

LEASE AGREEMENT BETWEEN THE TOWN OF ALLENSTOWN AND THE BOYS &
GIRLS CLUBS OF GREATER CONCORD
BUILDING LEASE

This lease agreement ("Agreement") entered into as of the 14th of April, 2014, by and between the Town of Allenstown ("Town"), 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 and the Boys & Girls Clubs of Greater Concord (f/k/a Concord Boys and Girls Club) ("Club"), a New Hampshire nonprofit corporation with a usual place of business at 55 Bradley Street, Concord, New Hampshire.

RECITALS

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

A. The Town has applied for and received a Community Development Block Grant (CDBG) to fund a portion of the construction of a new recreation center located off of Whitten Street commonly known as the Whitten Street Park, Map 112 Lot 267.

B. The Club has applied for and hopes to receive Community Development Finance Authority (CDFA) Tax Credits which would be used to contribute as cost share towards the project. Further that the Club will obtain the additional funds necessary through donations to fund the project. Commitment of said donations will have to be in place prior to the start of construction.

C. The Town has submitted plans to the Allenstown Planning Board for the construction of a new building and the construction of a new parking lot and vehicular access, with related paving, drainage, landscaping, lighting and associated site improvements.

D. The Town enters into a long term lease agreement with Occidental Petroleum Corporation to utilize the property located at Map 112 Lot 273 to construction a new entry way

into the park. The Town constructs and maintains a new entry way into the park prior to the completion of the construction of the new recreation center.

E. The Town agrees to maintain the facilities on the property as well as the building(s). The obligations with respect to such maintenance are set forth in the maintenance agreement between the Town and the Club attached hereto as Exhibit A (the "Maintenance Agreement").

F. The Town has secured Allentown Planning Board approval, obtained all applicable permits and paid all pertinent regulatory fees to effectuate the construction of the building and site improvements as outlined in its Planning Board approvals.

G. The Town and the Club believe it to be in their respective best interests to enter into this agreement in accordance with this Lease.

NOW, THEREFORE, in consideration of the mutual premises set forth above, and for other consideration, the receipt of which the parties hereby acknowledge, the Town and the Club agree as follows:

Article I. Term

The term of this Lease shall be for a period of ninety-nine (99) years, commencing on April 14th, 2014, and continuing through April 14th, 2113 ("Termination Date"), with three (3) renewal option periods, each for a period of ninety-nine (99) 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 II. Leased Premises

A. The Town hereby leases to the Club and the Club hereby leases from the Town the Building (the "Leased Premises") identified on the plan entitled "Suncook Boys and Girls Club, Map 112 Lot 267, Allentown, New Hampshire, Proposed Site Plan", prepared by Holden

Engineering., dated August 15th, 2012 and revised on February Option 3, 2014 (the "Plan") attached hereto as Exhibit B, including the right to exclusive use of the buildings and property located at Map 112 Lot 267 as shown on the Plan such building(s) and improvements as the Club may choose. Provided that all such usage and activities comply with applicable Town Codes and Ordinances, State and Federal laws rules and regulations. Said activities having been approved by the Town, and provided further, that any and all such building(s) and improvements shall be owned by the Town, subject to the provisions of Article VIII hereof. For purposes of clarity, the Leased Premises includes the exclusive right by the Club to use of the area shown as the Building Envelope Area on the Plan and the non-exclusive right together with the Town and its residents to the so-called Parking Area for all lawful purposes. The Club acknowledges that the Parking Area may be used by the general public, subject to the limitations established by the Town.

B. The Club shall not permit any other lien, including mechanics' liens, to further encumber the Leased Premises, without prior written approval of the Town. The Club further agrees to not incur, create, assume, or suffer to exist any mortgage, pledge, lien, charge, or other encumbrance of any nature whatsoever in its rights to the Leased Premises, other than a mortgage or other financial encumbrance to finance the Club's Improvements, provided that the Club must obtain approval from the Town of its intention to do so. If the Club has granted a mortgage or encumbrance on its interest in the Leased Premises and subsequently defaults to the holder of the obligation secured by the mortgage or encumbrance, the Town has first right to cure any deficiency in any mortgage, assignment, or other pledge of the Club's interest in the Leased Premises as long as the Town exercises such right within 60 days of its receipt of the notice of such deficiency, and further the Town has the first right of refusal over any sale of the Club's

Improvements or its interest in the Leased Premises. The procedures for the right of first refusal are attached as Exhibit C. Nothing in this section shall prohibit the Club from seeking a leasehold mortgage(s) on the Club's Improvements and/or its interest in the Leased Premises, however, such financial encumbrances shall be subject to the approval of the Town, whose approval shall not be unreasonably withheld. The Town agrees that if the Town declares a default by the Club, the Town shall give notice to the holder(s) of such approved leasehold mortgage(s), and the holder(s) of the leasehold mortgage(s) shall have a reasonable opportunity, but not an obligation, to cure any such default for a period of sixty (60) days after the Club shall have failed to cure. The Town agrees to accept performance by the holder(s) of any such leasehold mortgage if such holder(s) voluntarily agrees to perform the terms of this Lease.

C. All maintenance of the Club's Improvements and the Building Envelope Area shall be the Town's sole responsibility. Maintenance of the Parking Area shall be in accordance with the Maintenance Agreement.

Article III. Conditions For Use Of Leased Premises

A. **Population To Be Served.** The Club will serve youths who are members of the Club. All operations, programs, activities, and use of the Leased Premises shall be subject to all applicable federal and state laws and city ordinances. Membership in the Club is necessary for participation in Club sponsored activities in the building 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, residency, or ability to pay club dues.

B. Use Of Park Facilities. The Club membership and staff may utilize all facilities and grounds of the Whitten Street Park. 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.

C. Staffing, and Limitation of Liability. The Club will be solely responsible for all supervision associated with the Club's activities on the Leased Premises and shall be responsible for all liability arising out of or as a consequence of the Club's activities whether conducted on the Leased Premises or activities related to programs conducted from the Leased Premises. Club staff will supervise the Club scheduled activities.

D. Prohibited Activities. The Club is prohibited from any use of the Leased Premises which is illegal, offensive, or constitutes a nuisance. The Club is prohibited from storing or using toxic substances on the Leased Premises.

E. Use Of The Club Facility. Upon the prior written request of the Town, the Club will make the Club's Leasehold Premises available, at no charge, as a place for public meetings or polling place for local, state and federal elections. The Town will be responsible for all set-up, take-down, cleanup, and miscellaneous expenses associated with an such activities. Any other Town use of the Leasehold Premises and fees for its use will be at the discretion of the Club. In those instances where the Town is using the Leasehold Premises, the Town agrees to indemnify and hold harmless the Club from and against all claims demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of the Town or Club by reason of death or injury to persons, or loss or damage to property, or violation of Civil Rights,

or anything done or omitted by the Town, unless such claims, damages or losses result from the Club's gross negligence or misconduct.

F. Parking. The Club may utilize the Parking Area for, among other things, parking of the Club's staff vehicles and Club vans. The Town will maintain the Parking Area in accordance with the Maintenance Agreement.

Article IV. Assignment

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

Article V. Indemnification

The Club shall 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 agents or employees of the Town or Club by reason of death or injury to persons, or loss or damage to property, or violation of Civil Rights or land or water pollution resulting from the Club's operations, or anything done or omitted by the Club under this Lease except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of the Town or its agents or employees.

Article VI. Rent

The rent under this lease shall be one dollar (\$1.01) the receipt of which is hereby acknowledged by the Town.

Article VII. Miscellaneous Provisions

A. Entire Agreement. This Lease 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. Severability. If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Lease 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.

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

1. If to the Town, addressed to:
Town Administrator
Town of Allenstown
16 School Street
Allenstown, New Hampshire 03275
2. 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.

D. Headings. The headings used in this Lease are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Lease.

E. Governing Law. This Lease is to be construed in accordance with the laws of the State of New Hampshire.

Article VIII. Default and Termination

A. The default by the Club in the performance of any of the terms, covenants, or conditions of this Lease, 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 Lease.

B. This lease 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 Lease, the Town agrees that the Leased 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.

D. At any time after the initial ninety-nine (99) years of this Lease, the Town reserves the right upon a seven hundred thirty (730) day notice to the Club to terminate the provisions of this Lease. If the Town exercises this right, the Town agrees that the Leased 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.

[The next page is the Signature Page]

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

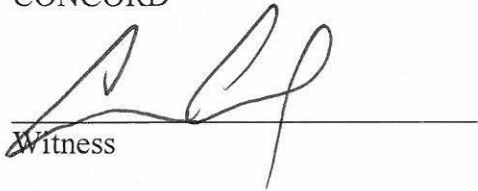
LESSOR: THE TOWN OF ALLENSTOWN

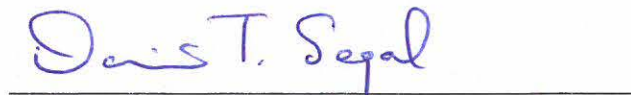

Witness


Jason Tardiff, Board of Selectmen, Duly Authorized

LESSEE: BOYS & GIRLS CLUBS OF GREATER

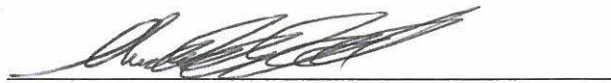
CONCORD


Witness


David Seigel, President, Duly Authorized

State of New Hampshire
County of Merrimack

The foregoing instrument was acknowledged before me this 14th day of April, 2014, by Jason Tardiff, 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.


Justice of the Peace/Notary Public

SHAUN MULHOLLAND, Justice of the Peace
My Commission Expires December 5, 2017

State of New Hampshire
County of Merrimack

The foregoing instrument was acknowledged before me this day of April, 2014, by David Seigel, 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.


Justice of the Peace/Notary Public

GEORGE LECOIRS, Notary Public
My Commission Expires February 28, 2019

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EXHIBIT A

Maintenance Agreement

The Town agrees to maintain the building(s), parking lot, access way and property located at Map 112 Lot 267 and Lot 273 to allow the Club to conduct its programs and activities.

The Town agrees to maintain the facilities in a manner consistent with all applicable Town regulations, policies, procedures and ordinances. The Town also agrees that such maintenance will ensure compliance with all applicable State and Federal laws, rules and regulations. The Town agrees to pay for the cost and is responsible for the following:

1. Ensuring adequate fire and casualty insurance coverage as well as general liability insurance coverage for the facilities.
2. Winter access way, parking lot and walkway maintenance to include snow plowing, snow removal, application of de-icing materials and sand for traction.
3. Landscaping and grounds maintenance of the property to include the parking lots, walkways and access way.
4. All buildings and facilities maintenance.
5. The cost of the following utilities to the building, property and facilities;
 - a. Electric Power.
 - b. Public Water Supply.
 - c. Public Wastewater collection and disposal.
 - d. Fuel costs related to heating the building(s), cooking appliances and heating hot water.
 - e. Telephone and internet service.

GEORGE LEONARD, Notary Public
My Commission Expires February 28, 2019

EXHIBIT B

The Plan

EXHIBIT C

Right of First Refusal Procedures

If the Club receives an offer ("Offer") from an organization described in Section 501(c)(3) of the Code that provides services to Boys and Girls in the Town of Allenstown to sell, lease or transfer its Leasehold Premises together with the Club's Improvements,) and the Club is willing to accept such Offer, the Club shall notify the Town in writing of such Offer and provide the Town with a copy of the Offer. Thereupon, the Town shall have ninety (90) days from the date of receipt of such written notification to accept or reject it. Failure by the Town to notify the Club of its acceptance or rejection of the Offer shall be deemed a rejection. Nothing in this paragraph shall be deemed to be an approval by the Town of such 501(c)(3) organization or its Offer, and such 501(c)(3) organization must seek and obtain the Town's consent to be a successor to the Club hereunder, which consent shall not be unreasonably withheld if the 501(c)(3) organization meets the qualifications set forth above. If such Offer is accepted by the Club, the Town agrees that the Leased Premises will be used by or on behalf of the 501(c)(3) organization solely in furtherance of its exempt purposes. __If the Town exercises its right of first refusal, the Town agrees that the Premises will be used by or on behalf of an organization described in 501(c)(3) of the Code solely in furtherance of its exempt purposes.

