of each annual rental amount shall be deposited into the Town's General Fund.

EXHIBIT A

OUTSIDE PLAYING FIELDS (TOWN MAINTAINED AREAS)

TOWN OF WESTPORT LEASE WITH PCC
HILLSPPOINT SCHOOL PROPERTY

EXHIBIT A
Town-Maintained Areas



Town-maintained area:

SCALE: 1" = 84' ±

EXHIBIT B

INDEMNITY AND HOLD HARMLESS AGREEMENT
TO BE OBTAINED FROM AGENCIES

INDEMNITY AND HOLD HARMLESS AGREEMENT

This Indemnity and Hold Harmless Agreement ("Agreement") is made this _____ day of _____, 20____, by _____ [PRINT NAME OF AGENCY] ("Indemnitor") of _____ [PRINT ADDRESS] for the benefit of the Town of Westport, a municipality in the State of Connecticut ("Town").

WHEREAS, Indemnitor is authorized, pursuant to Section 8 of that certain lease between The Parent Child Center, Inc. and the Town of Westport entitled "The Parent Child Center, Inc. Lease," dated as of _____, 2020, (the "Lease," a copy of which is attached hereto as Exhibit A), to sublet a portion of the Town-owned premises at 90 Hillspoint Road, Westport, Connecticut (the "Premises");

NOW THEREFORE, in consideration of Indemnitor's receipt of said authorization from the Town, Indemnitor agrees as follows:

1. Indemnitor's authorization by the Town to sublet the Premises is subject to all termination provisions of the Lease. This Agreement shall survive any such termination of the Lease, and Indemnitor shall remain bound by the terms of this Agreement.
2. Indemnitor shall indemnify, defend and hold harmless the Town and its agents, officers and employees, to the fullest extent permitted by law, from and against any and all losses, claims, allegations, actions, awards, costs and expenses (including but not limited to, court costs and attorney's fees), judgments, subrogations and damages of every kind and character which may arise out of or result from, in whole or in part, Indemnitor's use of the Premises, or from the negligent or willful acts or omissions of the Indemnitor or any of its employees or agents, subcontractors, third parties invited or authorized by the Indemnitor to enter the Premises, and/or anyone else for whose acts Indemnitor may be liable, in connection with the Indemnitor's use of the Premises.
3. Indemnitor shall (i) make no improvements or alterations to the Premises that are not permitted by the Lease, (ii) relinquish the Premises upon expiration or termination of the Lease, and (iii) use the Premises in strict compliance with the terms and conditions of the Lease and all policies, procedures and conditions relating to the use of Town-owned properties, and in accordance with all applicable laws, rules, regulations and ordinances of all governmental authorities.
4. Indemnitor shall safeguard all who come upon the Premises and shall protect against any personal injuries and property damage resulting from Indemnitor's use of the Premises.

5. Indemnitor shall secure and keep in force the following insurance coverages during the term of the Lease, ensuring the Town, its agents, officers, and employees against any and all claims arising from the use of the Premises (including without limitation the sidewalks connecting the Premises with the parking lot, the parking lot, the driveways and the grounds), by the Indemnitor and/or its officers, agents, employees, students, business and/or social guests:
- a. Workers compensation insurance required by law with employers liability limits for at least the amounts of liability for bodily injury by accident of \$ 500,000 each accident and bodily injury by disease of \$500,000 including a waiver of subrogation.
 - b. Commercial general liability insurance policy, including abuse and molestation, with an edition date of 1986 or later including products and completed operations. Limits shall be at least: Bodily injury & property damage with an occurrence limit of \$1,000,000; Personal & advertising injury limit of \$1,000,000 per occurrence; General aggregate limit of \$2,000,000 (other than products and completed operations); and Products and completed operations aggregate limit of \$2,000,000.
 - i. The policy shall name the Town as an additional insured and include ISO Form CG 2026 or equivalent.
 - ii. Such coverage will be provided on an occurrence basis and will be primary and shall not contribute in any way to any insurance or self-insured retention carried by the Town.
 - iii. The policy shall contain a waiver of subrogation in favor of the Town.
 - iv. Such coverage shall contain a broad form contractual liability endorsement or wording within the policy form to comply with the hold harmless and indemnity provision of the contract
 - v. Deductible and self-insured retentions shall be declared and are subject to the approval of the Town.
 - c. Umbrella or excess liability policy in the amount of \$5,000,000 each occurrence and \$5,000,000 in the aggregate. Such umbrella or excess liability policies of the Indemnitor shall apply to all of the underlying insurance requirements of this Agreement, including but not limited to abuse and molestation coverage.
 - d. Professional Liability. Professional liability insurance for errors and omissions arising out of any breach of duty, neglect, error, misstatement, or omission committed in the course of the duties of the Indemnitor or its agents, officers or employees. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$3,000,000 in the aggregate.
 - e. Abuse and Molestation. Separate abuse and molestation insurance policy if not included in commercial general liability insurance. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$2,000,000 in the aggregate.

All liability coverages shall name the Town as an additional insured.

Except as provided herein, upon the renewal of the Lease as provided in paragraph 2 thereof, the amount of liability insurance may be reviewed and increased or decreased as is deemed necessary by the Town. It shall be the responsibility of the Indemnitor to notify each of its carriers of its primary status. Certificates of Insurance indicating that such policies are in full force and effect shall be delivered to and retained by the Town upon execution of the Lease; and, such certificates shall be executed by a licensed representative of the participating insurer(s). Said certificates must name the Town as additional insured, contain the required endorsements, and contain a clause granting at least thirty (30) days written notice to the Town of the intent to effect cancellation, non-renewal or other material change which may have an adverse effect on the policies of insurance referred to in the certificate. The premiums shall be paid by the Indemnitor.

Notwithstanding the foregoing, in the event the Town is notified by its insurance carrier, prior to the date of renewal of the Lease, that industry standards require an increase in the liability insurance coverage required pursuant to paragraph 20 of the Lease, the Town shall notify the Parent Child Center, Inc., in writing, of such increase and the Indemnitor shall have one (1) year from the date of such notice to deliver to the Town a certificate of insurance evidencing such increased liability insurance.

6. This Agreement and the Town's authorization of the Indemnitor to use the Premises shall not be assigned by Indemnitor without the prior written approval of the Town.

7. This Agreement supersedes any and all prior agreements and understandings between the Town and the Indemnitor regarding the subject matter of this Agreement. This Agreement shall be governed and interpreted in accordance with the laws of the State of Connecticut. No provision of this Agreement shall be deemed waived by the Town unless the waiver is in a signed writing. Any provision of this Agreement that is deemed unenforceable by a court of competent jurisdiction shall be deemed amended and construed to have a valid meaning that is the most protective to the Town, and if no such validating construction is possible shall be severed from this Agreement, and the enforceability of the remaining provisions shall not be impaired thereby.

8. This Agreement shall be binding on Indemnitor and its heirs, executors, administrators, successors and assigns and shall inure to the benefit of the Town of Westport and its agents, employees, elected and appointed officials, boards, commissions, committees, volunteers, representatives and assigns.

[NAMES APPEAR ON FOLLOWING PAGE]

WITNESS _____

INDEMNITOR _____

Print Name: _____

Print Name of the Corporation, LLC, or other Entity _____

Print Address: _____

By _____

Signature of Authorized Signatory _____

Print Name: _____

Print Title: _____

STATE OF CONNECTICUT)

) ss: _____

, Connecticut, _____

20 _____

COUNTY OF _____)

Personally appeared _____ signer(s) and sealer of the foregoing instrument, and acknowledged before me the same to be his/her/their free act and deed, and acknowledged before me that he or she is authorized to execute this agreement on behalf of the Indemnitor and to bind the Indemnitor to its terms and that he or she holds the title with the Indemnitor that is written below his or her name above.

Notary Public

Print Name: _____

Print Address: _____

My Commission Expires: _____

Commissioner of the Superior Court

The Parent – Child Center
90 Hillspoint Rd
Westport, CT 06880

The Honorable James Marpe
The First Selectman
Town Hall
110 Myrtle Ave.
Westport, CT 06880

April 10, 2019

Dear Mr. James Marpe,

This letter is to notify the Town of Westport that the Parent Child Center (PCC), which consists of A Child's Place (ACP), Children's Community Development Center (CCDC) and The Learning Community Day School (LCDS), is requesting to renew our lease which will expire on August 31st 2020.

Thank you for your kind attention to this request.

Sincerely,



Lauren Karpf
President of the PCC

cc: Eileen Flug
Assistant Town Attorney
cc: Helen Garten
Selectman's Real Property Committee

Parent Child Center
90 Hillspoint Road
Westport, CT 06880

May 28, 2019

Ms. Helen Garten/Ms. Eileen Flug
Westport Town Hall
110 Myrtle Avenue
Westport, CT 06880

Dear Ms. Garten & Ms. Flug:

I write in response to your email dated April 15, 2019. Below is a brief background of the Parent Child Center (PCC) as well as the specific information you requested. I have also enclosed copies of the financial statements for the PCC and the three programs operating in the building.

By way of background, the PCC is the management agency for the child care and early education programs that currently occupy the former Hillspoint Elementary School. The PCC is a private non-profit organization under section 501(c)(3) of the Internal Revenue Code. The three early care and education programs - A Child's Place (ACP), Children's Community Development Center (CCDC), and The Learning Community Day School (LCDS) - are also private nonprofit agencies under section 501(c)(3) of the Internal Revenue Code. The three programs providing the services to children and families have all occupied the Hillspoint facility since September 1980.

Programs Offered

The three schools provide a broad range of full and part time services to families with infants, toddlers, preschool, and Kindergarten aged children. Families may choose a program operating from as early as 7:15 in the morning until as late as 6:00 in the evening for two, three or five days a week. Programs are available ten or twelve months a year. Low-to-moderate income families can attend the schools through financial assistance programs. Priority is given to families who are clients of the Town of Westport, Department of Human Services. The programs are licensed by the State of Connecticut Office of Early Childhood and accredited by the *National Association for the Education of Young Children Academy of Early Childhood Program Accreditation*.

Demographics

Over 260 students currently utilize the programs at Hillspoint. Approximately 84% of these families either reside and/or work in Westport. Those that neither live nor work in Westport often grew up here and/or have family living here. The programs employ over 100 people.

Lease Arrangement

The current lease has been in effect since 2005. The arrangement allows the Town to own the building, keep control of the two ball fields, support essential community services that attract families with young children to Westport, and incur no operating or capital expenses.

Response to Specific Questions:

1. Recent financial statements from PCC and the three childcare organizations:
SEE ENCLOSED EXHIBIT A.

2. Current profit and loss statement from PCC showing your out of pocket expenditures for routine maintenance (under \$1,000), utilities, sewer fees, etc. associated with the premises:
SEE ENCLOSED EXHIBIT B.

3. List of capital projects you've completed over the last 5 years (since the lease renewal) or expect to complete over the next 12 months:

Over the last 5 years, the PCC has upgraded security cameras (\$20,000), added film to windows (\$6,000), created a nature trail outside (\$5,000), paved the parking lot (\$15,000 reimbursed from the Town account), purchased a hot water heater and air handlers (\$8,000 reimbursed from the Town account), updated the kitchen (\$15,000), and beautified the landscaping (\$20,000).

In addition, ACP completed bathroom renovations and new flooring (\$20,000) and upgraded classrooms, including painting and new flooring (\$40,000). CCDC added new closets, updated the playground, installed new flooring, and made improvements to classrooms (\$54,500). LCDS installed LED energy efficient lighting (\$22,000), upgraded classrooms with new counters, cabinets, and paint (\$47,000), and updated its playground (\$5,000).

4. Capital improvements expected in the next 10-15 years:

The schools plan to continue with cosmetic renovations to the classrooms and repairs and upgrades to the playgrounds. The building projects will consist of the replacement of one boiler and two air handlers, a new roof, and overlay of the parking lots. The schools expect to spend approximately \$300,000 each over the next 15 years.

5. What percentage of your current student population are Westport children? Has the percentage changed over the last 5 years?

Overall, approximately 84% of PCC student families reside or work in Westport. Specifically, approximately 79% of ACP families live or work in Westport. Over the past five years, the percentage has remained relatively constant. Approximately 83% of CCDC families live or work in Westport. That number has not changed greatly over the last 5 years. Approximately 85% of the LCDS current student population reside in

Westport/Weston. Next year's student population will consist of approximately 90% Westport/Weston students. The number has not changed significantly over the past 5 years. Each year, LCDS sends about 45 children to Kindergarten in the Westport Public Schools.

6. How do you view the future market for your services, and who are your major competitors likely to be?

The three schools are in extremely high demand. ACP and CCDC are the only non-profit full day programs for Infants, toddlers, and preschoolers. The other services in town that serve the same age groups and operate full day programs are Old Hill Children's Day School, Pumpkin Preschool, Earthplace and the Goddard School (opening this Fall).

ACP offers morning and full-day programs, as well as a summer program for 9 weeks. It is fully enrolled in all programs, and the full day program has a wait list in every age group. ACP will also offer a 5s program as of next year, offering both part-time and full-time options. CCDC offers exclusively full-day programs, and is also fully enrolled. LCDS has been fully enrolled in all age groups for the past three years with wait lists, including its Kindergarten program. LCDS is one of the only accredited Kindergarten programs in Westport. There are very few non-denominational preschools in Westport, and even fewer who provide what the PCC schools offer - part-time programs, full-time programs, summer programs, and Kindergarten programs.

Again, please feel free to contact me if we can be of further assistance.

Best regards,



Lauren Karpf
President of the Board of Directors, PCC

cc: Kerry Griffin, LCDS
Sandy Seres, ACP
Eileen Ward, CCDC

**90 HILLSPPOINT ROAD
LEASE OF TOWN OWNED PROPERTY TO PARENT CHILD CENTER, INC.**

History of the Lease

Since 1980, the Town owned property at 90 Hillspoint Road has been leased to Parent Child Center, Inc., a nonprofit corporation that serves as management agency for three separate nonprofit early education and child care programs (A Childs Place, Children's Community Development Center and The Learning Community Day School). The 6.9 acre property contains a former public elementary school building, a playground, two playing fields, access driveways and parking. The one story school building, designed by modernist architect Victor Lundy, was completed in 1961 and contains approximately 39,352 square feet of usable space. The property is located in a residential neighborhood. The eastern (front) portion of the property is zoned Residence AA; the western (back) portion, where the playing fields are located, is zoned Residence A.

When the Westport Public Schools abandoned the Hillspoint School, the Town chose to enter into a rental arrangement that would accomplish two goals: to maintain the property's use as an educational facility, which would be harmonious with the residential character of the surrounding neighborhood, and to provide for future upkeep and maintenance of the town owned building at no taxpayer expense. These goals explain the choice of tenant and the structure of the lease, which have remained consistent over the lifetime of the tenancy and are reflected in the following lease terms:

- The premises shall be used for child care and early childhood education and related fundraising.
- The Town (through the Parks & Recreation Department) has priority use of the playing fields.
- All operating and capital expenses and improvements are the financial responsibility of the Tenant.
- To ensure funding for future capital maintenance and improvements, a portion of the Tenant's yearly rental payments is deposited in an escrow account owned and administered by the Town.

The current lease commenced in September 2005. Its term was ten years, with one 5 year renewal that required the Town's consent, which was granted in 2015. That renewal expires on August 31, 2020. The Town wishes to enter into a new lease with Parent Child Center substantially in the form of the prior lease, with the modifications noted below.

Proposed Lease Terms

Term; Reclamation of the Property for Municipal Use. We are again proposing a 10 year lease commencing on September 1, 2020 and terminating on August 31, 2030, with a 5 year renewal option that will require affirmative approval by the Town.

A 10 year term is not atypical for leases of Town owned property to nonprofits. Unlike most of the Town's leases, this lease also gives the Town the right to terminate the lease at any time and reclaim the property for any municipal purpose, broadly defined to include, without limitation, reactivation of the building as a public school, use of the premises for Town or Board of Education administrative offices, or sale of the premises for any purpose to any party. If the Town exercises its right to reclaim the property, the Tenant must vacate within twelve months of the end of the school year. If the Board of Education needs the premises for school purposes because of a casualty, the Tenant must vacate within twelve months of receiving written notice.

In connection with this proposed lease renewal, we have considered whether there is any need at present or in the near future for these premises for any Town or school purposes. We have determined that, given the location of the premises in a residential neighborhood and the size and design of the building, the premises are not suitable or desirable for municipal office use. We have been informed by Board of Education officials that, although at some point in the future the property could be considered among other available sites for educational use, such as a new home for an expanded Stepping Stones Preschool program, the Board of Education has no firm plan at present that would require leaving the property vacant and foregoing rental income. Further, the termination provision in the lease provides enough flexibility to allow future planning by the Board of Education.

Rent; Escrow Account. The proposed rent over the lease term is specified in Schedule A to the lease. For the first year of the lease (2020-21), rent will be \$64,726.95, a 2.5% increase over the prior year, and rent will increase by 2.5% each year thereafter. This is a more rapid escalation than occurred under the prior lease. \$15,000 of each year's rent will be deposited in the General Fund. The remainder will be deposited in the Parent Child Center Escrow Fund that existed under the prior lease.

As noted above, the lease arrangement with Parent Child Center has been crafted to ensure that all costs associated with the property, whether ordinary maintenance, repairs, replacements or capital improvements, are the sole financial responsibility of the Tenant. The lease accomplishes this in two ways. First, "operating expenses", defined to include utilities, interior alterations, grounds maintenance (except the playing fields), fence and playground installation and repair, are the Tenant's responsibility, to be paid out of its own budget. Second, "major components," defined as structural or mechanical repairs or replacements costing in excess of \$1500, are paid for out of the Parent Child Center Escrow Fund, which is funded by the Tenant through rent payments and is under the ownership and control of the Town.

Recent interior and grounds improvements paid for directly by the Tenant have included security cameras (\$20,000), a kitchen update (\$15,000), energy efficient lighting (\$22,000), classroom upgrades (\$140,000), a nature trail (\$5000) and landscaping (\$20,000). Expenditures classified as “major components” and paid for out of the escrow fund over the last three years have totaled \$30,156, including repaving the parking lot (\$17,150), exterior painting (\$1530) and new heating units (\$4481).

As the Town contemplated renewing the lease, we evaluated the 2005 lease’s allocation of rent payments between the General Fund and the escrow account and the dollar threshold for “major components.” The Town proposed two adjustments to which the Tenant agreed. The proposed lease increases the portion of rent that goes into the General Fund from \$10,000 to \$15,000 and increases the threshold for “major components” that are paid for out of the escrow fund from \$1000 to \$1500.

These changes reflect the fact that the prior lease will end with a substantial positive balance in the escrow fund (\$387,370 as of January 30, 2020). Under the new rent schedule, new deposits into the escrow fund over the next five years will equal \$265,226, which, when added to the current balance, will fund the escrow in excess of \$650,000. The Town estimates that required major component expenditures during this period (roofing and paving) will cost \$500,000.

Playing Fields. Under the lease, the Town retains the right to use the playing fields which are located at the rear of the property. According to the Parks & Recreation Department, these fields are actively used during the school year by Westport Baseball in the evening and weekends and for Parks & Recreation programs on Sunday mornings. The importance of these fields to the Parks & Recreation Department means that, however the rest of the property is used, the Town needs to retain ownership as well as access to the fields from Hillspoint Road.

The lease also gives the Town the right to use the gymnasium and common areas of the building in the evening and weekends as well as on Election Day. To our knowledge, the Town has never exercised this right, but it remains in the proposed lease.

Insurance. The insurance provisions of the lease have been updated to current Town requirements.

Public Benefit and Need

Leasing the Hillspoint property to Parent Child Center has long provided valuable and much needed benefits to the Westport community. The three preschools that use the property currently serve over 260 children, 84% of whose families live or work in Westport. Low to moderate income families receive financial support, many through the Westport Department of Human Services. The preschools provide a broad range of full and part time services to infants, toddlers,

preschool and Kindergarten aged children, including all day and year round programs that are not available at all other local preschools. Moreover, the demand for preschools remains very strong in Westport despite recent new entries.

In addition, the improvements that the Tenant has made to the building and property during its occupancy, at its own expense, benefit the Westport community. The building is old and has an unusual design that makes it costly to maintain. Parent Child Center has made a substantial investment in the premises during the last four decades, a burden that otherwise would have fallen on the Westport taxpayer.

The First Selectman's Real Property Committee, at the direction of the Board of Finance, has evaluated whether there are alternative uses for the property, including possible sale to a third party or rental at a market rate. For the reasons outlined in its attached report, the Committee has concluded that there are no alternative uses for the property that promise greater public benefits than the present lease to Parent Child Center.

Report of the First Selectman's Real Property Committee on 90 Hillspoint

In connection with the proposed renewal of the lease of Town owned property at 90 Hillspoint Road to Parent Child Center, Inc., the Real Property Committee met on February 10, 2020 to evaluate the following questions:

- Is the continued lease of the property to Parent Child Center preferable to alternatives, including sale, demolition or conversion to municipal purposes?
- What is the property's fair market rental value, and why is lower rent proposed?

After considering all relevant factors, the Committee concluded that the lease to Parent Child Center offers greater value to the Westport community than alternative dispositions. In view of the location, size and condition of the building, rental at fair market value is not feasible.

90 Hillspoint is a 6.9 acre property with 385.48 feet of frontage on a town road. It contains a former elementary school built in 1961, two playing fields, driveways and access roads. The most recent tax appraisal valued the property at \$17,692,900, with improvements valued at \$7,756,900 and land valued at \$9,936,000.

The impressive value of the property on paper has caused the Town periodically to assess whether it should be sold for residential development (the property is located in the Residence A and Residence AA zones, so commercial development is not feasible). The Town commissioned a full appraisal in 2000, and an update in 2003. The Committee asked Town Assessor Paul Friia to review both appraisals. He confirmed that he was satisfied that the conclusions reached by both appraisals, including the valuations, remain valid in today's market conditions.

The limiting factor in any sale of the property is the Town's desire to retain title and access to the playing fields at the rear of the site, since these fields are actively used by Westport baseball and the Parks & Recreation Department. This leaves approximately 2 acres, zoned Residence AA, that can be divided from the rest of the property and sold as two lots for single family houses. Assessor Friia estimated the potential value of each lot to be roughly \$650,000. Taking into account demolition costs, the best case scenario would result in the Town potentially realizing \$1,200,000 from the sale of the lots, as well as future property tax revenues.

Nevertheless, there are costs associated with this approach that have dissuaded the Town in the past from considering sale, and these costs continue today. First, although the Board of Education has no immediate use for the property, it is an ideal school location that may be needed in the future, possibly as a place for an expanded Stepping Stones preschool program. Second, Westporters depend on the three preschool programs offered by Parent Child Center; were they forced to move, it is doubtful they could find another home in Westport. Finally, Committee members were skeptical that \$1,200,000 could actually be realized, given the

inventory of residential properties currently on the market and the large number of regulatory approvals that would be required to subdivide and develop two residential lots.

It's worth noting that the lease gives the Tenant an option to match any third party offer to purchase the property. The Town has offered to sell the property to Parent Child Center, but it does not have the funds to purchase at the moment. It remains a possibility for the future, if the schools decide they do not need it.

The Committee also discussed with Assessor Friaa the fair market rental value of the property. Rental options are limited because the property is located in two residence zones, so the potential tenants must be government, educational or religious institutions. Neither the Town nor the Board of Education has any need for the premises as office space. Although there is little data about commercial rentals by educational and religious institutions, Mr. Friaa estimated the fair market rental value at \$12 per square foot. This is obviously in excess of the proposed rent, which is roughly \$2 per square foot over the term of the proposed lease.

Nevertheless, a simple rental comparison ignores the peculiarities of these particular premises. The old Hillspoint School is an unusually costly building to maintain due to its architect designed mid-century detailing. It is also very large (over 39,000 square feet) for the average preschool and is divided into classrooms, making it a difficult space for a religious institution. Under the lease, the Tenant has and will continue to invest large sums of its own money in the upkeep and improvement of the structure, including new flooring, lighting and kitchen upgrades. All improvements are made under the supervision of the Public Works Department, are paid for by the Tenant and ultimately belong to the Town. It is hard to imagine another tenant maintaining the building as well as Parent Child Center has. Likewise, there have never been conflicts between the Tenant's operations and the Town's use of the playing fields.

Finally, it is unclear if there are any educational institutions that would even consider renting Hillspoint and paying full fair market rental. Most local preschools are affiliated with and occupy space provided by a nonprofit (churches, synagogues, Earthplace). Parent Child Center is unique in that it is comprised of three separate preschools with sufficient clients to be able to utilize the building fully on a year round basis.

Given the robust demand for preschool spaces in Westport, and Parent Child Center's exemplary record in maintaining a Town owned building, the tangible benefits to Westport from renewing this lease outweigh any hypothetical alternative dispositions. In the Committee's view, Parent Child Center remains the perfect fit for the Hillspoint School.

Helen Garten, Chair, First Selectman's Real Property Committee

2/10/20



DEPARTMENT OF FIRE SERVICES
Fire Marshals Office (203) 341-5020
Fax (203) 341-5009
Nathaniel Gibbons, Fire Marshal

January 31, 2020

Eileen Flug, Ass't Town Attorney
110 Myrtle Ave.
Westport CT 06880

Subject: 90 Hillspoint Road Fire Inspection

This office fully inspected the premises on January 9, 2020 with the following results:

A Child's Place	Inspected 1/9/2020	No Violations
The Learning Community	Inspected 1/9/2020	No Violations
CDCC	Inspected 1/9/2020	No Violations

Respectfully,

Nathaniel Gibbons
Fire Marshal

ANNUAL FACILITY INSPECTION

Date: February 19, 2020

Employee Name: Superintendent Mike Frawley

Facility Name: Hillspoint School

FACILITY EXTERIOR					
	Good	Fair	Poor	N/A	COMMENTS:
Visibility of building address?	X				
Condition of exterior lights?	X				
Condition of exits onto public streets?	X				
Condition of access to the building for emergency vehicles?	X				
Condition of the building?	X				
Condition of walls, trim and railings?	X				
Condition of exterior walls (free from cracks, deformation, staining, or other damage?)	X				
Condition of exterior windows (free from cracks or broken panes?)	X				
Condition of woodwork?	X				
Condition of stairs, landings and handrails?	X				
Condition of chimneys?	X				
Condition of entrance doors (do they close slowly to avoid finger hazards)?	X				
VISUAL ROOF INSPECTION					
	Good	Fair	Poor	N/A	COMMENTS:
Condition of Roof (roof debris, structural deformation, physical damage or evidence of standing water)?		X			Slight standing water. Roof patched throughout years. Scheduled for resurfacing and recoating per manufacture specifications.
Condition of shingles?				X	
Condition of metal pieces (corrosion)?		X			
Condition of the fascia, soffits, flashing, gutters/drains, skylights, chimneys/vents, fall arrest anchors, control zone access or drains/vents?	X				

Year	Replace	2 Boilers	3 Air Handlers	Hot Water Heater Replaced	Roofing	Ashalt Paving	Exterior Painting	Oil Tank Removed
2016								
2017								
2018							Complete	
2019								
2020					\$250,000.00			
2021								
2022								
2023						\$250,000.00		
2024			\$11,000.00					
2025								
2026								
2027			\$15,000.00					
2028								
2029		\$40,000.00						

PARENT CHILD CENTER ACCOUNT

Property Expenses Paid Out of PCC Account - past 3 years - 2017-2020

YR/PR	EFF DATE	SRC	REF1	REF4	COMMENT	CHECK #	JOURNAL AMOUNT
19/ 2	08/15/18	API	004225	W K1902C	EXTERIOR PAINTING REIMBURSEMEN	519601	5,300.00
19/ 2	08/29/18	API	004225	W K1902E	2018-0208, 2018-0207, PAVEMENT	519957	17,150.00
19/ 4	10/17/18	API	004225	W K1904C	Reimb replace electrical motor	520817	3,225.00
20/ 1	07/31/19	API	004225	W K2001H	REIMBURSEMENT HEAT PUMP #1 HIL	525433	2,505.00
20/ 7	01/22/20	API	004225	W K2007E	REIMBURSE FOR ZONE VALVE REPLA	528445	1,975.59
							<u>30,155.59</u>

PCC Account Balance as of 1/30/20:

387,370.25

**PARENT CHILD CENTER
IMPROVEMENTS MADE LAST THREE YEARS BY
THREE SCHOOLS**

The Learning Community

Room Renovations Including new cabinets, painting, new plumbing	\$85,000
Lighting Upgrade	\$22,100
Playground Improvements/maintenance	\$20,000
Cleaning Service	\$50,250

Childrens Community Development Center

Room Renovations Including new cabinets, flooring, painting, new plumbing	\$75,000
Lighting Upgrade	\$10,000 ??
Playground Improvements/maintenance	\$25,000
Cleaning Service	\$48,800

Saugatuck Child Care Services, Inc.

Room Renovations Including new cabinets, flooring, painting, new plumbing, front entrance	\$108,000
Playground Improvements/Maintenance	\$23,000
Cleaning Service	\$60,000

Parent Child Center, Inc

New Kitchen	\$20,000
Door	\$5,000
New Fence	\$8,200
Landscape Upgrade	\$6,000

LEASE REVENUES FOR PAST 3 YEARS -- 90 HILLPOINT -- SEPT 2016 TO FEB 2020

ORG	YR/PR	JNL	EFF DATE	SRC	REF1	COMMENT	JOURNAL AMOUNT
40370151	17/3	102	09/08/16	GCR	PARENT	PARENTCHILD RECPT 9/8/16	4,886.51
40370151	17/4	62	10/05/16	GCR	105REN	10/5/16 OCT RENT	4,886.51
40370151	17/5	60	11/03/16	GCR	PARENT	PARENTCHILD RENT NOV 2016	4,886.51
40370151	17/6	17	12/01/16	GCR	PCHILD	PARENTCHILD DEC2016 RENT	4,886.51
40370151	17/7	17	01/03/17	GCR	PARENT	PARENT CHILD CENTER JAN 2017	4,886.51
40370151	17/8	180	02/13/17	GCR	PARENT	PARENTCHILD CENTER FEB 2017	4,886.51
40370151	17/9	24	03/02/17	GCR	PCHILD	PARENT CHILD MARCH 2017	4,886.51
40370151	17/10	50	04/05/17	GCR	PARENT	RENT APRIL 2017	4,886.51
40370151	17/11	108	05/05/17	GCR	PCHILD	MAY 2017	4,886.51
40370151	17/12	11	06/01/17	GCR	PCHILD	JUNE 2017 RENT	4,886.51
40370151	18/1	311	07/20/17	GCR	RENT	RECLASS JULY2017 RENTCK JE #4	4,886.51
40370151	18/2	21	08/01/17	GCR	RENT	AUG 2017 RENT	4,886.51
September 2016 August 2017							58,638.12
40370151	18/3	44	09/05/17	GCR	PARENT	PARENT CHILD SEPT 2017	5,008.11
40370151	18/4	56	10/04/17	GCR	PCHILD	RENT RECPTS OCT 2017	5,008.11
40370151	18/5	99	11/06/17	GCR	PCHILD	NOV 2017 RECPT	5,008.11
40370151	18/6	140	12/11/17	GCR	PCHILD	PARENT CHILD RENT DEC 2017	5,008.11
40370151	18/7	120	01/11/18	GCR	PCHILD	JAN 2018 RENT	5,008.11
40370151	18/8	48	02/02/18	GCR	PCHILD	PARENT CHILD RENT FEB 2018	5,008.11
40370151	18/9	39	03/02/18	GCR	PCHILD	PARENT CHILD MARCH 2018 RENT	5,008.11
40370151	18/10	54	04/04/18	GCR	PCHILD	APRIL 2018 RENT	5,008.11
40370151	18/11	283	05/17/18	GCR	PCHILD	MAY 2018 RENT RECPT	5,008.11
40370151	18/12	37	06/04/18	GCR	PCHILD	JUNE 2018 RENT	5,008.11
40370151	19/1	138	07/09/18	GCR	PCHILD	JULY 2018 RENT RECPT	5,008.11
40370151	19/2	95	08/06/18	GCR	PCHILD	PCHILD CENTER AUG 2018 RECPT	5,008.11
September 2017 August 2018							60,097.32
40370151	19/3	153	09/11/18	GCR	PCHILD	SEPT 2018 RECPT	5,133.35
40370151	19/4	76	10/04/18	GCR	PCHILD	RECPTS OCT 2018	5,133.35
40370151	19/5	66	11/05/18	GCR	PCHILD	NOV 2018 RECPT	5,133.35
40370151	19/6	68	12/06/18	GCR	PCHILD	DEC 2018 RENT RECPT	5,133.35
40370151	19/7	25	01/02/19	GCR	CHILD	JAN 2019 RECPT	5,133.35
40370151	19/8	51	02/04/19	GCR	PCHILD	FEB 2019 RENT RECPT	5,133.35
40370151	19/9	83	03/07/19	GCR	PCHILD	RENT RECPT MARCH 2019	5,133.35
40370151	19/10	41	04/02/19	GCR	PCHILD	APRIL 2019 RECPT	5,133.35
40370151	19/11	66	05/03/19	GCR	PCHILD	RECPTS APRIL 2019	5,133.35
40370151	19/12	235	06/14/19	GCR	PCHILD	JUNE 2019 RENT RECPT	5,133.35
40370151	20/1	171	07/09/19	GCR	CHILD	RENT JULY 2019 RECPT	5,133.35
40370151	20/1	619	07/29/19	GCR	CHILD	AUG 2019 RECPT	5,133.35
September 2018 August 2019							61,600.20
40370151	20/3	85	09/06/19	GCR	CHILD	SEPT 2019 RECPT	5262.35
40370151	20/4	43	10/02/19	GCR	CHILD	OCT 2019 RECPT	5262.35
40370151	20/5	81	11/06/19	GCR	PCHILD	PARENT CHILD CENTER RENT	5262.35
40370151	20/6	49	12/04/19	GCR	CHILD	DEC 2019 RECPT CK	5262.35
40370151	20/7	19	01/02/20	GCR	CHILD	JAN 2020 RENT RECPT CK	5262.35
40370151	20/8	21	02/03/20	GCR	CHILD	FEB 2020 RENT RECPT	5262.35
September 2019 February 2020							31,574.10

MEMORANDUM

Date: February 13, 2020

To: Members of the Board of Finance

CC: James S. Marpe, First Selectman

From: Eileen Lavigne Flug, Assistant Town Attorney

Re: Compliance Statement: Lease between the Town of Westport and the Parent Child Center, Inc.
(the "Lease")

I have reviewed the terms of the above-referenced Lease and its requirements regarding rent payments, use, maintenance and repairs, signage, and insurance obligations. I have confirmed with the Finance Department that they have had no trouble collecting the rent for the premises. I have confirmed with the Public Works Department that to the best of their knowledge the tenant is in compliance with the use, repair and maintenance, and signage obligations of the Lease. My office has received insurance certificates from the tenant and each subtenant that meet the requirements of the Lease.

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT	
WESTPORT TOWN OF HILLSPOINT SCHOOL 110 MYRTLE AVE WESTPORT CT 06880	06880	531713	1 Public			Code 21 Code 22	Appraised 9,936,000 7,756,900 Assessed 6,955,200 5,429,800
SUPPLEMENTAL DATA		Lift Hse		Assoc Pict#		Total 17,692,900 12,385,000	

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	VI	SALE PRICE	VC
WESTPORT TOWN OF	0000	0000	10-24-1946	U	I	0	29

EXEMPTIONS		OTHER ASSESSMENTS	
Year	Code	Description	Amount
Total			0.00

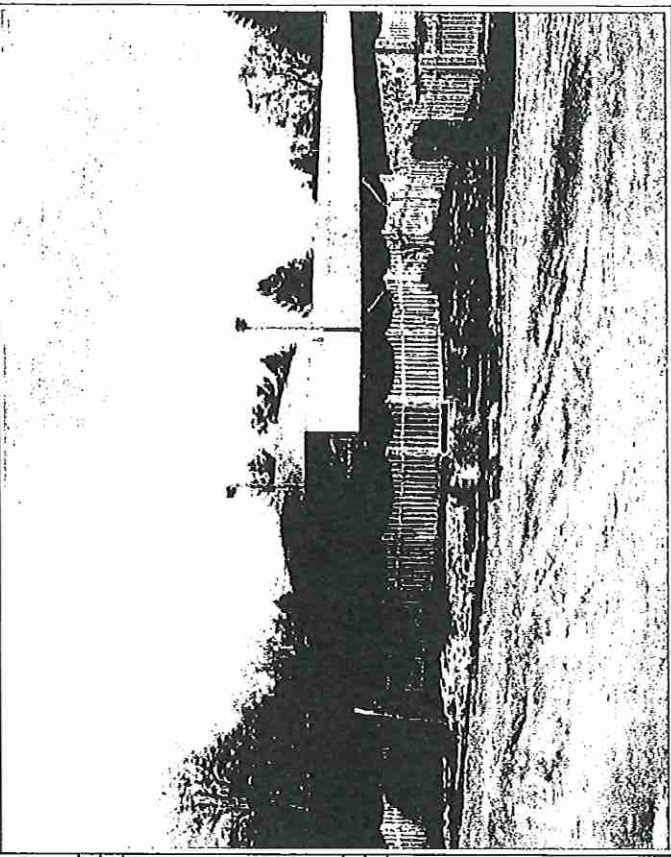
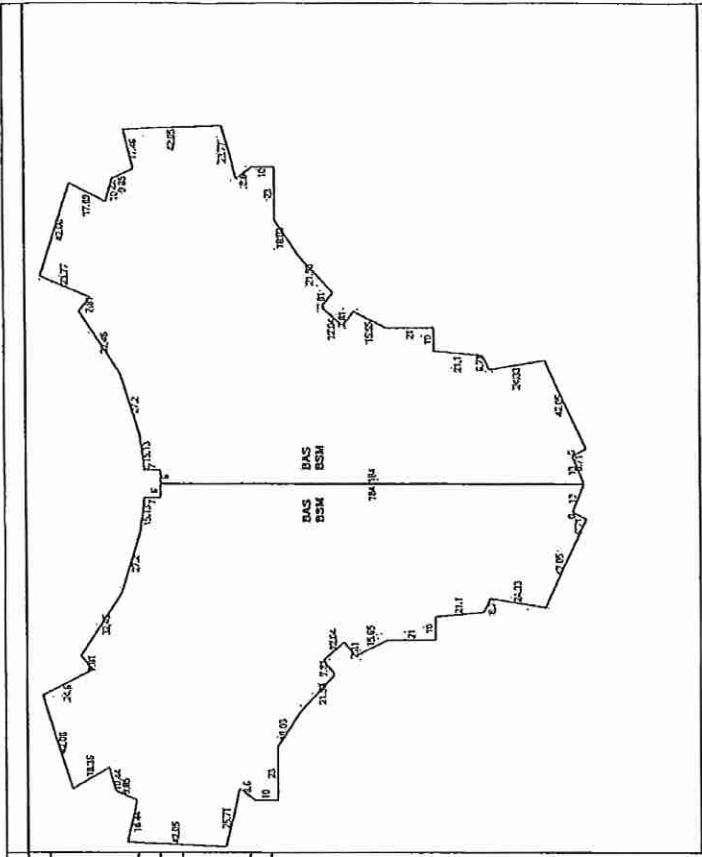
ASSESSING NEIGHBORHOOD	
Nbhd	Nbhd Name
0001	B

NOTES
 PARENT CHILD CENTER
 LEASED BY TOWN TO 3 TENANTS = EXEMPT
 CHILDREN'S COMMUNITY DEVELOPMENT CENTER
 LEARNING COMMUNITY DAY SCHOOL
 A CHILD'S PLACE

BUILDING PERMIT RECORD				VISIT / CHANGE HISTORY										
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments	Date	Id	Type	Is	Cd	Purpose/Result
84230	07-12-2018	AL	Alterations	0	01-09-2019	100	08-21-2018	SOUND PROOFING EXISTIN	01-09-2019	TM	2	5	69	Partial Int Inspn (See Perm
82867	07-12-2017	AL	Alterations	0	02-07-2018	100	09-06-2017	RELOCATE DOOR IN CCDC	02-07-2018	TM	2	57	57	Office review - town record
81757	08-09-2016	AL	Alterations	0	04-17-2017	100	10-01-2016	ENLARGE EXISTING BATHR	04-17-2017	TM	2	57	57	Office review - town record
78775	07-28-2014	AL	Alterations	0	09-24-2014	100	09-24-2014	ENLARGE 3 EXISTING TOILE	09-24-2014	TM	2	5	69	Partial Int Inspn (See Perm
77085	08-05-2013	AL	Alterations	0	09-24-2014	100	09-24-2014	SAUGATUCK CHILD CARE -	05-17-2010	J	2	00	00	QC - Check/Field Review
74712	05-29-2012	AL	Alterations	0	09-24-2014	100	05-28-2009	CONSTRUCT DIVIDER FOR	08-04-2008	TM	2	5	00	Measur+Listed
68864	08-09-2007	AL	ALTERATIONS	0	08-04-2008	100	05-28-2009	MODIFY 2 BATHROOMS, RO	10-01-1006	W/G	2	5	00	Measur+Listed

LAND LINE VALUATION SECTION		BUILDING PERMIT RECORD		VISIT / CHANGE HISTORY										
B Use Code	Description	Zone	Land Type	Land Units	Unit Price	I. Factor	Site Index	Cond.	Nbhd.	Nbhd Adj	Notes	Location Adjustment	Adj Unit Pric	Land Value
1	933 Pub School	AA		6.900 AC	1,200,000	1.00000	C	1.00	H	1.200		0		9,936,000
Total Card Land Units		Total Card Land Units		6.900 AC	Parcel Total Land Area: 6.9000		Total Appraised Parcel Value		Total Appraised Parcel Value		Total Land Value		9,936,000	

This signature acknowledges a visit by a Data Collector or Assessor



CONSTRUCTION DETAIL		Element	Cd	Description
Style:	72	School		
Model	94	Commercial		
Grade	05	Average +20		
Stories:	1			
Occupancy	1.00			
Exterior Wall 1	21	Stone/Masonry		
Exterior Wall 2				
Roof Structure	08	Irregular		
Roof Cover	04	T&G/Rubber		
Interior Wall 1	05	Drywall		
Interior Wall 2	04	Plywood Panel		
Interior Floor 1	03	Concr-Finished		
Interior Floor 2				
Heating Fuel	02	Oil		
Heating Type	04	Forced Air		
AC Type	03	Central		
Bldg Use	933	Pub School		
Income Adj				
Heat/AC	01	Heat/AC Pkgs		
Frame Type	05	Steel		
Baths/Plumbing	02	Average		
Ceiling/Walls	06	Ceil & Walls		
Rooms/Prtns	02	Average		
Wall Height	10.00			
% Conn Wall				
1st Floor Use:	933			

CONSTRUCTION DETAIL (CONTINUED)		Element	Cd	Description
		MIXED USE		
Code	933	Pub School		Percentage
				100
				0
				0
		COST / MARKET VALUATION		
RCN				11,752,852
Year Built				1950
Effective Year Built				
Depreciation Code				A
Remodel Rating				34
Year Remodeled				1
Depreciation %				
Functional Obsol				
External Obsol				
Trend Factor				
Condition %				
Percent Good				66
Cns Sect Rcnld				7,756,900
Dep % Ovr				
Dep Ovr Comment				
Misc Imp Ovr				
Misc Imp Ovr Comment				
Cost to Cure Ovr				
Cost to Cure Ovr Comment				

OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)		L/B	Units	Unit Price	Yr Bilt	Cond.	Cd	% Good	Grade	Grade Adj	Appr. Value	
Code	Description											
BUILDING SUB-AREA SUMMARY SECTION												
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Unit Cost	Undeprec Value					
BAS	First Floor	39,352	39,352		217.90	8,574,675						
BSM	Basement Area	0	39,352		76.26	3,001,093						
Totl Gross Liv / Lease Area		39,352	78,704									11,575,768

3. To take such action as the meeting may determine, upon the request of the Department of Human Services, to approve documents associated with the FY 2020-2021 CT Department of Housing CDBG Grant Application.

All documents provided electronically

4. To take such action as the meeting may determine to approve the Award of Contract RFP #20-994T (Coleytown Middle School: Furniture, Fixtures and Equipment) to Insalco Corporation in the amount of \$257,492.82.



WESTPORT, CONNECTICUT

DEPARTMENT OF PUBLIC WORKS
TOWN HALL, 110 MYRTLE AVE.
WESTPORT, CONNECTICUT 06880
(203) 341 1120

Mr. James S. Marpe, First Selectman
Westport Town Hall
Westport, CT

April 23, 2020

Re: Award of Contract: RFP#20-994T
Coleytown Middle School: Furniture, Fixtures, and Equipment

Dear Mr. Marpe,

The Town of Westport received six responses to the above noted Request for Proposals, returned March 16, 2020. The responses were reviewed by the Public Works Department and Consultant staff. Three bids were deemed incomplete. One bid proposed alternates to the specified materials, and two were deemed complete, however one bid had a labor rate issue. The responses are as follows:

<u>Respondent</u>	<u>Total Bid</u>	<u>Notes</u>
1) WB Mason, Norwalk, Ct	\$2,166,511	Alternates to Specifications
2) Inside Source, Norwalk, Ct	\$264,180.11	As specified but Labor issue
3) School Furnishings, Hudson, NH.	\$119,512.87	Bid Incomplete
4) Insalco, Wallingford, Ct.	\$257,492.82	As specified
5) Red Thread, East Hartford, Ct.	\$217,232.00	Bid Incomplete
6) Lakeshore Learning Mat'ls, Carson Ca.	\$56,766.19	Bid Incomplete

The apparent low bidder was contacted and interviewed by project staff to confirm conformance to the project specifications. As a result of that interview and documentation contained in their proposal, this office recommends and requests that contract award be made to Insalco Corporation, 7 Capital Drive, Wallingford, Ct. 06492 for this work.

Should you have any questions / comments please contact me at your convenience.

Cordially,

John J. Broadbin RLA, ASLA
Deputy Director
Westport Public Works

4/22/2020

RFP 20-994T
CMS
FURNITURE, FIXTURES EQUIPMENT

BIDDERS:	TOTAL BID	NOTES
WB MASON NORWALK, CT	\$2,166,511.00	ALTERNATES TO SPEC
INSIDE SOURCE NORWALK CT	\$264,180.11	AS SPECIFIED LABOR ISSUE
SCHOOL FURNISHINGS HUDSON, NH	\$119,512.87	BID INCOMPLETE ✓
INSALCO WALLINGFORD, CT	\$257,492.82	AS SPECIFIED
ROBERT H LORD CO., INC MANCHESTER, CT	NO BID	
RED THREAD EAST, HARTFORD, CT	\$217,232.00	BID INCOMPLETE ✓
LAKESHORE LEARNING MAT'LS CARSON, CA	\$56,766.19	BID INCOMPLETE ✓

PRESENT: Richard Kotchko _____
and other interested parties

TYPED BY: Richard Kotchko _____

BID CLOSED: 11:00 A.M. EDT



AIA[®]

Document A151[™] – 2019

Standard Form of Agreement Between Owner and Vendor for Furniture, Furnishings, and Equipment (FF&E)

AGREEMENT made as of the 21st day of April
in the year 2020
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

TOWN OF WESTPORT
110 Myrtle Avenue
Westport, CT 06880

and the Vendor:
(Name, legal status, address, and other information)

INSALCO CORPORATION
7 Capital Drive
Wallingford, CT 06492

for the following Project:
(Name, location, and detailed description)
Coleytown Middle School Rehabilitation Project
255 North Avenue, Westport, Connecticut

The Architect:
(Name, legal status, address, and other information)

Wiss, Janney, Elstner Associates, Inc.
2 Trap Falls Road, Suite 502
Shelton, CT 06484

The Owner and Vendor agree as follows.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 CONTRACT SUM AND PAYMENTS
- 3 TIME
- 4 OWNER
- 5 VENDOR
- 6 TITLE AND RISK OF LOSS
- 7 DELIVERY AND INSTALLATION
- 8 ACCEPTANCE
- 9 WARRANTIES
- 10 ARCHITECT
- 11 RELATED ACTIVITIES OF OWNER OR OF SEPARATE VENDORS
- 12 PROTECTION OF PERSONS AND PROPERTY
- 13 INSURANCE
- 14 CLAIMS AND DISPUTES
- 15 ENUMERATION OF CONTRACT DOCUMENTS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Governing Law, including the Uniform Commercial Code

This Agreement is for the sale of goods, specifically furniture, furnishings, and equipment (FF&E), and shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rule and including the jurisdiction's Uniform Commercial Code (UCC) as adopted. If this Agreement conflicts with terms provided by the UCC, the Agreement shall prevail. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.7.

§ 1.2 The Contract Documents

The Contract Documents are enumerated in Article 15 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Vendor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. Performance by the Vendor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.3 The Contract

The Contract Documents form the Contract for the Work. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior proposals, offers, terms and conditions, negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Vendor. The primary purpose of the Contract is the sale of goods, and any services provided are incidental to such primary purpose.

§ 1.4 Modifications

A Modification is a written amendment to the Contract for changes in the Work signed by both parties or a written order for a minor change in the Work signed by the Architect. A minor change in the Work is a change that is consistent with the intent of the Contract Documents and does not involve an adjustment in the Contract Sum or an extension of the Contract Time.

§ 1.5 The Work

The Work means the Vendor's performance, including the sale of FF&E and any incidental fabrication, shipping, warehousing, delivery, installation, and other items or services required by the Contract Documents and provided, or to be provided, by the Vendor. The Work includes all labor, materials, temporary protection, storage, and equipment necessary to fulfill the Vendor's obligations, except as specifically indicated in the Contract Documents to be the responsibility of others. The Work may constitute the whole or a part of the Project.

§ 1.6 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.7 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.7.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Vendor, sub-vendors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.7.2 The Vendor, sub-vendors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to the protocols established pursuant to Sections 1.8 and 1.9, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Vendor, sub-vendors, and suppliers may not use the Instruments of Service on other projects, or in connection with additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.8 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.9 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its vendors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.10 Severability

The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.11 Notice

§ 1.11.1 Except as otherwise provided in Section 1.11.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier,

or by electronic transmission in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering Notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 1.11.2 Notice of Claims shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.12 Assignment of Contract

Neither party to the Contract shall assign the Contract without written consent of the other, except that the Owner may, without consent of the Vendor, assign the Contract to a lender providing financing for the Project if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Vendor shall execute all consents reasonably required to facilitate such assignment.

ARTICLE 2 CONTRACT SUM AND PAYMENTS

§ 2.1 Contract Sum

§ 2.1.1 The Owner shall pay the Vendor the Contract Sum in current funds for the Vendor’s performance of the Contract. The Contract Sum shall be Two Hundred Fifty Seven Thousand Four Hundred Ninety Two and 82/100 (\$ 257,492.82), subject to additions and deductions as provided in the Contract Documents.

§ 2.1.2 Alternates

§ 2.1.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
------	-------

§ 2.1.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ 2.1.3 Unit prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
See Bid Proposal Form "B" Bid Detail and E-Mail Message from Susan Chipouras to Amy Lantieri and Harry Gruss of 04/16/2020 at 4:38 p.m.		

§ 2.1.4 Allowances, if any, included in the Contract Sum:

(Identify each allowance.)

Item	Price
------	-------

§ 2.1.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

§ 2.1.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

§ 2.2 Payments

§ 2.2.1 The Owner shall make payments to the Vendor in conformance with the following payment terms:

(Insert payment terms, such as payment due dates, deposit requirements, and prompt payment discounts, if any.)

Vendor will submit itemized invoices as Vendor delivers and installs the FF&E. Invoices will be reviewed and approved by Owner upon Owner's acceptance of the FF&E in accordance with ARTICLE 8. Owner will pay each invoice within thirty (30) days of receipt by Owner's Finance Department of a copy of the invoice bearing indicia of approval by Owner's designated representative.

§ 2.2.2 When payment is due pursuant to the payment terms of Section 2.2.1, the Vendor shall submit to the Owner an itemized invoice, supported by data substantiating the Vendor's right to payment.

§ 2.2.3 Except with the Owner's knowledge and consent, the Vendor shall not engage in any activity, or offer any employment, interest, or contribution to the Owner's employees or consultants, that would reasonably appear to compromise the Owner's employees' or consultants' judgment with respect to this Project.

ARTICLE 3 TIME

§ 3.1 Contract Time

§ 3.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for completion of the Work. The Contract Time shall be measured from the date of commencement. The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 3.1.2 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement, the Vendor confirms that the Contract Time is a reasonable period for performing the Work.

§ 3.1.3 If the Vendor is delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Vendor’s control; or (3) other causes that the Vendor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine, subject to the provisions of Article 14.

§ 3.1.4 If the Vendor fails to achieve completion of the Work as provided in this Article 3, liquidated damages, if any, shall be assessed as set forth in Section 2.1.5.

§ 3.2 Date of Commencement

The date of commencement of the Work shall be:
(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.3 Completion

§ 3.3.1 Completion of the Work occurs upon acceptance of all FF&E in the Contract Documents in accordance with Article 8.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Vendor shall achieve completion of the entire Work:

(Check the appropriate box and complete the necessary information.)

- Not later than () calendar days from the date of commencement of the Work.
- By the following date: August 21, 2020

§ 3.3.3 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to completion of the entire Work, the Vendor shall achieve completion of such portions by the following dates:

ARTICLE 4 OWNER**§ 4.1 The Owner's Representative**

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall not be changed without ten days' prior notice to the Vendor. The Owner identifies the following representative:

(Name, address, email address, and other information)

John Broadbin, Deputy Director of Public Works

110 Myrtle Avenue, Westport, CT 06880

jbroadbin@westportct.gov

§ 4.2 Information and Services Required of the Owner

§ 4.2.1 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.2.2 Unless otherwise provided in the Contract Documents, the Owner shall provide

- .1 areas of the Project premises that the Vendor may use to perform the Work;
- .2 access to the Project premises for the Vendor at reasonable times;
- .3 information regarding any restrictions on the use of, or access to, the Project premises;
- .4 suitable space for receipt, inspection, acceptance, and staging of materials and FF&E;
- .5 utilities and facilities on the Project premises and vertical transportation necessary for progress and execution of the Work; and
- .6 a secured premises for storage of FF&E until acceptance.

§ 4.2.3 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall furnish any other information or services under the Owner's control and relevant to the Vendor's performance of the Work with reasonable promptness after receiving the Vendor's written request for such information or services.

ARTICLE 5 VENDOR**§ 5.1 The Vendor's Representative**

The Vendor shall identify a representative authorized to act on behalf of the Vendor with respect to the Project. The Vendor's representative shall not be changed without ten days' prior notice to the Owner and Architect. The Vendor identifies the following representative:

(Name, address, email address, and other information)

Harry Gruss, Jr., Client Development Manager

7 Capital Drive, Wallingford, CT 06492

harry-insalco@snet.net

§ 5.2 The Vendor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents by activities or duties of the Architect in the Architect's administration of the Contract.

§ 5.3 The Vendor shall coordinate its Work with the work provided by the Owner and the Owner's other vendors, consultants, and contractors. The Vendor may communicate with the Owner's other vendors, consultants, and contractors, for the purposes of completing the Work. The Vendor shall keep the Owner reasonably informed of any such communications. The Vendor shall be entitled to rely on the accuracy and completeness of work and information furnished by the Owner and the Owner's other vendors, consultants, and contractors. The Vendor shall provide prompt written notice to the Owner if the Vendor becomes aware of any error, omission, or inconsistency in such work or information.

§ 5.4 Review of Contract Documents and Inspection of Project Premises by Vendor

§ 5.4.1 Execution of the Contract by the Vendor is a representation that the Vendor has visited the Project premises, if required in the Contract Documents, and correlated personal observations with requirements of the Contract Documents.

§ 5.4.2 Before starting each portion of the Work, including placing orders for FF&E, the Vendor shall (1) carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 4.2; (2) visit and inspect the Project premises in order to gain an understanding of the conditions under which the Work is to be performed; (3) determine availability of facilities for access, delivery, transportation, and staging; (4) determine any restrictions imposed by the Owner and the Owner's separate vendors and contractors; and (5) correlate observations with the requirements of the Contract Documents. The Vendor shall promptly report to the Owner and Architect conditions observed that would impede the Vendor's performance of the Work. The Vendor's obligations to review the Contract Documents are for the purpose of facilitating delivery and installation by the Vendor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Vendor shall promptly report to the Architect any errors, inconsistencies, or omissions discovered by or made known to the Vendor as a request for information in such form as the Architect may require. It is recognized that the Vendor's review is made in the Vendor's capacity as a vendor and not as a licensed design professional, unless otherwise specifically provided for in the Contract Documents.

§ 5.4.3 The Vendor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Vendor shall promptly report to the Architect any nonconformity discovered by or made known to the Vendor as a request for information in such form as the Architect may require.

§ 5.4.4 If the Vendor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Vendor's notices or requests for information pursuant to Sections 5.4.2 or 5.4.3, the Vendor shall submit Claims as provided in Article 14. If the Vendor fails to perform the obligations of Sections 5.4.2 or 5.4.3, the Vendor shall pay such costs and damages to the Owner, subject to Section 14.12, as would have been avoided if the Vendor had performed such obligations. If the Vendor performs those obligations, the Vendor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies, or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 5.5 Supervision

§ 5.5.1 The Vendor shall supervise and direct the Work using the Vendor's best skill and attention. The Vendor shall be solely responsible for and have control over the means, methods, techniques, sequences, and procedures of fabrication, shipment, delivery, and installation, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 5.5.2 The Vendor shall be responsible to the Owner for acts and omissions of the Vendor's employees, sub-vendors, and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Vendor or any of its sub-vendors.

§ 5.5.3 The Vendor shall be responsible for inspection of portions of the Work already performed to determine that such portions are in proper condition for subsequent Work.

§ 5.6 Labor and Materials

§ 5.6.1 Unless otherwise provided in the Contract Documents, the Vendor shall provide and pay for labor, materials, tools, installation equipment and machinery, delivery, and other facilities and services necessary for proper execution

and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 5.6.2 The Vendor shall enforce strict discipline and good order among the Vendor's employees and other persons carrying out the Work. The Vendor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 5.6.3 The Vendor shall make no substitution or change in the Contract Documents unless done in accordance with a Modification, and after providing the Architect notice and a reasonable opportunity to evaluate the proposed substitution or change and consult with the Owner.

§ 5.7 Taxes

The Vendor shall pay sales, consumer, use, and other similar taxes that are legally enacted when quotes are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 5.8 Permits, Fees, Notices, and Compliance with Laws

§ 5.8.1 Unless otherwise provided in the Contract Documents, the Vendor shall secure and pay for permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 5.8.2 The Vendor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Vendor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Vendor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 5.9 Allowances

The Vendor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select items under allowances with reasonable promptness. Allowance amounts shall include the costs to the Vendor of items delivered at the Project premises and all required taxes, less applicable trade discounts. Vendor's costs for unloading and handling at the Project premises, labor, installation, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowance. Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Modification. The amount of the Modification shall reflect the difference between actual costs and the allowances under Section 2.1.4.

§ 5.10 Vendor's Schedules

§ 5.10.1 The Vendor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a progress schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the progress of the Work and Project, shall be related to the entire Project, and shall provide for expeditious and practicable execution of the Work.

§ 5.10.2 The Vendor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

§ 5.10.3 The Vendor's progress schedule shall indicate dates for commencement and completion of phases of the Work within the Contract Time, including dates for order placement, fabrication, shipping, delivery, and installation. The schedule shall indicate other critical dates, such as deadlines for approval of submittals of colors, finishes, and materials. The Vendor shall obtain and submit for the Owner's and the Architect's information written confirmation from sub-vendors of dates of fabrication and delivery.

§ 5.10.4 The Vendor shall cooperate with the Owner and Architect in coordinating the Vendor's progress schedule with those of contractors and separate vendors and with the requirements of the Owner and Architect. The Vendor shall cooperate in determining mutually acceptable dates and times for delivery, installation, and inspection of the Work, and use of services and facilities provided to the Vendor, all to be confirmed in writing within a reasonable time in advance of such dates and times.

§ 5.11 Submittals

§ 5.11.1 The Vendor shall review for compliance with the Contract Documents and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents in coordination with the Vendor's progress schedule and in such sequence as to allow the Architect reasonable time for review. By submitting shop drawings, product data, samples, and similar submittals, the Vendor represents to the Owner and Architect that the Vendor has (1) reviewed and approved them; (2) determined and verified materials, field measurements, and field installation criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals. Shop drawings, product data, samples and similar submittals are not Contract Documents.

§ 5.11.2 The Vendor shall provide the Owner with available manufacturer's warranty documents, product data, and material safety data sheets.

§ 5.12 Cleaning Up

The Vendor shall keep the Project premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Vendor shall remove waste materials, rubbish, the Vendor's tools, construction equipment, machinery, and surplus material from and about the Project.

§ 5.13 Access to Work

The Vendor shall provide the Owner and Architect with reasonable access to the Work in preparation and progress wherever located.

§ 5.14 Indemnification

§ 5.14.1 To the fullest extent permitted by law, the Vendor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Vendor, a sub-vendor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 5.14.1.

§ 5.14.2 In claims against any person or entity indemnified under Section 5.14.1 by an employee of the Vendor, a sub-vendor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 5.14.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Vendor or sub-vendor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 5.14.3 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Vendor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any sub-vendor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Vendor. If approved by the applicable court, when required, the Vendor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

ARTICLE 6 TITLE AND RISK OF LOSS

§ 6.1 Title to all FF&E shall be transferred to the Owner upon acceptance in accordance with Article 8.

§ 6.2 The risk of loss with respect to all FF&E provided by the Vendor shall remain with the Vendor, and the Owner has no obligation to insure such FF&E, until acceptance in accordance with Article 8.

ARTICLE 7 DELIVERY AND INSTALLATION

§ 7.1 The Vendor shall deliver FF&E in accordance with the Vendor's progress schedule, or at a time agreed upon by the Owner and Architect, and in accordance with Article 5.

§ 7.2 Delivery and installation of all FF&E shall be made at the Project premises unless otherwise specified in the Contract Documents.

§ 7.3 The Vendor shall coordinate with the Owner regarding the logistics of the Vendor's delivery and installation obligations at the Project premises.

ARTICLE 8 ACCEPTANCE

§ 8.1 The Owner and Architect may conduct a preliminary inspection of FF&E within seven days after its delivery to the Project premises for the purpose of verifying the delivery and quantities. Preliminary inspections shall not constitute acceptance of, taking charge over, or taking control of, such FF&E. The Architect shall report to the Vendor any defects, damage, deficiencies, or nonconformity observed during the preliminary inspection.

§ 8.2 When the Vendor considers the Work, or a portion thereof which the Owner agrees to accept separately, to be complete, the Vendor shall notify the Owner and Architect. The Vendor shall allow the Owner and Architect a reasonable amount of time to inspect the FF&E to determine, based on conformance with the Contract Documents, if it is accepted or rejected in whole or in part. Based on the Architect's recommendation to the Owner and the Owner's own inspection, if any, the Owner shall accept or reject the FF&E, in whole or in part.

§ 8.3 If the Owner rejects any of the FF&E, the Owner, or the Architect acting on behalf of the Owner, shall notify the Vendor within seven days of the date of inspection, specifying the basis for such rejection. Upon rejection, the Vendor shall provide a remedy and evidence of arrangements to accomplish such remedy. The Owner shall allow the Vendor a reasonable amount of time to remedy the rejected FF&E. When the Vendor considers the remedied FF&E to be complete, the parties shall follow the procedures set forth in Section 8.2. If the Owner rejects any of the FF&E for a second time, the Owner shall promptly notify the Vendor and the Vendor shall promptly remove the rejected FF&E from the Project premises and refund payments made for such rejected goods to the Owner. If the Vendor disagrees with an Owner's rejection, the Vendor may make a claim.

§ 8.4 FF&E not inspected in accordance with Section 8.2 or rejected in accordance with Section 8.3 shall be deemed accepted.

§ 8.5 The Owner's acceptance under this Article 8 cannot be revoked; however, the provisions of this Article 8 do not preclude recovery of damages as provided by law. The Owner's acceptance, or failure to discover a Vendor's breach after acceptance, shall not bar the Owner from making claims in accordance with Article 14 or from remedies and damages due to the Vendor's breach of this Agreement, including the Vendor's breach of warranties in Article 9.

ARTICLE 9 WARRANTIES

§ 9.1 The Vendor warrants to the Owner that the FF&E furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Vendor further warrants that the FF&E will conform to the requirements of the Contract Documents. FF&E not conforming to these requirements may be considered defective. The Vendor's warranty excludes remedy for damage or defect caused by abuse, alterations to the FF&E not executed by the Vendor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage.

§ 9.2 The Vendor assigns to the Owner all FF&E manufacturers' warranties and guarantees upon acceptance in accordance with Article 8.

§ 9.3 The Vendor hereby provides to the Owner all warranties relating to the FF&E implied by law, including the warranty of merchantability and warranty of fitness for a particular purpose.

§ 9.4 The Vendor acknowledges that no exclusion of, or limitation on, warranties contained in any proposal, product literature, or other submittal shall affect the warranties provided in this Article 9.

ARTICLE 10 ARCHITECT

§ 10.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during the Vendor's performance, and until completion, of the Work. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 10.2 Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Vendor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with sub-vendors and suppliers shall be through the Vendor. Communications by

and with separate vendors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 10.3 The Architect will assist the Owner in coordinating schedules for fabrication, delivery, and installation of the Work, but will not be responsible for failure of the Vendor or a sub-vendor to meet schedules for completion or to perform their respective duties and responsibilities in conformance with applicable schedules.

§ 10.4 The Architect will visit the Project premises at intervals appropriate to the stage of the Work, or as otherwise agreed with the Owner, to become generally familiar with, and to keep the Owner informed about, the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Architect will not have control over, charge of, or responsibility for, the means, methods, techniques, sequences, or procedures of fabrication, shipment, delivery, storage, or installation, or for the safety precautions and programs in connection with the Work, as these are solely the Vendor's rights and responsibilities under the Contract Documents.

§ 10.5 The Architect may order minor changes in the Work. The Architect's order for minor changes shall be in writing. If the Vendor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Vendor shall notify the Architect and shall not proceed to implement the change in the Work. If the Vendor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Vendor waives any adjustment to the Contract Sum or extension of the Contract Time.

§ 10.6 The Architect will conduct inspections of FF&E and provide recommendations as set forth in Article 8. Pursuant to Article 8, the Architect is only responsible for identifying defects, deficiencies, or nonconformities that the Architect actually observes, or reasonably should observe, during its inspections. The Architect is not required to make exhaustive or continuous inspections to fulfill its responsibilities in Article 8 and has no responsibility to discover latent defects.

§ 10.7 The Architect will review and approve or take other appropriate action upon the Vendor's submittals such as shop drawings, product data, and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

ARTICLE 11 RELATED ACTIVITIES OF OWNER OR OF SEPARATE VENDORS

§ 11.1 The Owner shall coordinate the activities of the Owner's own forces and of each separate vendor or contractor, if any, with the Work.

§ 11.2 If the Work depends for proper execution or results upon activities by the Owner or a separate vendor or contractor, the Vendor shall, prior to proceeding with that portion of the Work, promptly report to the Owner and Architect apparent discrepancies or defects in, or arising from, the activities of the Owner or separate vendors or contractors, that would impede the Vendor in achieving proper execution and results. If the Vendor fails to report reasonably discoverable discrepancies or defects, it shall be responsible for deficiencies or defects in its Work due to such deficiencies or defects.

§ 11.3 The Vendor shall reimburse the Owner for costs the Owner incurs that are payable to a separate vendor or contractor because of the Vendor's delays, improperly timed activities, or damage to the work of a separate vendor or contractor. The Owner shall be responsible to the Vendor for costs the Vendor incurs because of the delays, improperly timed activities, or damage to the Work caused by a separate vendor or contractor.

§ 11.4 If a dispute arises among the Vendor, separate vendors, or contractors, and the Owner as to the responsibility under their respective contracts for maintaining the Project premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 12 PROTECTION OF PERSONS AND PROPERTY

§ 12.1 Safety Precautions and Programs

The Vendor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Vendor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work, and materials and FF&E to be incorporated therein, whether in storage on or off the Project premises, under care, custody, or control of the Vendor or sub-vendors; and

- .3 other property at the Project premises or adjacent thereto.

The Vendor shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury, or loss. The Vendor shall promptly remedy damage and loss to property caused in whole or in part by the Vendor, sub-vendors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Vendor is responsible under Sections 12.1.2 and 12.1.3. The Vendor may make a claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect, or of anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Vendor. The foregoing obligations of the Vendor are in addition to the Vendor's obligations under Section 5.14.

§ 12.2 Hazardous Materials and Substances

§ 12.2.1 The Vendor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials or substances. If the Vendor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the Project premises by the Vendor, the Vendor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Vendor. By written agreement between the Owner and Vendor, the Contract Time shall be extended appropriately, and the Contract Sum shall be increased in the amount of the Vendor's reasonable additional costs of shutdown, delay, and start-up.

§ 12.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Vendor, sub-vendors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 12.2.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 12.2.3 If, without negligence on the part of the Vendor, the Vendor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Vendor for all cost and expense thereby incurred.

ARTICLE 13 INSURANCE

§ 13.1 The Vendor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Article 13 or elsewhere in the Contract Documents. The Vendor shall purchase and maintain the insurance required by this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Vendor shall maintain the required insurance from the date of commencement of the Work to the date of completion of the Work, unless a different duration is stated below.

§ 13.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars (\$ 1,000,000) each occurrence, Two Million Dollars (\$ 2,000,000) general aggregate, and Two Million Dollars (\$ 2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Vendor's indemnity obligations under Section 5.14.

§ 13.3 Automobile Liability covering vehicles owned by the Vendor and non-owned vehicles used by the Vendor, with policy limits of not less than One Million Dollars (\$ 1,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 13.4 The Vendor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 13.2 and 13.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 13.5 Workers' Compensation at statutory limits.

§ 13.6 Employers' Liability with policy limits not less than One Million Dollars (\$ 1,000,000) each accident, One Million Dollars (\$ 1,000,000) each employee, and One Million Dollars (\$ 1,000,000) policy limit.

§ 13.7 If the Vendor is required to furnish professional services as part of the Work, the Vendor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ 13.8 The Vendor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article 13 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final invoice and thereafter upon renewal or replacement of such coverage until the expiration of the period required by Section 13.1. The certificates will show the Owner as an additional insured on the Vendor's Commercial General Liability and excess or umbrella liability policy.

§ 13.9 The Vendor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Vendor.

§ 13.10 To the fullest extent permitted by law, the Vendor shall cause the commercial liability coverage required by this Article 13 to include (1) the Owner, the Architect, and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Vendor's negligent acts or omissions during the Vendor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Vendor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's Consultants, CG 20 32 07 04.

§ 13.11 Within three (3) business days of the date the Vendor becomes aware of an impending or actual cancellation or expiration of any insurance required by this Article 13, the Vendor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Vendor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Vendor. The furnishing of notice by the Vendor shall not relieve the Vendor of any contractual obligation to provide any required coverage.

§ 13.12 Other Insurance Provided by the Vendor

(List below any other insurance coverage to be provided by the Vendor and any applicable limits.)

Coverage	Limits
Umbrella / Excess Liability	\$5,000,000 each occurrence / \$5,000,000 aggregate

§ 13.13 Waiver of Subrogation

§ 13.13.1 The Owner and Vendor waive all rights against (1) each other and any of their sub-vendors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) separate vendors or contractors, if any, and any of their sub-vendors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by this Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Vendor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, separate vendors and contractors, and sub-vendors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 13.13.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 13.13.2 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Owner shall pay the Architect and Vendor their just shares of insurance proceeds received by the Owner, and by appropriate agreements, written where legally required for validity, the Architect and Vendor shall make payments to their consultants and sub-vendors in similar manner.

ARTICLE 14 CLAIMS AND DISPUTES

§ 14.1 Binding Dispute Resolution

For any claim subject to, but not resolved by, mediation pursuant to Section 14.6, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Section 14.7 of this Agreement
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

If the Owner and Vendor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.

§ 14.2 Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 12.2, shall be referred initially to the Architect for decision. Such matters, except those waived as provided for in Section 14.12, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3 Notice of Claims

Claims by either the Owner or Vendor shall be initiated by notice to the other party in accordance with Section 1.11.2.

§ 14.4 Time Limits on Claims

The Owner and Vendor shall commence all claims and causes of action against the other and arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in this Agreement, whether in contract, tort, breach of warranty, or otherwise, within the period specified by applicable law, but in any case not more than 10 years after the date of completion of the Work. The Owner and Vendor waive all claims and causes of action not commenced in accordance with this Section 14.4.

§ 14.5 If a claim, dispute, or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien procedures, including notice or filing deadlines.

§ 14.6 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.7 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association, in accordance with the Construction Industry Arbitration Rules in effect on the date of this Agreement. Demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 14.8 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 14.9 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, any party to an arbitration may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described in the written Consent.

§ 14.10 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.11 Continuing Contract Performance

Pending final resolution of a Claim, except as otherwise agreed in writing, the Vendor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 14.12 Waiver of Claims for Consequential Damages

The Vendor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Vendor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business, and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages. Nothing contained in this Section 14.12 shall be deemed to preclude an assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

ARTICLE 15 ENUMERATION OF CONTRACT DOCUMENTS

§ 15.1 The Contract Documents are defined in Article 1 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 15.2 The Agreement is this executed AIA Document A151™–2019, Standard Form of Agreement Between Owner and Vendor for Furniture, Furnishings, and Equipment.

§ 15.3 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203–2013 incorporated into this Agreement.)

§ 15.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
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§ 15.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 15.6 The Addenda, if any:

Number	Date	Pages
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Portions of Addenda relating to quotations or proposal requirements are not part of the Contract Documents unless the quotation or proposal requirements are enumerated in this Article 15.

§ 15.7 Additional documents, if any, forming part of the Contract Documents:

- .1 Other Exhibits:
(Check all boxes that apply.)

The Sustainability Plan:

Title	Date	Pages
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Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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- .2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents.)

- A. Rider to AIA Document A151
- B. Bid Proposal Form "A" and Contract Documents listed therein
- C. Bid Proposal Form "B" (Bid Detail)
- D. E-mail message from Susan Chipouras to Amy Lantieri and Harry Gruss of April 16, 2020 at 4:38 p.m.
- E. Owner's RFP Coleytown Middle School Phase 3 of 3 Furniture, Fixtures & Equipment and Addendum Number 1

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

James S. Marpe, First Selectman

(Printed name and title)

VENDOR (Signature)

(Printed name and title)

Init.



WESTPORT, CONNECTICUT

OFFICE OF THE CONTROLLER
TOWN HALL, 110 MYRTLE AVE.
WESTPORT, CONNECTICUT 06880
(203) 341-1080

ADDENDUM #1

March 12, 2019

BID NUMBER: 20-994T

**Coleytown Middle School
255 North Avenue
Westport, Connecticut**

Phase 3 of 3 FURNITURE, FIXTURES & EQUIPMENT

Please note the following information which must be incorporated into your bid proposal for this project:

1. Items are to be bid based on the bid specifications which reference multiple approved manufacturers for each item. We will not be entertaining any alternates at this time.
2. CAD files will only be available to the awarded contractor.
3. A PDF is attached of the Bid Form for use by bidders in submitting their bid.
4. Correct **model #** for **Item R** is **P7176M34SC**.
5. Bid remains due **2:00 P.M., Tuesday, March 17, 2020.**

The Town of Westport reserves the right to waive any defects and informalities in the bidding or in any bid, to reject any or all bids for any reason whatsoever, and to accept that bid deemed to be in the best interest of the Town of Westport.



Insalco Corporation

Furnishings For All Environments

7 Capital Drive
Wallingford, CT 06492

(203) 269-1238

00 03 00

Bid Proposal Form

Bid Proposal Form "A"

Coleytown Middle School
Phase 3 of 3
Furniture, Fixtures & Equipment
255 North Avenue
Westport, CT 06880

Bid Submitted by:

INSALCO CORPORATION

Company Name

7 CAPITAL DRIVE

Street Address

WALLINGFORD, CONNECTICUT 06492

City, State & Zip Code

SCOTT KOWALSKI / HARRY GRUSS JR

Contact

(203) . (269-1238) (203) . (265-9378)

Telephone No

Fax No.

Email Address: Scott-insalco@snet.net / Harry-insalco@snet.net

The undersigned, having familiarized themselves with the existing conditions of the project area affecting the cost of the work, and with the Contract Documents (which includes Invitation to Bid, Bid Form, Bid Bond, Information for Bidders, Non-Collusion Affidavit, Addenda, General Conditions, Project Conditions, Technical Specifications, Drawings as listed in the Schedule of Drawings, and form of Surety Bond) hereby proposes to furnish all machinery, tools, appurtenances, equipment, and services, including utility and transportation services required to construct and complete the work, all in accordance with the above listed Documents, and submits herewith in conformity with the project manual and subsequent addenda, the following bid:

The amount of the **TOTAL BASE BID** as computed by the undersigned Bidder to provide all work associated with **Furniture, Fixtures and Equipment**:

(In words) two hundred fifty-seven thousand four hundred ninety-two dollars and eighty-two cents

Dollars and Cents

(In figures) \$ 257,492.82

In submitting this Bid, the Bidder understands that the Town of Westport reserves the right to reject any and all bids, or to waive any informality in submitted bid documents.

If written notice of the acceptance of this Bid is mailed, emailed, or otherwise delivered to the undersigned within ninety (90) days after the opening of the Bid, or at any time thereafter before the Bid is withdrawn, the undersigned will execute prescribed form, and furnish the required bonds within ten (10) days after the Contract is presented to them for signature.

Bid Bond:

The undersigned herewith submits security equal to fifteen percent (15%) of the Base Bid, the sum of _____
Please see the attached _____ dollars and no cents

\$ _____
Please see the attached _____

This security shall be the sole and exclusive property of the Town of Westport as liquidated damages to the Town, if the undersigned fails to execute a Contract in conformity with the accompanying forms, after due date notification therefor in the Contract Documents.

Bidders shall furnish with their bids (in triplicate) the following:

- 1. Bid Proposal Form "A"
- 2. Bid Proposal Form "B" – Bid Detail
- 3. Bid Bond and Form of Surety
- 4. Non-Collusion Affidavit of Prime Bidder
- 5. Statement of Bidders Qualifications

REJECTION OF BIDS

The Town of Westport shall reject any or all Bids, should the Bid not be accompanied by the required bid security, the Bidding Documents listed above, or by other data required by the Bidding Documents, or in any way incomplete or containing any irregularities.

Addenda:

The Bidder hereby acknowledges receipt of the following Addenda:

Addendum Number	Date received	Signature
#1	March 12, 2020	<i>Scott J Kowalski</i>

Bidder's Official Name and Address:

INSALCO CORPORATION

Company Name

7 CAPITAL DRIVE

Street Address

WALLINGFORD, CONNECTICUT 06492

City, State & Zip Code

Contact Name: *Scott J Kowalski*

Scott J Kowalski

Signature

President

Title

03/16/2020

Date

Contact Name: *Harry Gruss, Jr.*

Harry Gruss, Jr.

Signature

Client Development Manager

Title

03/16/2020

Date

Bid Proposal Form "B"

Bid Detail

**Coleytown Middle School
Phase 3 of 3
Furniture, Fixtures & Equipment
255 North Avenue
Westport, CT 06880**

Tag	Item	Proposed Manufacturer	Quantity	Unit Price	Total Price
A.1*	Bookshelves – Mobile, H60"	Hale	1 lot-	-	74,927.31
A.1.1	Double Sided Mobile Bookshelf	Hale	included in A.1		
A.1.2	End Panel for Double Sided Mobile Bookshelf	Hale	included in A.1		
A.1.3	Double Sided Mobile Bookshelf	Hale	included in A.1		
A.2*	Bookshelves – Stationary, H60"	Hale	1 lot -	-	2,835.67
A.2.1	Single Sided Stationary Bookshelf	Hale	included in A.2		
A.2.2	Single Sided Stationary Bookshelf	Hale	included in A.2		
A.3*	Bookshelves – Stationary, 96'-6" lf x H82"	Hale	1 lot --	-	23,413.99
A.3.1	Single Sided Perimeter Bookshelves	Hale	included in A.3		
A.3.2	Single Sided Perimeter Bookshelves	Hale	included in A.3		
A.3.3	Single Sided Perimeter Bookshelves	Hale	included in A.3		
A.3.4	Single Sided Perimeter Bookshelves	Hale	included in A.3		
A.3.5	Single Sided Perimeter Bookshelves	Hale	included in A.3		
A.3.6	Single Sided Perimeter Bookshelves	Hale	included in A.3		
A.3.7	Single Sided Perimeter Bookshelves	Hale	included in A.3		
A.4	Not Used	-	-	-	-
A.5	Not Used	-	-	-	-
A.6*	Bookshelves – Mobile, Curved, H42"	Hale	1 lot -	-	12,659.87
A.6.1	Curved Mobile Bookshelf	Hale	included in A.6		
A.6.2	Curved Mobile Bookshelf	Hale	included in A.6		
A.6.3	Curved Mobile Bookshelf Frame	Hale	included in A.6		
A.6.4	End Panels	Hale	included in A.6		
A.6.5	Curved Mobile Bookshelf Canopy	Hale	included in A.6		
A.7	Revolving Media Stand	Hale	2	1702.18	3,404.36
B*	Curved Bookcase H36" /Lounge Combo	Hale	1	11202.21	11,202.21
C*	Modular Sectional Lounge Seating	ERG International	1	8234.55	8,234.55
D	Wood Coffee Table	Global	2	404.80	809.60
E	Bar Height Computer Table	Arcadia	2	3341.52	6,683.04
F	Standard Height Computer Table	Arcadia	2	2827.95	5,655.90
FG.1	Wire Management – Vertebrae	Work Rite	2	66.72	133.44
FG.2	Wire Management – Trough	Work Rite	2	81.60	163.20
G.1	Long Bench Seating	Blue Dot	3	824.08	2,472.24
G.2	Short Bench Seating	Blue Dot	2	478.56	957.12
H	Meeting Tables, Foldable on Casters	Muzo Works	8	978.24	7,825.92
I	Bar Height Stools	Muuto	8	620.34	4,962.72
J.1	Poly Stacking/Ganging Chairs, Sled Base	KI Maestro	75	79.38	5,953.50
J.2	Trolley for Stacking Chairs	KI	1	219.52	219.52
K	Mobile Book Carts	Paragon	10	1467.40	14,674.00

Coleytown Middle School
Event ID: DSMI-SCP0000015-WESTPORT
State Project #158-XXXX RNV
Phase 3 of 3

Bid Proposal Form
00 30 00 - 4
Construction Documents – February 6, 2020

Tag	Item	Proposed Manufacturer	Quantity	Unit Price	Total Price
L	Task Chairs	KI Strive	2	264.44	528.88
M	Pedestal Table	ERG International	1	388.80	388.80
N	Crescent Stools	Tenjam	12	372.30	4,467.60
N.1	Pedestal Stools	ERG International	6	566.10	3,396.60
O.1	Bean Bag Chairs (lg)	Haba	4	389.63	1,558.52
O.2	Bean Bag Chairs (sm)	Haba	5	192.87	964.35
P	Student Chairs	Columbia	144	47.19	6,795.36
Q	Lab Stools	Columbia	144	39.33	5,663.52
R	Lab Tables	Diversified	36	550.19	19,806.84
S	Student Tables	MIEN F2F student table	36	228.76	8,235.36
T	Teacher's Lectern	MIEN MUST lectern	6	293.69	1,762.14
U	Wire Racks	Safco	18	266.95	4,805.10
V	Teacher's Desk	MIEN THX teacher desk	6	721.54	4,329.24
W	Lectern	Oklahoma Sound	1	475.71	475.71
X	Wall Mounted Display Case	Waddell	2	2814.00	5,628.00
Y	Teacher's Task Chair	Moore Co. Sassy	6	205.20	1,231.20
Z	Task Chair for Security	KI Strive	1	267.44	267.44
	TOTAL PRICE				\$257,492.82

From: [Susan Chipouras](mailto:smchipouras@vinmas.com)
To: smchipouras@vinmas.com
Subject: FW: Coleytown Middle School
Date: Thursday, April 16, 2020 4:44:22 PM
Attachments: [Tag S - Student Table.pdf](#)
[Tag Item L and Z - Task Seating.pdf](#)
[Tag Item J - Stack Chair.pdf](#)

From: Susan Chipouras <SMChipouras@VinMas.com>
Sent: Thursday, April 16, 2020 4:38 PM
To: 'Amy Lanteri' <amy_lanteri@cpgarch.com>; 'harry-insalco@snet.net' <harry-insalco@snet.net>; 'Jim Sackett' <jim_sackett@cpgarch.com>
Cc: 'O'Day, Don' <Donald.g.oday@gmail.com>; 'Broadbin, John' <JBROADBIN@westportct.gov>
Subject: FW: Coleytown Middle School

CPG OK	Tag #	Description	Manufacturer	How meeting BOD
OK	A.1	Bookshelves – Mobile, H60"	Hale Libraries	Mobile D/F laminate bookcase, 60"H x 36"W x 23"D, white PVC edges, 6 adj. white metal shelves, white metal base shelves, includes back panel/partition, hidden non locking casters, ships assembled; with custom laminate end panel overlays with metal frame and PVC edge
OK	A.2	Bookshelves – Stationary, H60"	Hale Libraries	S/F laminate Starter and/or Adder, 60"H x 12"D, width varies per plan, 3 adj. white metal shelves, 1 white metal base shelf, finished laminate back panel, PVC edges
OK	A.3	Bookshelves – Stationary, 96'-6" LF x H82"	Hale Libraries	S/F laminate Starter and/or Adder, 82"H x 12"D, width varies per plan, 5 adj. white metal shelves, 1 white metal base shelf, with laminate back panel, PVC edges
OK	A.6	Bookshelves – Mobile, Curved, H42"	Hale Libraries	Curved mobile D/F steel welded frame shelving, 42"H x 36"W x 23"D, 3 shelf levels on each side, white metal shelves, metal base shelves, with caster frame assembly, with custom laminate end panel overlays with metal frame and PVC edge

OK	A.7	Revolving Magazine Stand	Hale Libraries	Will provide basis of design model
OK	B	Curved Bookcase H36"/Lounge Combo	Hale Libraries shelving/ Erg seating	S/F laminate curved starter and/or adder, 36"H x 39-1/2"W x 12"D, 2 adj. white metal shelves, 1 wood base shelf, includes finished laminate back panel. Seating to use specified vinyl.
OK	J	Poly Stacking/Ganging Chairs. Sled Base	KI	Model MSP/CH/PCO/G includes chrome frame, polypropylene seat and back with nylon ganging glides
OK	J.1	Trolley for Task Chairs	KI	Dolly to coordinate with chairs
OK	L	Task Chairs	KI	Correct model is SPDCAUB to be provided – includes arms and pneumatic height adjustment with grade 1 fabric TBD
OK	S	Student Tables	Mein Company	Model F2F-30985 is 30" x 48" with locking casters. Includes specified finishes
OK	T	Teacher's Lectern	Mein Company	BOD is manufactured by Balt Manufacturing. Mein will source this at no additional cost.
OK	V	Teacher's Desk	Mein Company	BOD is manufactured by Balt Manufacturing. Mein will source this at no additional cost.
OK	Z	Task Chair for Security	KI	Correct model is SPDCAUB to be provided – includes arms and pneumatic height adjustment with grade 1 fabric TBD

Above is the final chart for the furniture tag items in question. CPG has approved the information provided by Insalco. This chart will be incorporated into Insalco's contract. Insalco will proceed with the required submittals for all items that are being provided including the BOD items in addition to the items listed on this chart.

Susan Chipouras
TOW Project Manager
Coleytown Middle School
Tel: 203-341-1684
Cell: 203-837-0301

5. To take such action as the meeting may determine to approve the Microsoft Enterprise Volume Licensing Agreement between the Town of Westport and Microsoft Corporation.

6. To take such action as the meeting may determine to approve the Gold Maintenance Agreement between the Town of Westport and Weissco Power LLC for the maintenance of uninterrupted power supply equipment.



Weissco POWER LLC

**GOLD
MAINTENANCE AGREEMENT**

Company Name: Town of Westport, CT
Contract Address: Town Hall, 110 Myrtle Ave Westport, CT 06880
Equipment Address: Attachment 1
Equipment: Attachment 1
Contract Dates: July 1st, 2020 – June 30th, 2021
Type of Contract: Gold 2PM
Scope of Work: Attachment 2

The Gold Maintenance Agreement will provide (1) year maintenance on the equipment listed on Attachment 1 hereto, covering all parts that have failed or need to be replaced, labor, and expenses under normal wear and tear (excluding batteries and related expenses). The Gold 2 PM Maintenance Agreement includes (2) Preventive Maintenance (PM) visits: (1) Major PM, (1) Minor PM and corrective maintenance as required. Corrective service is 7x24x365 with phone response less than ½ an hour. The PM visits will be scheduled during normal working hours.

UPS GOLD 2PM MAINTENANCE AGREEMENT \$6,750.00

The above price does not include applicable state or local State taxes

In addition to the Scope of Work set forth in Attachment 2, UPS Maintenance during a Major PM will consist of the following on the listed equipment:

- A) Check all electrical connections for signs of heat.
- B) Clean unit of dirt, and debris.
- C) Check all fans for proper operation.
- D) Check and record all voltage readings, using Fluke test equipment.
- E) Provide Full service reports to designated contact.
- F) Provide any recommendations to enhance customer's uptime and reliability.
- G) Check all AC and DC filter cap connections
- H) Check all electrical nuts and bolts for tightness
- I) Check room temperature

(UPS maintenance during a Minor PM consists of visual inspection only)

Battery Maintenance during a Major and a Minor PM will consist of the following:

- A) Visual inspection of batteries
- B) Visual check of batteries for signs of leakage



Weissco **POWER** LLC

- C) Check battery date code
- D) Load test each battery and provide a written report on the status of the batteries.
- E) Provide any recommendations to ensure UPS will operate properly during an outage.

If you have any questions please feel free to contact me, Eric Weiss at
eweiss@weisscopower.com

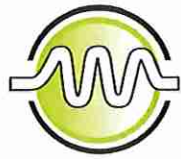
Print Name _____ Date _____

Signature _____ PO # _____

Email: _____ Taxable N

Weissco Power LLC Service and Conditions

1. DEFINITIONS: As used in this Agreement:
 - 1.1 "Battery" shall mean the electronic storage battery portion of a UPS;
 - 1.2 "Contractor" shall mean Weissco Power LLC.
 - 1.3 "Owner" shall mean the Town of Westport;
 - 1.4 "Power Module" shall mean the electronics portion of a UPS;
 - 1.5 Power System: shall mean the Power Module and Battery;
 - 1.6 "Proper" and all of its derivative forms shall mean in accordance with published manufacturer's specification;
 - 1.7. "Purchaser" or "Customer" shall mean the Town of Westport;
 - 1.8 "UPS" shall mean Uninterruptable Power Supply"
2. ELIGIBILITY All equipment is subject to inspection by Weissco Power LLC prior to eligibility for any service under this Agreement. Purchaser is subject to charges for this inspection service at prevailing time and material rates. If Weissco Power, LLC determines that any such equipment requires maintenance or contains a pre-existing problem or condition, such maintenance, problem or condition must be remediated at customer's expense, prior to such equipment being eligible for a service contract.
3. COVERED EQUIPMENT "Covered Equipment" shall mean the power system equipment listed on the front page of the Weissco Power LLC Maintenance Agreement or on a separate titled page incorporated into this agreement. If pre-contract inspection is for eligibility, a list of Covered Equipment will be provided at that time and become incorporated into this Agreement. Weissco Power LLC shall have the option of replacing any Covered Equipment instead of replacing a part(s) based on a cost analysis.



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4. HOURS OF SERVICE Weissco Power LLC will provide service during the Principal Period of Maintenance (PPM), which is defined as normal business hours (Monday through Friday, 8:00AM to 5:00PM, alternately described as “5x8 service”) excluding Holidays as observed by Weissco Power LLC. The Contracted Period of Maintenance (CPM) is the PPM along with any additional optional extended hours of coverage purchased by the Customer, and would exclude all contractor observed Holidays for planned maintenance activities (Alternately described as “7x24x365 service”, if purchased).
5. COMPENSATION: The total amount of annual service maintenance fees to be paid to Weissco Power for the UPS maintenance services to be performed hereunder as outlined in Attachment 2 and page 1 of this Agreement, is six thousand, seven hundred and fifty dollars (\$6,750).
6. SCOPE OF SERVICES
 - A. Start Up Services – This is not included as part of the Maintenance Plan. However, Weissco Power LLC will provide Start Up Services, when purchased by Customer during the CPM, for new, used or relocated equipment. Start Up Services will be limited to visual and mechanical inspections of the installation, electrical pre-checks, initial equipment energization, verification of system operation, and user operational training as defined by Weissco Power LLC. Weissco Power LLC reserves the right to invoice Customer at prevailing rates for delays or correction of conditions beyond the control of Weissco Power LLC, including but not limited to: postponements, cancellation, or delays of work while en route to, or at equipment location, performance of service not covered by equipment warranty or other valid service agreement, correction of shipping or transit damage, correction of installation errors, except where Weissco Power LLC has installed or supervised the installation of the equipment.
 - B. Weissco Power LLC Respond Service- Weissco Power LLC will provide maintenance material and repair labor necessary to maintain the Covered Equipment in good operating condition during the CPM as set forth herein and in Attachment 2. Maintenance parts removed for replacement shall be Weissco Power LLC property. Replacement maintenance parts supplied by Weissco Power LLC shall become Customer’s property. Maintenance parts used of Customer-owned spare parts kits shall be replaced by Weissco Power LLC. Replacement maintenance parts shall be new or of same quality as new.
 - C. Response Time- Weissco Power LLC will normally arrive at the equipment’s location within eight (8) CPM hours following Customer’s request for remedial maintenance, provided the Installation Location is



within one-hundred (100) miles of a Weissco Power LLC service location. (If optionally purchased: four (4) CPM hours provided the Installation Location is within fifty (50) miles of a Weissco Power LLC service location).

- D. Battery Coverage- If purchased, Weissco Power LLC will provide UPS battery remedial maintenance during the CPM, including all maintenance parts and labor necessary to maintain the Covered Battery Equipment is good operating condition, upon the following conditions: (i) The subject UPS battery system is the Weissco Power LLC manufactured, “line-up-and-match” integral valued-regulated cabinet battery system; (ii) The battery was installed less than four (4) years prior to the commencement of the service coverage. In no case shall the coverage period extend beyond (5) years from the installation date; (iii) The battery has not been subjected to neglect, misuse, misapplication and operating conditions, environment, and maintenance are in accordance with manufacturer’s recommendations. If Customer uses a vendor other than Weissco for battery replacement while under a service contract with Weissco, all Weissco service work relating to batteries will be billable either on an hourly or project basis and the vendor who provided the batteries and installation must be contacted for repair and replacement. In addition, Weissco must be contacted to have a technician on-site for a minimum of four billable hours to ensure the unit is placed into bypass (if needed) and is operating properly when the work is complete. If Weissco is not on-site for such work, any subsequent emergency call will result in Customer being responsible for Weissco billable charges.
- E. UPS Major PM Inspection- Weissco Power LLC will provide, if purchased, scheduled maintenance of the Power System during the CPM. Frequency and scope of UPS Major PM Inspection, will be based on Weissco Power LLC’s recommendations for that particular Covered Equipment. Weissco Power LLC sole obligation will be to provide Customer with a sixty (60) day period to schedule the UPS Performance Check, sixty (60) days prior to commencement of that period.
- F. UPS Minor PM Inspection- If optionally purchased, Weissco Power LLC will provide Performance Check of the Power System during the CPM. Performance Check may be performed concurrent with remedial maintenance at Weissco Power LLC discretion. Frequency and scope of UPS Performance Checks will be based on Weissco Power LLC recommendation for particular Covered Equipment. If separately provided from remedial maintenance, Weissco Power LLC’s sole obligation will be to provide Customer with a sixty (60) day period to



Weissco **POWER** LLC

schedule the UPS Performance Check, sixty (60) days prior to commencement of that period.

- G. Battery and Preventive Maintenance- Weissco Power LLC will provide, if purchased, scheduled periodic maintenance of the UPS battery during the CPM. Scheduled maintenance may be performed concurrent with remedial maintenance of Power Module at Weissco Power LLC discretion. Frequency and scope of Battery Preventive Maintenance will be based on industry standards and include at minimum, one (1) inspection visit per year for valve-regulated (sealed) type system and four (4) inspections per year for flooded (wet) type systems. If separately provided from Power Module remedial maintenance, Weissco Power LLC will provide Customer thirty (30) days' notice to schedule inspection at a mutually convenient time during the CPM.
- H. Labor and Material Rates- For all corrective maintenance, outside the scope of purchased services, Customer will be billed at current contracted customer rates.

ENGINEERING CHANGES/INFORMATION: All changes deemed necessary by Weissco Power LLC will be installed during scheduled maintenance visits during the CPM. Other changes, deemed optional by Weissco Power LLC, will be offered to the Customer on an as-available, per charge basis. All information of the Owner shall be deemed non-confidential and Contractor will be under no duty of non-disclosure unless both parties execute a separate agreement relating to confidentiality and/or non-disclosure..

7. OWNER'S RESPONSIBILITY:

- A. Communication- The Customer shall communicate only with Weissco Power LLC regarding all service and all other matters arising out of or relating to this Agreement..
- B. Movement- If Covered Equipment is moved to another location in the 50 U.S. States or District of Columbia, coverage will continue upon the following conditions: (i) Customer shall notify Weissco Power LLC in writing at least thirty (30) days in advance of equipment power down; (ii) Weissco Power LLC reserves the right to supervise the power-down, disconnection, rigging, packaging, movement, unpacking, reinstallation, and re-start of the new system. This service will be charged at Weissco Power LLC's then current contracted Customer services rates; (iii) Resumption of coverage under this agreement is subject to acceptance of Covered Equipment at the new location.
- C. Safety-The Customer shall, at all times during the provision of services hereunder, have a representative present at the maintenance sites at no cost, and solely for the safety of Weissco Power LLC.



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D. Access- In order that Weissco Power LLC may perform its obligation under this Agreement, Customer shall grant ready access to the Covered Equipment subject to reasonable security requirements.

8. TERM: The term of this Agreement shall commence on July 1, 2020 and, unless earlier terminated pursuant to paragraph 14, shall continue until June 30, 2021.
9. INSURANCE: Contractor will, at its own cost and expense, obtain and maintain in full force and effect the following insurance with sound and reputable insurers during the term of this Agreement

A. Workers compensation insurance required by law with employers liability limits for at least the amounts of liability for bodily injury by accident of \$ 500,000 each accident and bodily injury by disease of \$500,000 including a waiver of subrogation in favor of the Customer.

B. Commercial general liability insurance policy with an edition date of 1986 or later including products and completed operations. Limits should be at least: Bodily injury & property damage with an occurrence limit of \$1,000,000; Personal & advertising injury limit of \$1,000,000 per occurrence; General aggregate limit of \$2,000,000 (other than products and completed operations); and Products and completed operations aggregate limit of \$2,000,000 per project.

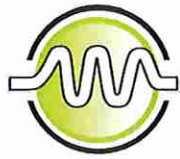
- The policy shall name the Customer as an additional insured and include ISO Form CG 2010 (04/13) and CG 2037 (04/13).
- Such coverage will be provided on an occurrence basis and will be primary and shall not contribute in any way to any insurance or self-insured retention carried by the Customer.
- The policy shall contain a waiver of subrogation in favor of the Customer.
- Such coverage shall contain a broad form contractual liability endorsement or wording within the policy form to comply with the hold harmless and indemnity provision of this Agreement.
- Deductible and self-insured retentions shall be declared and are subject to the approval of the Customer.

C. Commercial automobile insurance for any owned autos (symbol 1 or equivalent) in the amount of \$1,000,000 each accident covering bodily injury and property damage on a combined single limit basis. Such coverage shall also include hired and non-owned automobile coverage. Policy shall name the Customer as an additional insured.



D. Umbrella or excess liability policy in excess (without restriction or limitation) of those limits and coverages described in items (A) through (C) above. Such policy shall contain limits of liability in the amount of \$2,000,000 each occurrence and \$2,000,000 in the aggregate.

11. WARRANTY: Contractor shall perform all maintenance in a professional and workmanlike manner. THIS WARRANTY IS OWNER'S SOLE REMEDY AND EXPRESSLY IN LIEU OF, AND THERE ARE NO OTHER, EXPRESSED OR IMPLIED GUARANTEES OR WARRANTIES INCLUDING AN IMPLIED WARRANTY OF MERCHANT ABILITY OR FITNESS FOR PURPOSE. Contractor's obligation under said Warranty is conditioned upon receipt of all payments due from Owner including interest charges, if any.
11. ASSIGNMENT: Neither Owner nor Contractor may assign this Agreement or any of its rights hereunder or delegate any of its duties hereunder without prior written consent of the other.
12. INDEMNITY: Contractor assumes no responsibility for any damage or injury to any person and property except such damage or injury that may be held to result solely and directly from or out of (1) any negligent performance by Contractor of its obligations under this Agreement or, (2) any willful misconduct on the part of the Contractor, its agents, or employees.
13. LIABILITY: Notwithstanding anything in this Agreement to the contrary, Contractor shall not be liable for any indirect, incidental, special or consequential damages, such as, but not limited to, loss of anticipated profits, good will, or other economic loss in connection with, or arising out of the existence of, the furnishing, functioning, or the Owner's use of any item of Equipment or services provided for in this Agreement, whether or not the possibility of damage was disclosed to Contractor or could have been reasonably foreseen by Contractor.
14. TERMINATION: Notwithstanding anything in this Agreement to the contrary, this Agreement may be terminated by either party upon thirty days written notice which notice shall specify the date of termination. If Contractor terminates this Agreement, Contractor shall refund to the Customer a prorated amount of any prepaid maintenance service fees, less any amounts which are owed to Contractor by Customer. If Customer terminates this Agreement, Customer shall be entitled to a prorated refund of any prepaid maintenance service fees less amounts which are owed to Contractor by Customer.
16. GENERAL: This Agreement shall not be binding upon Contractor and Contractor shall be relieved of any and all obligation, liabilities, and responsibilities hereunder with regard to any Power Module and/or Battery that has been subject to neglect, accident, fire, flood, lightning, vandalism, acts of



Weissco POWER LLC

God, misuse, misapplication, incorrect connection or external damage or that has been subject to repair or alteration not authorized by Contractor in writing. Customer shall be invoiced for, and shall pay for, all services not expressly provided for by the terms hereof, including, without limitation, site calls involving an inspection which determines no corrective maintenance is required. The terms and conditions of this Agreement cannot be modified or waived except by a writing signed by the parties hereto and waiver by Contractor or Customer of any provision hereof in any one instance shall not constitute a waiver as to any other instance. If a provision of this Agreement is invalidated for any reason, this Agreement remains binding except for such invalid provision. All payments are due net thirty (30) days in full. Additionally, if any payment is not made when due, Contractor reserves the right to refuse to provide any further services until such payment and the applicable interest has been received. This Agreement shall be construed in accordance with and governed by the laws of the State of Connecticut.

17. NOTICES

Any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and (i) delivered personally, or (ii) sent by certified mail, return receipt requested, postage prepaid, addressed as shown below, or to such other address as the party concerned may substitute by written notice to the other.

If to Customer:

Town of Westport
Attn: First Selectman
110 Myrtle Avenue,
Westport, CT 06880

With a copy to:

Town of Westport
Attn: Matthew Cohen,
Assistant Fire Chief
Westport Fire Department
515 Post Road East
Westport, CT 06880

If to Contractor:

Stacy Weiss, President
Weissco Power LLC
516 Route 513
Califon, NJ 08830



IN WITNESS WHEREOF, the parties hereto, for good and sufficient consideration and intending to be legally bound, have executed this Agreement as of the date of the last signature below.

Customer:

Town of Westport

By: James S. Marpe, First Selectman
Date: _____

Contractor:

Weissco Power, LLC

By: Stacy Weiss, President
Date: _____



Attachment 1:

<u>QUANTITY</u> <u>NUMBER</u> (e.g., Bldg., Floor, Room, Area)	<u>MODEL</u> <u>LOCATION</u>	<u>SERIAL</u>
1	Powerware 9170 / 18KVA Battery type: ASY-0529 Total quantity: 36 (MBB by-pass no com-link	SN:EX251T0004 50 Jesup Road, Westport, CT (Police Department Headquarters) UPS location: Basement Telco / radio room
1	Powerware 9170 / 18KVA Battery type: ASY-0529 Total quantity 30 (MBB by-pass no com-link)	SN:BC304T0003 515 Post Road East, Westport, CT (Fire Department Headquarters) UPS location: 1st floor utility closet
1	Eaton Ferrups 3.1KVA Battery type: BAT-0065 / 33AH or Eaton 153302039-001 / 4 internal	SN: BF523FH002 555 Riverside Avenue, Westport, CT (Fire House #4) UPS location: Basement radio room
1	Eaton Ferrups 3.1KVA Battery type: BAT-0065 / 33AH or Eaton 153302039-001 / 4 internal	SN:FE3.1K29405 55 Center Street, Westport, CT (Fire House #5) UPS location: Basement radio room
1	Eaton Ferrups 3.1KVA Battery type: BAT-0065 / 33AH or Eaton 153302039-001 / 4 internal	SN:EA315FH013 61 Easton Road, Westport, CT (Fire House #6) UPS Location: Rear work & storage area
1	Eaton Ferrups 7KVA Battery type: BAT-0103 / 75 AH or Eaton 153302035-001 / 4 internal	SN: FE7K03400 180 Bayberry Lane, Westport, CT (Bayberry Tower Site) UPS Location: Miller Building



Attachment 2:

UPS Major Preventive Maintenance Inspection

1. Perform a complete visual inspection of the equipment including subassemblies, wiring harnesses, contacts, cables and major components. Check air filters for cleanliness.
2. Check module(s) completely for the following (if applicable):
 - a. Rectifier and inverter snubber boards for discoloration.
 - b. AC Capacitors for swelling or leaking oil.
 - c. DC Capacitor vent caps that have extruded more than 1/8".
 - d. Record all voltage and current meter readings on the UPS module and the system control cabinet (when applicable).

Verify with calibrated DVOM.
 - e. Measure and record harmonic trap filter currents.
 - f. Check the inverter and rectifier snubbers for burned or broken wires.
 - g. Check all nuts, bolts, screws and connectors for tightness and heat discoloration.
 - h. Check fuses on the DC capacitor banks for continuity (if applicable).
 - i. With customer approval, perform operation test of the system including unit transfer, battery discharge and generator interface test.
 - j. Calibrate and record all electronics to system specifications.
 - k. Measure and record all low-voltage power supply levels.
 - l. Measure and record phase-to-phase input voltage and currents.
 - m. Review, clear and reset all diagnostic alarm histories, where applicable.
 - n. Record all input, output, and battery voltages and currents.



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- o. Furnish completed data sheets and report any problems found during the PM inspection.
- p. Review system performance with customer.

UPS Minor Preventive Maintenance Inspection

1. Perform a complete visual inspection of the equipment including subassemblies, wiring harnesses, contacts, cables and major components. Check air filters for cleanliness.
2. Check module(s) completely for the following (if applicable):
 - a. Rectifier and inverter snubber boards for discoloration.
 - b. Power capacitors for swelling or leaking oil.
 - c. DC capacitor vent caps that have extruded more than 1/8".
 - d. Record all voltage and current meter readings on the UPS module and the system control cabinet (when applicable).
 - e. Measure and record harmonic trap filter currents.
 - f. Measure and record phase-to-phase input voltage and currents.
 - g. Review system performance with customer.

Note 1: Preventive Maintenance usually requires a module shut-down to ensure electrical connection integrity.

Note 2: Above maintenance does include Maintenance Bypass Cabinets.