

Introduced by: Mr. Sheldon,  
Mr. Woods,  
Ms. Kilpatrick,  
Mr. Hollins,  
Mr. Street

Date of introduction: July 28, 2020

**RESOLUTION NO. 20-161**

**AUTHORIZING THE COUNTY EXECUTIVE  
TO EXECUTE THE MEMORANDUM OF UNDERSTANDING  
CONCERNING THE ACQUISITION, PRESERVATION AND FUTURE USE OF  
HOCKESSIN COLORED SCHOOL #107 AS A PERMANENT CENTER FOR  
DIVERSITY, INCLUSION, AND SOCIAL EQUITY**

**WHEREAS**, the County Executive has presented the Memorandum of Understanding listed below to the New Castle County (“County”) Council for approval prior to the County Executive’s signature; and

**WHEREAS**, County Council has determined that the purpose of the Memorandum of Understanding listed below is to substantially advance, and is reasonably and rationally related to, legitimate government interests (i.e., promoting the health, safety, morals, convenience, order, prosperity and/or welfare of the present and future inhabitants of this State).

**NOW, THEREFORE, BE IT RESOLVED** by and for the County Council of New Castle County that County Council hereby authorizes the County Executive to sign the following Memorandum of Understanding:

Memorandum of Understanding, as attached. This Memorandum of Understanding memorializes the partnership between The Friends of Hockessin Colored School #107 and the County. The partnership will preserve the historic Hockessin Colored School #107 and convert it into a permanent center for diversity, inclusion and social equity.

This Resolution shall become effective immediately upon its adoption by County Council.

Adopted by County Council of  
New Castle County on: 7/28/20

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President of County Council  
of New Castle County

**SYNOPSIS:** This Resolution authorizes the County Executive to execute a Memorandum of Understanding concerning Hockessin Colored School #107. The Memorandum of Understanding memorializes the partnership between the Friends of Hockessin Colored School #107 and the County. The partnership will preserve historic Hockessin Colored School #107 and convert it into a permanent center for diversity, inclusion and social equity.

**FISCAL NOTE:** This fiscal impact of this Resolution will be \$172,000 in mortgage debt. Funding for these costs is included in the FY2021 Approved Capital Budget in the Executive Capital Contingency. New Castle County shall be responsible for paying 75% of reasonable operating expenses for the Property. It is anticipated that these costs will be minimal through FY2021 and FY2022 and will be absorbed in the current Approved Operating Budget. An estimate of \$10,000 will be added to the FY2023 Requested Operating Budget for future costs. Funding for all future repair and capital improvements necessary to keep the Property in good working order will be requested in future Capital Budgets as needed; offset by an endowment of no less than \$200,000 established by the Friends of Hockessin Colored School to assist the County with the future maintenance, repair and/or rehabilitation of the Property.

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the “MOU”) is made by and between the Friends of Hockessin Colored School #107, Inc. (“FOHCS”) and New Castle County (the “County”) (together, the “Parties”) as of the date that the last party hereto executes this MOU (“Effective Date”).

### RECITALS

**A.** WHEREAS, FOHCS is the owner of real property located at 4266 Mill Creek Road, Hockessin, Delaware 19707, New Castle County Tax Parcel No. 08.007.00-067 (the “Property”), which is comprised of approximately six acres of land in addition to the historic Hockessin Colored School #107 (“HCS #107”); and

**B.** WHEREAS, HCS #107 served African-American students in the early 20<sup>th</sup> century and its conditions were found to be unequal to those of white students in violation of the United States Constitution, in a legal case later joined on appeal to become *Brown vs. Board of Education*, a landmark ruling declaring the segregation of schools to be unlawful; and

**C.** WHEREAS, the FOHCS is a non-profit organization established to preserve HCS #107 and to reintroduce HCS #107 as a “place of social impact, diversity and educational innovation” rooted in its history in ending school desegregation; and

**D.** WHEREAS, the Trust for Public Lands (“TPL”) is a national non-profit organization dedicated to conserving parks, natural areas, and lands of historical and cultural importance for the public to enjoy; and

**E.** WHEREAS, the FOHCS is partnering with TPL to raise money to preserve HCS #107 and to ensure its permanent use by the public as a place of social impact, diversity and educational innovation; and

**F.** WHEREAS, the County owns and maintains parks and historical facilities throughout New Castle County, including parkland in close proximity to the Property; and

**G.** WHEREAS, it is critical that our community come together to end racial injustice for good and to establish a society rooted in diversity, inclusion and social equity; and

**H.** WHEREAS, the FOHCS and the County are united in their commitment to eradicate racial injustice and to establish HCS #107 as a place of social impact, diversity and educational innovation; and

**I.** WHEREAS, the FOHCS and the County wish to formalize their commitment to preserve HCS #107 and to create a permanent center for diversity, inclusion and social equity, and, therefore, agree to the following.

## AGREEMENTS

NOW THEREFORE, for and in consideration of the foregoing recitals, which are incorporated herein for all purposes, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the Parties agree as follows:

1. Fundraising. The FOHCS shall work with the TPL to raise money to rehabilitate and expand HCS #107, to ensure continued programming and operations, and to assist with future maintenance. The FOHCS shall raise a minimum of \$1,500,000 for such purposes to ensure the successful and permanent operation of HCS #107.
2. Renovation/Expansion. The FOHCS shall design and construct all improvements to HCS #107. FOHCS is responsible for the cost of all such design and construction.
3. Outstanding Mortgages. The County shall be responsible for paying two outstanding mortgages on the Property, which total \$172,000.00, at a time to be agreed to by the parties in subsequent agreements, but in no event later than December 31, 2020. The FOHCS and the County agree that based on property values in the area, the fair market value of the Property likely greatly exceeds the amount of the outstanding mortgages. However, the County agrees to obtain an appraisal to share with FOHCS. If the appraised fair market value of the Property is greater than \$172,000.00, then FOHCS agrees to still convey the Property to the County for \$172,000.00 with the difference between the appraised value and \$172,000.000 considered the FOHCS's contribution to the long-term maintenance and repair of the Property. In the unlikely event that the fair market value of the Property is less than \$172,000.00, then the County agrees to pay the full \$172,000.00, with the difference between the purchase price and the mortgaged amount considered the County's contribution to the ongoing programming costs for HCS #107.
4. Maintenance. Once conveyed, the County shall be responsible for maintenance and upkeep of the grounds and the structure(s) on the Property. The County will pay 75% and FOHCS will pay 25% of reasonable operating expenses for the Property, including, but not limited to, utilities, custodial services, snow removal and grounds maintenance.
5. Future Repair and Capital Improvements. Once the County takes title to the Property, it shall be responsible for all future repair and capital improvements necessary to keep the Property in good working order. The FOHCS will establish an endowment of no less than \$200,000 to assist the County with the future maintenance, repair and/or rehabilitation of the Property ("the Perpetual Care Fund").
6. Operation/Programming. The County shall grant FOHCS a long-term lease to allow FOHCS to run the envisioned programs at HCS #107. The FOHCS shall be responsible for the operation and programming for HCS #107. The programming shall focus on diversity training, inclusion, and social equity programs while utilizing HCS #107's unique place in history. FOHCS's programming vision includes providing services to public and private schools, employers, healthcare systems, government agencies, community stakeholder organizations, non-profits, colleges and universities. The FOHCS's programming partners include, but are not limited to, Temple University, John Hopkins University, Delaware State University, Red Clay School District and the State of Delaware.

7. Additional Agreements. The Parties understand and agree that further agreements shall be executed to further detail the terms of rehabilitation, conveyance, maintenance and operation of HCS #107. The purpose of this MOU is to solidify the Parties' commitment to work together to achieve the mutual vision of this center for diversity, inclusion and social equity. Upon approval of the MOU, the Parties agree to immediately commence work on the detailed agreement(s) necessary to effectuate the partnership described herein.
8. General Provisions.
  - a. This MOU shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws rules or principles as applied in Delaware.
  - b. Each person executing this MOU represents that he or she has been duly authorized to do so by all requisite action on the part of the party on whose behalf he or she is signing, and that in so doing, he or she shall bind such party to all of the terms, provisions, conditions and covenants hereof.
  - c. The headings and section references found herein are for convenience only and shall not be considered a part of this MOU for any purpose, or be considered as in any way interpreting, constituting, varying, altering, or modifying this MOU or any of the provisions hereof.
  - d. This MOU embodies the entire agreement between the Parties hereto and supersedes all prior agreements and understandings, whether oral or written, relating to the subject matter hereof. This MOU may be amended or modified only by a written instrument executed by the Parties hereto.
  - e. This MOU shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns; provided, however, that neither party shall have no right to assign this MOU or any of its rights or interests hereunder, in whole or in part, to any other person or entity without the other party's express written permission.

[ *Signatures of the Parties on Next Page* ]

**IN WITNESS WHEREOF, the Parties hereto have set their hands the date and year written below.**

**NEW CASTLE COUNTY**

**FRIENDS OF HOCKESSIN COLORED SCHOOL  
#107, INC.**

\_\_\_\_\_  
Name: Matthew Meyer

Title: County Executive

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_