

SUBLEASE AGREEMENT

This agreement is made and entered into this ____ day of _____, 2022, by and between the LITCHFIELD PUBLIC SCHOOLS, acting by its Board of Education, with its principal place of business at 35 Wamogo Road, Litchfield, Connecticut 06759; REGIONAL SCHOOL DISTRICT NO. 6, acting by its Board of Education, with its principal place of business at 35 Wamogo Road, Litchfield, Connecticut 06759 (hereinafter collectively referred to as "Boards of Education" or "Districts")¹; the TOWN OF LITCHFIELD, CONNECTICUT, acting by its Board of Selectmen, a municipal corporation with its principal place of business at 74 West Street, Litchfield, Connecticut 06759 (hereinafter "Litchfield"); and PLUMB HILL PLAYING FIELDS, INC., acting by its Board of Directors, a Connecticut not for profit corporation having a mailing address of P.O. Box 1296, Litchfield, Connecticut 06759 (hereinafter "PHPF, Inc.").

WITNESSETH:

WHEREAS, the Boards of Education are organized and existing under the laws of the State of Connecticut, operating and overseeing their respective public school systems; and

WHEREAS, PHPF, Inc., is a not-for-profit corporation organized under the laws of the State of Connecticut and is a tax-exempt organization under the Internal Revenue Code of the United States of America. PHPF, Inc. supports local scholastic athletic programs by providing athletic facilities on the school campus adjacent to the Litchfield Intermediate School; and

WHEREAS, PHPF, Inc.'s athletic facilities include three soccer fields, a field hockey field, a softball field, an eight-lane rubberized track, and a maintenance storage building (hereinafter the "athletic facilities"); and

WHEREAS, PHPF, Inc.'s only condition of use for the athletic facilities by the public school system is a commitment from the Town of Litchfield and the Boards of Education to adequately fund the maintenance of the athletic facilities; and

¹ The Boards are currently involved in the formation of a new regional school district, which will combine the Region 6 School District with the Litchfield School District into a new district to be called the Region 20 School District. If and when Region 20 is approved in all four (4) member communities (Goshen, Litchfield, Morris and Warren) this agreement will need to be presented for approval to the new Region 20 Board of Education.

WHEREAS, all parties are desirous of entering into this agreement setting forth the terms and obligations concerning the annual maintenance and long-term capital improvements of the athletic facilities; and

WHEREAS, Litchfield has leased to PHPF, Inc. the parcel of land as shown on **Exhibit A**, attached hereto and made a part of that lease agreement for the specific purpose of allowing PHPF, Inc. to build and maintain the athletic facilities under said lease agreement between Litchfield and PHPF, Inc. for thirty (30) years, commencing on June 22, 2004. Said lease agreement is renewable at the option of the parties for additional successive terms of five (5) years each, on the same terms and conditions consistent with the purposes set forth in said lease agreement, unless changed by mutual written agreement;

NOW THEREFORE, IT IS AGREED:

1. Sublease of Athletic Facilities.

PHPF, Inc. shall sublease athletic facilities to the Boards of Education, including the land and athletic facilities constructed thereon, upon the terms and conditions described herein. Litchfield continues to lease said playing fields and facilities from PHPF pursuant to a Lease Agreement dated June 22, 2004 (recorded in Vol. 288, Pg. 349 of the Litchfield land records).

2. Use of Leased Athletic Facilities.

(a) PHPF, Inc., and its authorized agents and contractors, may use the premises for the general purpose of operating and maintaining the athletic facilities, including but not limited to the playing fields and a running track.

(b) The respective school systems shall have the use of the premises and all athletic facilities thereon for sports related programs and activities for the public school systems. As such, the Boards of Education of the school systems are the parties responsible for controlling the use of the fields. The Boards of Education may delegate in writing the responsibility for scheduling the use of premises to each public school system's Athletic Director and/or PHPF, Inc.

3. Term.

The term of this agreement shall commence on the date of execution of this agreement and shall end on June 21, 2034 (which end date coincides with the lease agreement for the parcel of land

made between the Litchfield and PHPF, Inc., on June 22, 2004, at Vol. 288, Pg. 349 of the Town of Litchfield land records). This agreement is renewable at the option of the parties for additional successive terms of five (5) years on the same terms and conditions consistent with the purposes set forth in said agreement, unless changed by mutual written agreement. The renewable option is conditioned upon Litchfield and PHPF, Inc. renewing its initial parcel lease and/or any five-year successive renewable term under the June 22, 2004 Lease Agreement.

4. Rent and Athletic Facility Use Fees Paid to PHPF, Inc.

Upon full execution of this agreement, PHPF, Inc. shall provide use of the premises and all athletic facilities thereon to the Districts, for the benefit of the Districts on the following terms and conditions:

(a) The Districts shall pay use fees to PHPF, Inc., with each Board of Education paying one-half (50%) of such use annual fees. The facility use fees paid to PHPF, Inc. shall total Seventy-Thousand Dollars (\$70,000.00) Dollars per year (hereinafter "Basic Annual Use Fee"), due and payable by the Boards of Education in two equal installments, one installment on or before February 15 and the second on or before July 15 of each year of the agreement.

(b) To the said Basic Annual Use Fee as above set forth, there shall be added or subtracted, as applicable, to create a new Basic Annual Use Fee, a cost of living adjustment, rounded to the nearest whole dollar amount, if required as hereinafter set forth, beginning on the 1st day of July 2023, and on each February 1 thereafter during the continuance of this agreement. (hereinafter "Anniversary Date") For purposes of computation, the cost-of-living index for each Anniversary Date shall be the Revised Consumer Price Index for Urban Wage Earners and Clerical Workers as published by the U.S. Department of Labor, Bureau of Labor Statistics for the month of February preceding such Anniversary Date (hereinafter the "Index") If on any Anniversary Date the Index is no longer published by the Bureau of Labor Statistics, a recognized comparable cost of living index shall be used.

(c) If on 1st day of July 2023, or any subsequent anniversary date the Index for the immediately preceding February (published in March) is greater than or lesser than the Initial Index, the Total Annual Use Fee (Basic Annual Use Fee plus any increases and minus any decreases as a result of any prior cost of living adjustments hereunder) shall be increased or

decreased by a per cent of such Total Annual Use Fee equal to the per cent of increase or decrease in the Index for said twelve-month period. Any such increase or decrease shall be calculated to the nearest dollar.

(d) In no event is the Total Annual Use Fee payable under this lease to be less than the initial Basic Annual Use Fee of Seventy Thousand Dollars (\$70,000.00).

(e) Any additional use fee due hereunder as a result of any increase in the cost-of-living index shall be paid to PHPF, Inc., with the Regional School District No. 6 Board of Education and the Litchfield Board of Education splitting such fee evenly (50% to each), as and when the Basic Annual Rent shall be paid on and after the said anniversary date and for the remainder of this lease or until re-computation shall be required at the next anniversary date.

5. Activities by PHPF, Inc.

PHPF, Inc. shall comply with, and conform to, all the laws of the State of Connecticut, and ordinances and regulations of Litchfield of general applicability relating to health, safety, nuisance, and fire. PHPF, Inc. agrees that it will comply with any applicable laws, regulations, ordinances or orders of any applicable governmental agency or regulatory body relating to the premises and arising out of PHPF, Inc.'s activities on the premises.

6. Maintenance and Repairs.

PHPF, Inc. shall be responsible for contracting for the annual maintenance of and, repairs and/or replacements to the athletic facilities, necessary to keep the facilities in good working order. Litchfield shall be responsible for the maintenance of the emergency access-way crossing through the parcel. Such efforts shall include, but are not necessarily limited to, the hiring or contracting of individuals or business entities with the experience, knowledge of equipment, and skills to maintain the athletic facilities in a proper manner. PHPF, Inc. shall pay the costs of maintenance and repairs from the annual Athletic Facility Use Fees received. The Boards of Education shall be required to bring to the attention of PHPF, Inc. any deficiencies in maintenance, or dangerous condition of the fields, which could jeopardize the safety of the students and athletes using the facilities.

7. Insurance and Indemnification.

Each party shall indemnify and hold harmless the other parties to this agreement from and against any and all liability, penalties, damages, expenses claims and suits, including, without limitation reasonable attorney fees and judgments by reason of any injury (or death) or claim of injury (or death) to person or property, of any nature, arising out of or resulting from or in connection with the use and/or occupancy of the premises and/or facilities. PHPF, Inc. shall require that all contractors or entities engaged to provide maintenance services for the athletic facilities have contractor's liability insurance in an amount of at least Two Million (\$2,000,000.00) Dollars, including automobile, personal injury and property damage, and Workers' Compensation Insurance, as required by law.

8. Dispute Resolution.

Any dispute arising under this agreement shall be resolved by means of arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and binding upon the parties, to the extent provided by Connecticut law, and shall be specifically enforceable by the Connecticut Superior Court.

9. Miscellaneous.

This agreement contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties. If any term or provision of this lease, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this agreement shall not be affected thereby and each remaining term and provision of this agreement shall be valid and enforced to the fullest extent permitted by law. Any notices under this agreement must be sent in writing to the parties at the addresses set forth in this lease. Where the approval or consent of one party hereto is required, requested or otherwise is to be given under this agreement, such party shall not unreasonably delay or withhold its approval or consent. This agreement may be executed in duplicate counterparts, each of which shall be deemed an original.

This agreement shall be governed, construed, and enforced pursuant to the laws of the State of Connecticut.

This sublease and any amendment thereto shall be recorded in the Litchfield Land Records.

This Agreement shall inure to the benefit of, and be binding upon, the heirs, executors and administrators of the parties.

In the event of a merger between the Boards of Education taking place hereafter, the parties may enter into a modification of this agreement or a new agreement to reflect such merger; or the newly formed district Board of Education resulting from the merger may choose to simply assume this lease from the merging Boards of Education. In the event of Board of Education assumption, the newly formed Board of Education will step into the same rights and duties of the previously separate two Boards of Education.

10. Holding Over.

In case the Boards of Education shall at any time hold over the said Athletic Facilities beyond the initial or any option lease term, then the holdover Boards shall hold the Athletic Facilities upon the same terms and conditions as are set forth in this agreement, however, no holding over by the Boards of Education shall operate to renew this lease without the express written consent of PHPF, Inc. and the Town of Litchfield.

11. Notices.

Any notices hereunder shall be made to each party at the addresses set forth below and shall be deemed given: (a) when hand-delivered; or (b) five business days after depositing in the United States mail by certified mail, return receipt requested, postage pre-paid; or (c) the next business day after deposit with a nationally recognized courier service; or (d) upon confirmed receipt by facsimile transmission on a business day to the addresses set forth below. Regardless of any other form of delivery, a copy of any notice to any party must also be transmitted to the following addresses:

Town of Litchfield
c/o First Selectman
74 West Street, P.O. Box 488
Litchfield, CT 06759-0488

Litchfield Public School System
c/o Superintendent of Schools
35 Wamogo Road
Litchfield, CT 06759

With a copy to:
Michael D. Rybak, Esq.
Guion Stevens & Rybak, LLP
93 West Street, P.O. Box 338
Litchfield, CT 06759-0338

With a copy to:

(or the then Town Counsel)

Plumb Hill Playing Fields, Inc.
P.O. Box 1296
Litchfield, CT 06759

With a copy to:

Brian McCormick, Esq.
Ebersol, McCormick, Reis & Steck, LLC
9 Mason Street, P.O. Box 598
Torrington, CT 06790-0598
(or the then Counsel for PHPF)

(or the then Counsel for the
Litchfield Board of Education)

Regional School District Number 6
c/o Superintendent of Schools
35 Wamogo Road
Litchfield, CT 06759

With a copy to:

(or the then Counsel for the
Regional School District Number 6)

[signature pages follow]

Dated at _____ Connecticut, this _____ day of _____, 20____.

WITNESS

Town of Litchfield

Name:

By _____
Denise Raap
Its First Selectman, Duly Authorized

Name:

STATE OF CONNECTICUT)
) ss: Litchfield
COUNTY OF LITCHFIELD)

Personally appeared Denise Raap, First Selectman of the Town of Litchfield, and Signer of the foregoing instrument, and acknowledged the same to be her free act and deed as such First Selectman, and the free act and deed of the Town of Litchfield, Connecticut, before me .

Commissioner of the Superior Court
Town Clerk/Assistant Town clerk
Notary Public
My commission Expires
[seal]

Dated at _____ Connecticut, this _____ day of _____, 20____.

WITNESS

Litchfield Public Schools

Name:

By _____
Christopher Leone
Its Superintendent, Duly Authorized

Name:

STATE OF CONNECTICUT)
) ss: Litchfield
COUNTY OF LITCHFIELD)

Personally appeared Christophe Leone, and Signer of the foregoing instrument, and acknowledged the same to be his free act and deed as such Superintendent of Schools, and the free act and deed of the Litchfield Public Schools, before me .

Commissioner of the Superior Court
Notary Public
My commission Expires
[seal]

Dated at _____ Connecticut, this _____ day of _____, 20_____.

WITNESS

Regional School District No. 6

Name:

By _____
Christopher Leone
Its Superintendent, Duly Authorized

Name:

STATE OF CONNECTICUT)
) ss: Litchfield
COUNTY OF LITCHFIELD)

Personally appeared Christophe Leone, and Signer of the foregoing instrument, and acknowledged the same to be his free act and deed as such Superintendent of Schools, and the free act and deed of the Regional School District No. 6, before me.

Commissioner of the Superior Court
Notary Public
My commission Expires
[seal]

Dated at _____ Connecticut, this _____ day of _____, 20____.

WITNESS

Plumb Hill Playing Fields, Inc.

Name:

By _____
John Donovan
Its _____, Duly Authorized

Name:

STATE OF CONNECTICUT)
) ss: _____
COUNTY OF LITCHFIELD)

Personally appeared John Donovan, and Signer of the foregoing instrument, and acknowledged the same to be his free act and deed as such _____ of Plumb Hill Playing Fields, Inc., and the free act and deed of said corporation, before me.

Commissioner of the Superior Court
Notary Public
My commission Expires
[seal]