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# CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

COMMON COUNCIL

## REPORT

August 3, 2004

Mayor Mark D. Boughton  
Members of the Common Council

Re: **Foley Lease**

The Common Council Committee appointed to review the Foley lease met on July 20, 2004 at 7:35 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Saracino, Riley and Visconti. Also in attendance were Assistant Corporation Counsel Les Pinter, Director of Public Works William Buckley and Council Members Nolan, Cavo and Teicholz, ex-officio.

Ms. Saracino stated that this is a lease between the Board of Education and Cynthia Foley for land on Elizabeth Road. She noted the positive recommendation from the Planning Commission.

Mr. Riley asked what the land is used for? Attorney Pinter said this lease goes back to 1998 and is used for a nature center. He does not know exactly what they do there. Ms. Saracino said one of the conditions of the lease is that there be a certificate of insurance. Attorney Pinter said the City would provide that certificate. The lease runs until 2008. The rent is \$113 and there would be a modest increase if there were an increase in their assessment.

Mr. Visconti asked Mr. Buckley if he saw any problems with this. Mr. Buckley said he does not but he does not know how the land is used or by whom.

Mr. Visconti made a motion to recommend approval of the lease as written. Seconded by Mr. Riley. Motion carried unanimously.

Respectfully submitted,

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MARY SARACINO, Chairman

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ROBERT RILEY

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FRED VISCONTI

**This Indenture,**

Made by and between **CYNTHIA A. FOLEY**, whose mailing address is 65 Pacific Street, Rockland, Massachusetts 02370, hereinafter designated as **Lessor**,

and the **DANBURY BOARD OF EDUCATION** of the City of Danbury, Connecticut, having offices located at 63 Beaver Brook Road, Danbury, Connecticut 06810, acting herein by its Superintendent of Schools, Eddie L. Davis, Ph.D., hereinafter designated as **Lessee**,

**WITNESSETH:**

That the Lessor has leased, and does hereby lease to the said Lessee all that certain piece or parcel of land designated as Exhibits "A" and "A-1" (Lot J09144 on the maps of the Tax Assessor of the City of Danbury; said parcel being located on Elizabeth Road (rear) and adjacent to Great Plain School. Said premises are more fully described in deeds recorded in Vol. 598 at Page 978, Vol. 866 at Page 953 and Vol. 900 at Page 356 of the Danbury Land Records), for the term of five (5) years from the 31<sup>st</sup> day of August 2003, until the 30<sup>th</sup> day of August 2008, for the annual rent of One Hundred Thirteen Dollars (\$113.00) representing a portion of the Lessor's tax obligation relating to the leased premises. Said annual rent shall be payable on or before the first school day in each year of said lease. It is further agreed that if the City of Danbury tax assessment on the herein described parcel is increased in excess of five percent (5%) in any fiscal year of the said lease over the prior year's tax assessment, then in that event, the Danbury Board of Education will assume responsibility for payment of that portion of said tax increase which exceeds five percent (5%) above the prior year's assessment.

**And the said Lessor** covenants with the said Lessee that she has good right to lease said premises in manner aforesaid, and that she will suffer and permit said Lessee (it keeping all the covenants on its part, as hereinafter contained) to occupy, possess and enjoy said premises during the term aforesaid, without hindrance or molestation from her or any person claiming by, from or under her.

**And the said Lessee** covenants with the said Lessor to hire said premises, and to pay the rent therefore as aforesaid, that it will commit no waste, nor suffer the same to be committed thereon, nor injure nor misuse the same; and also that it will not assign this lease nor underlet a part or the whole of said leased premises, nor make alterations therein, nor use the same for any purpose but that hereinbefore authorized, without written permission from said Lessor but will deliver up the same at the expiration or sooner determination of its tenancy in as good condition as they are now in, ordinary wear, fire and other unavoidable casualties excepted.

**Provided, however**, and it is further agreed that if said rent shall remain unpaid thirty (30) days after the same shall become payable as aforesaid, or if the said Lessee shall assign this Lease, or underlet or otherwise dispose of the whole or any part of said demised premises, or use the same for any purpose but that hereinbefore authorized or make any alteration therein without the consent of the Lessor in writing, or shall commit waste or suffer the same to be committed on said premises, or injure or misuse the same, then this Lease shall thereupon, by virtue of this express stipulation thereon expire and terminate, and the Lessor may, at any time thereafter, re-enter said premises, and the same have and possess as of her former estate, and without such re-entry, may recover possession thereof in the manner prescribed by the statute relating to summary process; it being understood that no demand for rent, and no re-entry for condition broken, as at common law, shall be necessary to enable the Lessor to recover such possession pursuant to said statute relating to summary process, but that all right to any such demand, or any such re-entry is hereby expressly waived by the said Lessee.

**And it is further agreed** between the parties hereto, that whenever this Lease shall terminate either by lapse of time or by virtue of any of the express stipulations therein, the said Lessee hereby waives all right to any notice to quit possession, as prescribed by the statute relating to summary process.

**And it is further agreed** that in case the said Lessee shall, with the written consent of the said Lessor endorsed hereon, or on the duplicate hereof, at any time hold over the said premises, beyond the period above specified as the termination of this Lease, then the said Lessee shall hold said premises upon the same terms, and under the same stipulations and agreements as are in this Instrument contained, and no holding over by said Lessee shall operate to renew this Lease without such written consent of said Lessor.

**And it is further agreed** between the parties hereto, that the Lessee agrees to comply with, and conform to all the Laws of the State of Connecticut, and the by-laws, rules and regulations of the City and Town within which the premises hereby leased are situated, relating to Health, Nuisance, Fire, Highways and Sidewalks, so far as the premises hereby leased are, or may be concerned; and to save the Lessor harmless from all fines, penalties and costs for violation of or non compliance with the same, and that said premises shall be at all times open to the inspection of said Lessor and her agents, to applicants for purchase or lease, and for necessary repairs.

If the whole or any part of the demised premises shall be acquired or condemned by Eminent Domain for any public or quasi public use or purpose, then and in that event, the term of this lease shall cease and terminate from the date of title vesting in such proceeding and Lessee shall have no claim against Lessor for the value of any un-expired term of said lease.

**And Lessee** further covenants and agrees that no accumulation of boxes, barrels, packages, waste paper, or other articles shall be permitted in or upon the premises.

**And the Lessee** agrees to provide the Lessor with a certificate of insurance showing that the leased premises are covered by liability insurance. Renewals for the years of the lease commencing August 31, 2003 through August 30, 2008 will be provided to the Lessor before the prior certificates expire. AND, the Lessee agrees to hold the Lessor harmless and to indemnify her from any and all claims or demands arising out of the use of the premises of the Lessor by any employee, student, teacher, agent or invitee of the Lessee during school hours or at any other time when the premises are used under the supervision of any of the aforesaid. The Lessor agrees to promptly notify the Lessee of any suits or claims made against her in order to enable the Lessee to have the opportunity to defend any suits or claims.

**And it is further agreed** that either the Lessee or the Lessor may cancel the use of the premises after giving twenty four (24) hours written notice, with appropriate adjustment of the rent, prorated to allow for the fraction of year transpired.

**And it is further agreed** between the parties hereto that any obligation of either party under this Lease to the other party shall be satisfied if such notice is in writing and is delivered in hand to the other party or posted to the other party by certified mail, return receipt request, at the party's address first listed above or to the then last known address maintained by the said party and, if either party shall refuse to accept any such notice from the other party as is adequately addressed, whether by refusing delivery in hand or refusing to receipt for certified mail:

The refusal shall constitute a violation by the refusing party of its covenants and obligations hereunder; and

Lack of knowledge of the matters contained in such notice as was refused shall not be available to the refusing party as a defense in any legal or administrative action brought hereafter; and

Notice shall be deemed to have been constructively given as of the date delivery in hand or receipt of certified mail was first refused.

**And it is further agreed** that the actions and obligations required of either party under the Lease shall, during the term of this Lease, devolve to and be binding upon their heirs, assigns and successors in interest unless the said Lease is cancelled in accordance with the provisions hereof.

**And it is further agreed** that the provisions of this Lease shall be construed in accordance with, interpreted with respect to, enforced under, and governed by the laws of the State of Connecticut.

**In Witness whereof**, the parties hereto have hereunto set their hands and seals, and to a duplicate of the same tenor and date, this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

*Signed, Sealed and Delivered  
in the presence of:*

CYNTHIA A. FOLEY  
**Lessor**

DANBURY BOARD OF EDUCATION  
**Lessee**

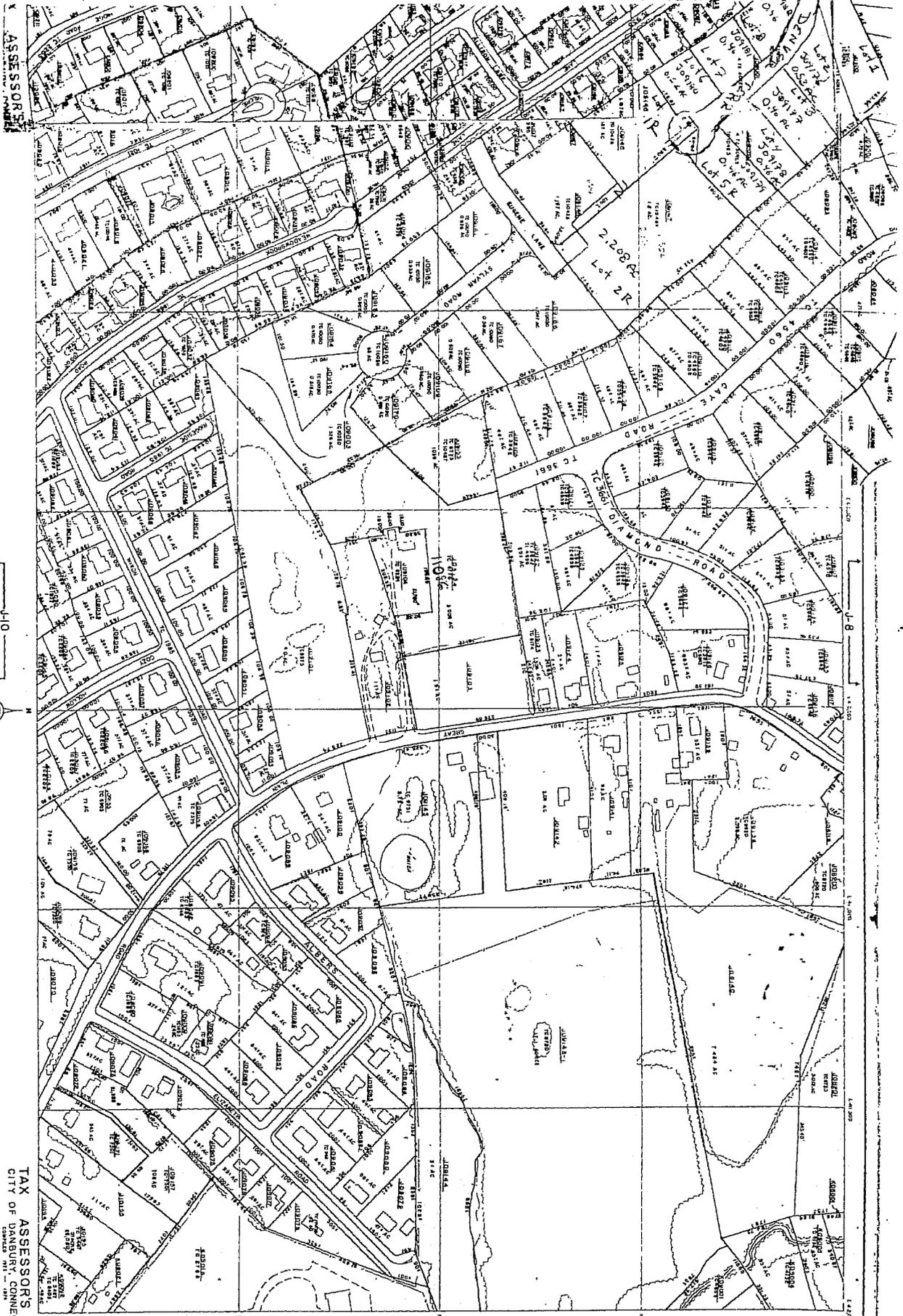
By: Eddie L. Davis, Ph.D., Superintendent  
Duly Authorized



## EXHIBIT A

All that certain piece or parcel of land, situate in Great Plain District, in said Danbury, containing three acres, more or less, bounded Northerly, Northeasterly and Northwesterly by the center line of a brook and Southerly and Southwesterly by land of Edwin Kellogg and Southeasterly by passway of Edwin Kellogg; the Southeasterly corner of the tract herein described touching the Southwesterly corner of other land of Mona Taylor Fitzgerald and a right of way running across land of Paulina S. Taylor, and said tract running to a point on the West of the boundary line of land of Edwin Kellogg approximately four hundred (400) feet east of the easterly boundary line of land of Susan Wixon; the maximum width of said tract being one hundred fifty five (155) feet at a point known as the "Big Spring".

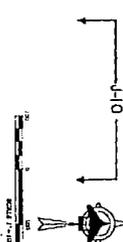
Being the same premises described in a deed dated August 24, 1976 and recorded in Volume 584, age 695 of the Danbury Land Records.



ASSASSOR'S

Lot No.	Area (Ac.)	Value
1	0.10	1000
2	0.15	1500
3	0.20	2000
4	0.25	2500
5	0.30	3000
6	0.35	3500
7	0.40	4000
8	0.45	4500
9	0.50	5000
10	0.55	5500
11	0.60	6000
12	0.65	6500
13	0.70	7000
14	0.75	7500
15	0.80	8000
16	0.85	8500
17	0.90	9000
18	0.95	9500
19	1.00	10000
20	1.05	10500
21	1.10	11000
22	1.15	11500
23	1.20	12000
24	1.25	12500
25	1.30	13000
26	1.35	13500
27	1.40	14000
28	1.45	14500
29	1.50	15000
30	1.55	15500
31	1.60	16000
32	1.65	16500
33	1.70	17000
34	1.75	17500
35	1.80	18000
36	1.85	18500
37	1.90	19000
38	1.95	19500
39	2.00	20000
40	2.05	20500
41	2.10	21000
42	2.15	21500
43	2.20	22000
44	2.25	22500
45	2.30	23000
46	2.35	23500
47	2.40	24000
48	2.45	24500
49	2.50	25000
50	2.55	25500
51	2.60	26000
52	2.65	26500
53	2.70	27000
54	2.75	27500
55	2.80	28000
56	2.85	28500
57	2.90	29000
58	2.95	29500
59	3.00	30000
60	3.05	30500
61	3.10	31000
62	3.15	31500
63	3.20	32000
64	3.25	32500
65	3.30	33000
66	3.35	33500
67	3.40	34000
68	3.45	34500
69	3.50	35000
70	3.55	35500
71	3.60	36000
72	3.65	36500
73	3.70	37000
74	3.75	37500
75	3.80	38000
76	3.85	38500
77	3.90	39000
78	3.95	39500
79	4.00	40000
80	4.05	40500
81	4.10	41000
82	4.15	41500
83	4.20	42000
84	4.25	42500
85	4.30	43000
86	4.35	43500
87	4.40	44000
88	4.45	44500
89	4.50	45000
90	4.55	45500
91	4.60	46000
92	4.65	46500
93	4.70	47000
94	4.75	47500
95	4.80	48000
96	4.85	48500
97	4.90	49000
98	4.95	49500
99	5.00	50000
100	5.05	50500
101	5.10	51000
102	5.15	51500
103	5.20	52000
104	5.25	52500
105	5.30	53000
106	5.35	53500
107	5.40	54000
108	5.45	54500
109	5.50	55000
110	5.55	55500
111	5.60	56000
112	5.65	56500
113	5.70	57000
114	5.75	57500
115	5.80	58000
116	5.85	58500
117	5.90	59000
118	5.95	59500
119	6.00	60000
120	6.05	60500
121	6.10	61000
122	6.15	61500
123	6.20	62000
124	6.25	62500
125	6.30	63000
126	6.35	63500
127	6.40	64000
128	6.45	64500
129	6.50	65000
130	6.55	65500
131	6.60	66000
132	6.65	66500
133	6.70	67000
134	6.75	67500
135	6.80	68000
136	6.85	68500
137	6.90	69000
138	6.95	69500
139	7.00	70000
140	7.05	70500
141	7.10	71000
142	7.15	71500
143	7.20	72000
144	7.25	72500
145	7.30	73000
146	7.35	73500
147	7.40	74000
148	7.45	74500
149	7.50	75000
150	7.55	75500
151	7.60	76000
152	7.65	76500
153	7.70	77000
154	7.75	77500
155	7.80	78000
156	7.85	78500
157	7.90	79000
158	7.95	79500
159	8.00	80000
160	8.05	80500
161	8.10	81000
162	8.15	81500
163	8.20	82000
164	8.25	82500
165	8.30	83000
166	8.35	83500
167	8.40	84000
168	8.45	84500
169	8.50	85000
170	8.55	85500
171	8.60	86000
172	8.65	86500
173	8.70	87000
174	8.75	87500
175	8.80	88000
176	8.85	88500
177	8.90	89000
178	8.95	89500
179	9.00	90000
180	9.05	90500
181	9.10	91000
182	9.15	91500
183	9.20	92000
184	9.25	92500
185	9.30	93000
186	9.35	93500
187	9.40	94000
188	9.45	94500
189	9.50	95000
190	9.55	95500
191	9.60	96000
192	9.65	96500
193	9.70	97000
194	9.75	97500
195	9.80	98000
196	9.85	98500
197	9.90	99000
198	9.95	99500
199	10.00	100000

SCALE OF DISTANCES



TAX ASSESSOR'S  
CITY OF DANBURY, CONNECTICUT

INDEPENDENCE SQUARE BUILDING  
DANBURY, CONNECTICUT 06810

LAND-PLAN DIVISION  
NEWTON, CONNECTICUT

SHEET NO. J-9

