

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (“MOU”), dated as of July 26, 2023, is by and between the **MAMARONECK UNION FREE SCHOOL DISTRICT** (“District”), a municipal corporation organized and existing under the laws of the State of New York, having its principal office at 1000 West Boston Post Road, Mamaroneck, New York 10543, and **HAMPSHIRE RECREATION, LLC**, a limited liability company organized and existing under the laws of the State of Delaware, having its principal offices at 1025 Cove Road, Mamaroneck, New York 10543 (“Hampshire”). District and Hampshire are collectively referred to hereinafter as the “Parties.”

WHEREAS, the District is a public school district with six schools that serves the education needs of thousands of students and their families in Mamaroneck and Larchmont, and whose mission is to “promote intellectual engagement and an appreciation of learning as an inherently rewarding activity, and to prepare students to function as responsible citizens in a multicultural world”;

WHEREAS, Hampshire is the owner of The Hampshire Country Club, a private country club with an 18-hole golf course located at the property known as 1025 Cove Road, and identified on the Town of Mamaroneck’s Tax Assessment Map as Section 9, Block 89B, Lots 15 & 16, Section 9, Block 89C, Lots 22A & 23, Section 9, Block 89D, Lots 24, 25, 26, 27 & 28, Section 9, Block 72, Lots 1, 2, 3, 11, 17B, 17C, 18D, 24, 25, 28 & 29, which includes land within the District directly between the Mamaroneck High School and Hommocks Middle School (“Site”);

WHEREAS, the District has determined that: (i) based on the current enrollment, the lack of adequate indoor and outdoor spaces, demographic studies and school facilities plans, the District is overcrowded and will require additional building and recreational space to accommodate an increase in student population in the coming years; and (ii) the availability of vacant land within the District is limited;

WHEREAS, the District has identified an approximately 7-acre portion of land adjacent to Hommocks Middle School, currently owned by Hampshire and part of the Site, as a potential location for the additional building and recreational space that it needs to accommodate its overcrowding and the expected increase in student population over the next several years (“Potential School Parcel”), the general location of said Potential School Parcel is shown on the conceptual site plan attached hereto as Exhibit A;

WHEREAS, the District has approached Hampshire concerning the District’s potential acquisition of the Potential School Parcel;

WHEREAS, Hampshire previously sought zoning amendments and other approvals to construct a multifamily residential development at the Site consisting of 121 age-restricted condominium units in a building that would be incorporated into the existing clubhouse, as well as other amenities at the Site, and to reconfigure the golf course and impose a perpetual covenant restricting the use of the reconfigured golf course to recreational purposes only (“Original Development Plan”);

WHEREAS, in 2014, the Village of Mamaroneck (“Village”) declined to consider the requested zoning amendment required for Hampshire to proceed with the Original Development Plan;

WHEREAS, Hampshire thereafter pursued approval from the Village Planning Board to develop a 105-unit Planned Residential Development at the Site pursuant to the Site’s current R-20 zoning (“PRD Proposal”) that would result in the addition of a mix of single-family houses and carriage homes throughout the Site;

WHEREAS, a conveyance of the Potential School Parcel to the District would eliminate Hampshire’s ability to pursue the PRD Proposal or other reasonable residential development on the golf course, as well as require Hampshire to spend significant funds and resources reconfiguring the golf course in order to maintain a viable and attractive golf course to attract and retain members;

WHEREAS, the District has requested that Hampshire revisit the Original Development Plan and consider conveying the Potential School Parcel to the District;

WHEREAS, Hampshire determined that it can convey the Potential School Parcel to the District if it obtains final and unappealable zoning amendments and other approvals (“Final Governmental Approvals”) for the Original Development Plan or a modified development plan (i.e., a change in the Original Development Plan layout that is agreeable to Hampshire in its sole discretion which still includes age-restricted condominium units in a building that would be incorporated into the existing clubhouse) (“Modified Development Plan”);

WHEREAS, Hampshire has informed the District that it is willing to resubmit its request for a zoning amendment to the Village to obtain Final Government Approvals, which will include age-restricted units to reduce any adverse impact upon the District’s schools;

WHEREAS, upon obtaining Final Governmental Approvals, Hampshire will convey the Potential School Parcel to the District;

WHEREAS, the Parties recognize that other governmental entities, including the Village and Town of Mamaroneck (“Town”), will need to issue various approvals in order for Hampshire to abandon the PRD Proposal and, instead, build the Original or Modified Development Plan;

WHEREAS, the District has determined that it is in the best interest of the District and the school community for Hampshire to obtain Final Government Approvals so that Hampshire can convey the Potential School Parcel to the District for the school purposes contemplated hereunder;

WHEREAS, the Parties are entering into this MOU to confirm and memorialize the terms of their agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual promises and undertakings contained herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. The Parties shall interact and engage with each other in good faith and fair dealing in support of Hampshire's pursuit, achievement, and ultimate implementation of the Final Government Approvals and Hampshire's transfer of the Potential School Parcel to the District.

2. If and when Hampshire secures the Final Governmental Approvals, it shall convey the Potential School Parcel to the District for school purposes contemplated hereunder.

3. The District agrees to provide Hampshire, the Village, the Town and any and all other interested governmental agencies with any and all factual information and materials necessary to conduct due diligence concerning the proposed project(s), including, but not limited to, information and materials to enable such agencies to determine the costs and benefits of the proposed project(s) upon the District and the school community, including demographic data and other materials demonstrating the significant need for the District to build additional building and recreational space, the cost of acquiring land to accommodate such improvements, and the opportunity presented if Hampshire is able to transfer the Potential School Parcel to the District.

4. The District agrees to share the aforementioned factual information and materials with the school community, as necessary, to enable the public to make an informed decision concerning the costs and benefits of the proposed projects upon the District and the school community as a whole.

5. The Parties will give each other written notice of any intended meetings or communications (oral or written) with any governmental regulatory agencies having jurisdiction or input thereof, as relates to obtaining Final Government Approvals and the transfer of the Potential School Parcel to the District, so as to give the opportunity for the other party to attend or participate in such meetings or communications. Notwithstanding the forgoing, the Parties acknowledge that this MOU has no effect on, and does not impinge or restrict, Hampshire's rights with respect to the PRD Proposal and the litigations related thereto.

6. The Parties will respond promptly and completely to each other's reasonable requests.

7. Nothing contained herein shall be construed to require the District, its officers, employees, agents or representatives, to take any action or spend any monies in any manner prohibited by law or the Constitution of the State of New York.

8. Nothing contained herein shall preclude any school officer, employee, agent or representative from expressing their own personal opinions on any matter of public concern provided such statements do not interfere with the performance of the officer's, employee's, agent's or representative's official duties.

9. Until such time as Hampshire secures the Final Governmental Approvals, nothing contained herein shall be construed as allowing the District to prevent Hampshire from maintaining and using the existing 18-hole golf course in its current configuration and/or restricting Hampshire's rights with respect to the PRD Proposal and any litigation related thereto.

10. Hampshire shall cooperate with the District and take all reasonable measures to provide the District with access to the Potential School Parcel as shown in Exhibit "A" in an

expeditious manner to enable the District to investigate said area in order to conduct its due diligence.

11. Prior to accessing the Site, the District shall provide Hampshire with ten (10) day written notice. The District shall not access the Site during weekends, or during peak usage times during the golf season, and shall not perform any invasive tests which may alter the playing area of the golf course (e.g., soil borings, excavation, etc.) without receiving prior written authorization from Hampshire.

12. The District hereby agrees to indemnify, defend, save and hold Hampshire harmless from and against any and all claims arising out of the District's access to the Site authorized herein. The District will name Hampshire as an additional insured on its insurance policies covering said access to the Potential School Parcel, including all work done by contractors or subcontractors.

13. If, after conducting its due diligence, the District concludes that it is not in the District's and the school community's best interest for the District to acquire the Potential School Parcel, then the District, in its sole discretion, can reject the conveyance of the Potential School Parcel from Hampshire and terminate this MOU upon fifteen (15) days' notice to Hampshire.

14. The Parties agree that, upon the Village agreeing to entertain a zoning petition in furtherance of the Original or Modified Development Plan, Hampshire's obligations under this MOU shall be binding upon and enforceable against all of Hampshire's successors and assigns that acquire ownership of the Site and pursue the Final Government Approvals for the Original or Modified Development Plans, subject to Paragraph 15 below.

15. This MOU shall expire upon the conclusion of Hampshire's (or its successors' or assigns') pursuit of the Final Government Approvals, unless the Parties mutually agree in writing to terminate the MOU at an earlier date. For avoidance of doubt, this MOU shall be enforceable for as long as, or at any time that, Hampshire or its successors or assigns is/are in pursuit of the Final Government Approvals contemplated hereunder for the Original or Modified Development Plans, but shall not apply in the event Hampshire (or its successors or assigns) pursue the PRD Plan or any other potential use or approvals at the Property.

16. The Parties acknowledge that any transfer of the Potential School Parcel to the District would be "as-is" and contingent upon first obtaining all Final Governmental Approvals, and that prior to such transfer, the Parties shall enter into a Land Disposition Agreement covering the necessary representations, duties and conveyances to carry out the conveyance of the Potential School Parcel to the District.

17. For avoidance of doubt, the Parties agree that this MOU, including, but not limited to, Hampshire's obligation to convey the Potential School Parcel to the District upon the material terms set forth herein, is binding notwithstanding the fact that a Land Disposition Agreement has not yet been prepared and executed by the Parties.

18. The Parties represent that they have all necessary powers to execute, deliver and carry out this MOU, and to perform all obligations hereunder, and have taken all necessary action to authorize the execution, delivery and performance thereof.

19. Any notice, demand, request or other communication which under the terms of this MOU must or may be given or made or served by any of the Parties shall be in writing and shall be given or made by mailing the same by registered or certified mail, express courier, hand delivery, or electronic mail (if address is provided) addressed as set forth below:

If to the District: Dr. Robert Shaps
Superintendent of Schools
Mamaroneck Union Free School District
1000 West Boston Post Road
Mamaroneck, New York 10543

With a copy to: Lachtman Cohen P.C.
245 Main Street, Suite 230
White Plains, NY 10601
c/o: Brian S. Cohen, Esq.
bcohen@lcpclaw.com

Ingerman Smith LLP
550 Mamaroneck Avenue, Suite 209
Harrison, NY 10528
c/o: Thomas Scapoli, Esq.
tscapoli@ingermansmith.com

If to Hampshire: Daniel Pfeffer
Hampshire Recreation LLC
1025 Cove Road, Mamaroneck
Mamaroneck, New York 10543
dpfeffer@nwradvisors.com

With a copy to: Zarin & Steinmetz
81 Main Street, Suite 415
White Plains, New York 10601
c/o: David J. Cooper, Esq.
dcooper@zarin-steinmetz.com

Any of the Parties hereto or their counsel may designate by notice in writing a new or other address to which such notice or demand shall thereafter be given, made or mailed. Any notice given herein shall be deemed given when posted in the U.S. mail, delivered to the overnight express courier, personally delivered or sent via electronic mail, and shall be deemed complete upon the receipt (or refusal of acceptance) by the party to whom such notice is sent.

20. This MOU may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument, and any of the Parties or signatories hereto may execute this MOU by signing any such counterpart. Signatures to this MOU transmitted by electronic means shall be valid and effective to bind the party so signing.

21. The provisions of this MOU are severable. If any provision shall be prohibited, found to be invalid under applicable law, or disregarded or stricken by the Court, the other

provisions shall remain fully valid and enforceable. Any provision deemed invalid or unenforceable shall only be so to the extent and scope required by law.

22. This MOU shall be governed by and construed in accordance with the laws of the State of New York without regard to any conflicts hereunder.

23. The Parties agree that any and all disputes in connection with this MOU – including any actions commenced to enforce the MOU – shall be resolved exclusively by any court of appropriate subject matter jurisdiction located in Westchester County, New York, and waive any right to a jury trial.

24. This MOU contains all of the promises, agreements, conditions, inducements and understandings between and amongst the Parties concerning the topics covered herein, and there are no promises, agreements, conditions, inducements or understandings, oral or written, expressed or implied, between them other than as expressly set forth herein and therein.

25. Any modification or amendment to this MOU shall not be binding upon the Parties unless it is in writing and executed by all the Parties.

IN WITNESS WHEREOF, the Parties have executed this MOU as of the last date written below.

MAMARONECK UNION FREE SCHOOL DISTRICT

By: [Signature]

Name: Dr. Robeni Shaps

Dated: 07/26/2023

HAMPSHIRE RECREATION, LLC

By: [Signature]

Name: Daniel Pfeffer

Dated: 7/26/2023



EXHIBIT A