

**AGREEMENT BETWEEN TOWN OF ALLENSTOWN AND BOYS AND GIRLS
CLUB OF GREATER NEW HAMPSHIRE FOR REVOCABLE LICENSE FOR
AND OPERATION OF COMMUNITY CENTER**

This agreement entered into this ____ day of _____, 2015 by and between the **TOWN OF ALLENSTOWN**, New Hampshire, a municipal corporation existing under the laws of the State of New Hampshire, with a usual place of business at 16 School Street, Allenstown, New Hampshire 03275 (“Town”), and the **BOYS AND GIRLS CLUBS OF GREATER NEW HAMPSHIRE** (f/k/a Concord Boys and Girls Club), a New Hampshire non-profit corporation, with a usual place of business at 55 Bradley Street, Concord, New Hampshire 03301 (“Club”).

RECITALS

This agreement is premised on the following understandings of the Town and the Club:

- A. The Town has applied for and received a Community Block Development Grant (“CDBG”) to fund a portion of the construction of a new community center at 8 Whitten Street, Allenstown, New Hampshire and further identified as Tax Map 112, Lot 267.
- B. The CDBG Grant requires that the Town have a “Subrecipient Agreement” with the Club to ensure that funding for the Club and operations of the Club are performed consistent with laws, policies and regulations governing CDBG administration. In particular, applicable provisions of Exhibit A of the grant agreement (also referred to as Subrecipient Agreement) must be included in the Subrecipient Agreement. (See **Exhibit A**).
- C. This agreement is intended to meet the requirement for a “Subrecipient Agreement” and to set forth the understanding between the Town and the Club pertaining to issues which are of concern to the Town and which are set forth herein.
- D. The Club received Community Development Finance Authority (“CDFA”) Tax Credits which will be used to contribute as cost share towards the project. Commitment of said donations will have to be in place prior to the start of construction.
- E. The Town secured approval from the Allenstown Planning Board and all relevant regulatory agencies to construct the new building which will house

the community center and to construct the related paved parking lot and vehicular access, drainage, lighting, landscaping and associated site improvements.

- F. The Town may have need to use the community center to host annual or special meetings or for temporary shelter for the community during an emergency or natural disaster.
- G. The Town and the Club believe it to be in their respective best interests to enter into this agreement (hereinafter “Agreement”) which will allow the Club to use the property described below and under the terms and conditions described below.

Article I. Grant of Authority.

The Town hereby grants to the Club a revocable license to the shared use of the building identified as “Proposed Boys & Girls Club /Senior Center Building” (hereinafter “Building”) and the land shown as Map 112, Lot 267 (hereinafter “Property”) on a plan entitled “Proposed Allenstown Community Center”, prepared by Hoyle, Tanner & Associates, Inc., dated March 18, 2015, last revised April 20, 2015 (hereinafter “Plan”), under the terms and conditions described below. A copy of Sheet C-4 of said Plan is attached hereto as **Exhibit B**. Additionally, the Club is authorized to the exclusive use of the designated portion of the building shown on architectural plans and subject to the terms and conditions described below. A copy of said architectural plan is attached hereto as **Exhibit C**.

- A. Use of the Building and Property (hereinafter collectively “the Premises”) by the Club shall be for activities consistent with the mission and purpose of the Club and the Club is authorized to provide recreational and mentoring activities as well as the day care program described below. Any other activities shall require review and approval of the Town; approval shall be within the sole discretion of the Town.
- B. The Club will serve youths who are members of the Club. Membership in the Club is necessary for participation in Club sponsored activities on the Premises provided that the Club may: 1) conduct its summer day camp or other similar programs for the benefit of youths in the Merrimack County region, regardless of their membership status; and 2) conduct a day care program in the building for the benefit of families in the Merrimack County region, regardless of membership status. No child shall be denied membership in the Club on the basis of race, religion, creed, national origin, color, gender, sexual orientation, residency, or ability to pay club dues.
- C. Use of the Premises by the Club shall comply with applicable local, state and federal ordinances, regulations and statutes. The Club understands that all Town and Recreation and Parks Commission regulations must be

observed. The Club shall annually provide the Town Recreation and Parks Commission with a list of the Club's programs and objectives so that a cooperative effort avoiding duplication between the Club and the Town may serve the community.

- D. The Club may utilize the parking spaces shown on the Plan for, among other things, parking of the Club's staff vehicles and Club vans. The Town will maintain the parking spaces in accordance with the Maintenance Agreement. A copy of the Maintenance Agreement is attached hereto as **Exhibit D**.
- E. The Club shall supervise all Club activities and be solely responsible for all supervision associated with the Club's activities on the Premises and shall be responsible for all liability arising out of or as a consequence of the Club's activities whether conducted on the Premises or activities related to programs conducted away from the Premises.
- F. The Club is prohibited from any use of the Premises which is illegal, offensive, or constitutes a nuisance. The Club is prohibited from storing or using toxic substances on the Premises.
- G. Upon prior request of the Town, the Club shall make the Premises available, without charge, for use by the Town for meetings and other governmental functions, including but not limited to, annual and special town meetings, use as emergency shelter, and a polling place for local, state and federal and state elections. In making such requests, the Town will use best efforts to avoid unreasonable interference with the regular activities of the Club. Further, in the event that requests are made by the Town for use of the Premises for emergency shelter, the Town will work with the Club to provide services which will benefit both Town and Club members. The Town will be responsible for all set up, take down and clean up of the Premises following its use, as well as miscellaneous expenses associated with same. Any other Town use, and/or costs associated with such use of the Premises will be at the discretion of the Club.
- H. Maintenance of the Premises shall be done by the Town in accordance with the provisions of the Maintenance Agreement (see **Exhibit D**). Additionally, the Club shall maintain the Premises in a clean and orderly fashion and shall not damage the Premises in any manner, normal wear and tear excepted. Should the Club, as part of the permitted activities under this Agreement, damage the Premises, then the Club shall repair the Premises to its original condition before the damage occurred.
- I. The Club shall not permit any lien, including mechanics liens, to encumber the Premises without prior written approval of the Town. The Club further agrees not to incur, create, assume, or suffer to exist any mortgage, pledge,

lien, charge or other encumbrance of any nature whatsoever in its rights to the facilities.

Article II. Term

The term of this Agreement shall be for a period of twenty (20) years, commencing on _____, 2015, and continuing through _____, 2035, (“Termination Date”), with three (3) renewal option periods, each for a period of twenty (20) years, unless earlier terminated under the provisions of this agreement. Agreement may be renegotiated for continuance beyond the Final Termination Date subject to the mutual agreement of the Club and the Town.

Article III. Assignment

Neither this Agreement nor any part hereof, may be assigned or transferred, in whole or in part, by the Club by process or operation of law or in any other manner whatsoever, without the prior written consent of the Town.

Article IV. Indemnification

The Club shall, indemnify, keep and hold harmless, and defend the Town from and against any and all claims demands, suits, judgments, costs and expenses asserted by any person or persons, including, but not limited to, agents or employees of the Town or Club, guests, visitors, members of the public, and independent contractors, by reason of death or injury to persons, loss or damage to property, violation of Civil Rights or by any other reason resulting from the Club’s operations, or anything done or omitted by the Club under this License. This covenant shall survive the termination of this Agreement.

Nothing in this indemnity clause shall be construed as creating a duty upon the Town to indemnify, keep and hold harmless, and defend the Club for claims, demands, suits, judgments, costs and expenses, resulting solely from the Town’s ownership of the Building or the Property.

Article V. Insurance

The Town shall maintain and pay all charges for property and hazard insurance on the Premises. The Club shall maintain liability insurance coverage in the amount of \$_____. The Town and the Club shall review the liability insurance coverage of the Club annually or as otherwise agreed upon by the Town and the Club. If the Town’s insurance policies require that the Club’s liability insurance coverage under this Paragraph be adjusted, then the Club shall adjust the liability insurance coverage to the amount so required. The Club shall maintain the liability insurance at its sole expense.

In addition to all other insurance to be maintained by the Club, the Club shall maintain insurance coverage for the contents of the Premises and any other personal property at its sole expense.

Article VI. Default and Termination

- A. The default by the Club in the performance of any of the terms, covenants, or conditions of this Agreement, and the failure of the Club to remedy, or undertake to remedy, to the Town's satisfaction, such default for a period of sixty (60) days after receipt of notice from the Town to remedy the same, shall be grounds for termination of this Agreement and revocation of the license (hereinafter referred to as "terminate" or "termination").
- B. This Agreement shall terminate if the Club or any Town approved successor tenant to the Club fails to constitute or ceases to function as a nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), serving the Boys and Girls of Concord.
- C. In the event of termination of this Agreement, the Town agrees that the Premises will be used by or for the benefit of an organization described in 501(c)(3) of the Code solely in furtherance of its exempt purposes.

Article VII. License Fee

The Club shall pay the Town the sum of One Dollar and 00/100 (\$1.00) in consideration for the use of the Premises during the initial term of this Agreement; receipt of consideration is hereby acknowledged by the Town.

Article VIII. Miscellaneous Provisions

- A. Entire Agreement. This Agreement constitutes the entire understanding between the parties, and as of its effective date supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both parties.
- B. Relation of Agreement to Exhibit A of Grant Agreement. Notwithstanding the provisions of Section A above, some provisions of the Subrecipient Agreement (Exhibit A) are inapplicable to the Agreement, including but not limited to holding a security interest in the subject property. Such inapplicable provisions have no force and effect within this Agreement. Furthermore, to the extent that the terms of the Agreement contain additional provisions or more restrictive ones than those which are found in the Subrecipient Agreement (Exhibit A), then the additional and/or more restrictive provisions shall be the ones in effect.
- C. Severability. If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in

effect as nearly as possible in accordance with the original intent of the parties.

- D. Notice. Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be sent by registered mail, return receipt requested, with postage and registration fees prepaid:

If to the Town, addressed to:
Town Administrator
Town of Allenstown
16 School Street
Allenstown, New Hampshire 03275

If to the Club, addressed to:
Executive Director, Boys & Girls Clubs of Greater Concord
55 Bradley Street
Concord, New Hampshire 03301

Notices shall be deemed to have been received on the date of receipt as shown on the return receipt.

- E. Headings. The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Agreement.
- F. Governing Law. This Agreement is to be construed in accordance with the laws of the State of New Hampshire.

IN WITNESS WHEREOF, the parties hereto accept this Agreement pursuant to the terms and conditions set forth herein as of this _____ day of _____, 2015.

TOWN OF ALLENSTOWN

Witness

By: Jeffrey Gryval, Board of Selectmen,
Duly Authorized

BOYS & GIRLS CLUBS OF GREATER
NEW HAMPSHIRE

Witness

By: David Segal, President, Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK, ss

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Jeffry Gryval, Chairman of the Board of Selectmen for the Town of Allenstown, known to me or satisfactorily proven to be the person whose name is subscribed within this instrument and acknowledged that he executed the same for the purposes therein contained on behalf of the Town.

Notary Public/Justice of the Peace
My Commission expires:_____

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK, ss

The foregoing instrument was acknowledged before me this this _____ day of _____, 2015, by David Segal, President of the Boys & Girls Clubs of Greater Concord, known to me (or satisfactorily proven to be) the person whose name is subscribed within this instrument and acknowledged that she executed the same for the purposes therein contained.

Notary Public/Justice of the Peace
My Commission expires:_____