

Ernest DiBurro Pickleball/Tennis Facility
Use Agreement

This Ernest DiBurro Pickleball/Tennis Facility Use Agreement (this “Agreement”) is entered into on this _____ day of August, 2023, by and between the **City of Haverhill**, a Massachusetts municipal corporation located in the Commonwealth of Massachusetts having a mailing address of City Hall, 4 Summer Street, Haverhill, Massachusetts 01830 (the “City”), and **Haverhill School Committee**, having all the rights, powers and duties of a school committee as provided by the General Laws, the city charter, or any amendments thereto, having a mailing address of City Hall, 4 Summer Street, Haverhill, Massachusetts 01830 (“Committee”) (collectively referred to as the “Parties” and singularly as a “Party”).

Recitals

WHEREAS, the City is the owner of certain real property known as the Haverhill High School located at 137 Monument Street, Haverhill Massachusetts (“HHS”);

WHEREAS, said HHS property is currently under the exclusive use and control of the Committee for educational purposes;

WHEREAS, the City is in possession of an unassembled building for the purposes of use as a Pickleball/Tennis Facility (“Facility”) generously donated by Ernest DiBurro; and,

WHEREAS, the Parties desire to assemble and locate the building on the campus of HHS for the joint use of students and the general public; and,

WHEREAS, the Parties desire to enter into a written Agreement as to terms of governing the use of the Facility, maintenance, operation and promotion of the Facility.

NOW, THEREFORE, for consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Committee agree as follows:

1. The Facility shall be erected on a specific site located (“location”) on the HHS campus to the joint satisfaction of all parties.
2. The City shall be responsible for any and all costs of preparing the site for the assembly of the building and the construction of the Facility including but not limited to excavation, utilities, water and sewer, retaining walls, foundation,

replacement of existing parking and additional parking for courts, all concrete work and any other work and materials associated with the erection of the building and the courts, the erection of the building, connection and provision of all necessary utilities, installation of security systems, and the costs of any additional fixtures, equipment or furniture necessary for the initial proper use of the Facility.

3. The City shall have site control of the location during the construction of the Facility solely for the purposes of overseeing the erection of the building and any other necessary work to complete the Facility. However, said site control shall not interfere with the daily operation of Haverhill High School. Prior to an occupancy certificate issuing, the Committee shall inspect and review the Facility and accept same in writing to the City.

4. Upon acceptance of the Facility by the Committee, the Committee shall be responsible for the maintenance and upkeep of the Facility, including but not limited to, custodial services, security services and repairs to the interior and exterior of the Facility as may be necessary to keep the buildings and other structures in good repair and condition, except as to extraordinary repairs. The City shall provide security and custodial staff for the Facility during the hours the Facility is open to the public. Responsibility for extraordinary repairs in excess of Fifty Thousand (\$50,000.00) Dollars shall be paid by the City.

5. The Committee shall pay for all electricity and heat used at the Facility. The City shall pay the Committee the cost for its share of the electricity and heat, which shall be a percentage of the total cost based on the number of hours per week that the Facility is open to the public divided by the number of hours that the Facility is open per week.

6. The Committee and City agree that the activities of the Committee shall be given absolute priority over use of the Facility when school is in session during the regular school year, and for other times as required by the Athletic Director. Public use hours shall be given absolute priority during any period when school is not in session, including evening and school vacation periods, but excluding ½ hour before or after school sessions during the regular school year. School activities shall be allowed in the Facility at no charge to the Committee or City.

The Athletic Director may utilize the Facility during public use hours, with the agreement of the Recreation Director.

7. The City, through its Recreation Department, shall have the right to schedule public use of the facility for not less than thirty (30) hours per week. Public use hours may include any evenings, but shall not be scheduled during any period when school is in session or for ½ hour before or after school sessions during the regular school year. The City's Recreation Director may schedule the use of the facility beyond 30 hours

per week with the agreement of the Athletic Director. The City's Recreation Director shall notify the School Department's Athletic Director of an annual schedule of public use hours no later than June 30th of each year for the following year. The Recreation Director shall be responsible for providing adequate staffing for the reasonable and safe use of the Facility during public use hours, as well as any costs related thereto, and all staff shall be required to be CORI'd and comply with school staff requirements. Staff provided by the School Department shall be charged back to the City monthly.

Public use during school hours shall require members of the public to provide identification and all members of the public must comply with the policies, rules, and regulations of the Haverhill Public Schools.

8. The rental or lease of the Facility for any non-Haverhill Public School sponsored activities shall be jointly agreed upon by the Committee, Superintendent and the Mayor. Any revenues realized from school related activities or non-Haverhill Public School sponsored activities, shall be returned to the Committee. Any fees collected from the public for public use hours shall belong to the Recreation Department to assist in defraying the costs of staffing and other expenses for such periods.

9. The Committee shall not make any alterations or additions to the Facility, without first obtaining the written consent of the City which shall not be withheld unreasonably. City consents to the installation, at Committee's sole cost and expense, of temporary interior and exterior signs for the purpose of selling advertising.

10. All notices, demands and requests to be given hereunder by either party shall be in writing. All such notices, demands and requests sent to City shall be addressed to the attention of its Mayor. All such notices, demands and requests sent to Committee shall be addressed to the attention of its Superintendent.

11. Any changes or modifications to this Agreement must be agreed to in writing by the Committee, Mayor and City Council.

For the Haverhill School Committee:

For the City of Haverhill:

By Its Vice Chairperson

By Its Mayor