

## AMENDED AND RESTATED LEASE

11/19/02

THIS AMENDED AND RESTATED LEASE, (the "Lease") is made as of the 25<sup>TH</sup> day of NOVEMBER, 2002 by and between THE TOWN OF EASTON, a specially chartered Connecticut municipal corporation (the "Landlord") and EASTON COMMUNITY CENTER, INC., a Connecticut non-stock corporation having its principal office in the Town of Easton, Connecticut (the "Tenant");

### WITNESSETH:

The Tenant is a corporation formed for the principal purpose of providing a facility which will offer recreational, social and educational programs primarily for the Town's residents who are less than 19 years old. These programs will be developed, administered and carried out by the Tenant or its designated providers according to guidelines set forth in this Amended and Restated Lease or as modified from time to time by the Tenant and the Landlord. The Landlord, for and in consideration of the rents, covenants and agreements contained in this Lease, leases to the Tenant and the Tenant rents from the Landlord the following described premises upon the following terms and conditions:

1. **Premises.** The Premises consist of that certain piece or parcel of unimproved land situated in the Town of Easton, County of Fairfield and State of Connecticut, being more particularly described in a map entitled Grading Plan for the Easton Community Center, Easton, Ct., Feb. 4, 2000, which map is to be modified to show a slight revision in the walkway and lighting and is to be replaced by a final survey map and legal description

of the Premises, including easements at the cost of the tenant by February 1, 2003 (the "Premises"). Once prepared, a copy of the map and legal description will be attached as Exhibit A. The Town reserves the right to cross and utilize the Premises; provided that such use does not interfere with the use by the Tenant. The Board of Education has authorized the use of certain additional Town property within the control of the Board of Education as set forth in Exhibit B attached.

2. **Term.** The term of this Lease shall be ninety-nine (99) years commencing on April 2, 2000 and ending on April 1, 2099.
3. **Rent.** The Tenant shall pay to the Landlord the term rent of \$1,485 to be paid in ninety-nine (99) equal annual installments of \$15.00 each to be paid on the first day of each year, beginning April 2, 2000.
4. **Improvements.**
  - A. The Tenant is in the process of constructing a building on the Premises, having an area of approximately 20,000 square feet, and related improvements together with a parking area of sufficient size to provide motor vehicle parking for motor vehicles of persons participating in activities at the Premises (the "Building"). The Tenant has submitted the plans and specifications and contract for construction of the Building and other improvements to the Landlord for its prior approval, including but not limited to the aesthetic aspects, which approval has been given. In addition, the Tenant has submitted the name of the proposed construction manager to the

Landlord for its prior approval which has been given. The Tenant shall not make any major modification to the plans and specifications without the Landlord's prior approval. The Premises and Building and any related improvements are collectively referred to as the "Facility."

- B. The Landlord and, to the extent required, the Landlord's Board of Education, shall provide access for all utilities on and across the Helen Keller School roadway and otherwise, both during construction and during the period of operation of the Facility, at locations to be determined by the parties; provided, however, the Tenant shall repair any damage or deterioration to the roadway or other facilities of the Landlord or its Board of Education caused by the Tenant, its agents and employees. The Landlord shall also permit the Tenant to stockpile dirt and other material excavated by the Tenant during construction of the Facility on other property of the Landlord provided that the Tenant shall remove all such materials at the completion of construction of the Facility and restore the site where the materials are stored to the condition in which it was prior to any such stockpiling.
- C. The Tenant shall use its best efforts not to interfere with activities at Helen Keller School during construction of the Facility. The Tenant shall provide advance written notice of any construction activities

which might affect adversely school activities to the Principal of Helen Keller Middle School.

- D. In the event that any easement for utilities, drainage or access to the Facility are required, the Tenant shall provide the legal descriptions for these easements at its cost.
- E. The Tenant shall provide to the Town, at its cost, all required maps and surveys in connection with the location and/or operation of the Premises or Facility, including without limitation a final "as built" survey and final "as built" plans.
- F. The Building and all the contents (excluding any property of the Landlord or others in the Building), shall be the property of the Tenant and, notwithstanding any provision in this Lease to the contrary, the Building and contents shall remain personal property at all times as between the parties.

5. Use.

- A. The use of the Facility shall be according to policies to be developed by the Tenant. The policies shall be developed initially prior to the opening of the Facility to the public and shall be modified from time to time as deemed necessary by the Tenant. Such policies shall be submitted to the Landlord for comment prior to implementation at the time initially developed or when modified. The Tenant shall give consideration to any comments by the Landlord, but shall not be required to implement any comment unless the Landlord shall

indicate that the comment is mandatory in which case the Tenant shall implement the mandatory comment or request arbitration pursuant to this Lease. The policies shall be developed according to the following principles:

1. The Facility shall be operated as a not-for-profit community-oriented venture.
2. The principle use of the Facility shall be for programs offered by the Tenant or its designated providers primarily for Town residents who are nineteen years or younger. When not interfering with the children's use of the Facility (i.e., Monday through Friday; 9:00 a.m. to 2:00 p.m. when school is in session or at other agreed upon times), the Facility may be used to host activities that are not explicitly youth-oriented for a fee as determined by the Tenant.
3. The Tenant will provide the Town with reports containing such information as may be necessary to assure on-going compliance with the policies. For the first twenty-four (24) months of this Lease, reports will be provided quarterly beginning three (3) months after opening; after the first twenty-four (24) months, reports shall be provided annually.

4. The Tenant will use its best efforts not to interfere with school activities at Helen Keller School. The Tenant shall provide the school with advance notice of programs which might significantly impact school activities.
5. The Tenant shall comply with all applicable laws, rules, regulations and ordinances of the Town and the State of Connecticut in conducting its programs under this Lease, including but not limited to, all regulations of the Planning and Zoning Commission. A copy of the present special permit is attached as Exhibit C. The Tenant shall indemnify the Landlord and save it harmless from any fine, penalty or expense which the Landlord may incur as a result of any violation by the Tenant.
6. The Tenant and its directors and employees shall be bound by the Easton Code of Ethics in the same manner as if they were "Town Officers."
7. The Tenant shall make reasonable efforts to insure that Easton children will be members and participate, notwithstanding their inability to pay fees.

- B. The Tenant may enter into such agreements with such entities (including, but not limited to the Parks and Recreation Commission) as it may select to conduct programs at the Facility. The agreement with each such provider shall require the provider to comply with all policies adopted by the Tenant and approved by the Landlord together with all principles as set forth in this Article 5. The agreement with each such provider shall also include a provision that the Landlord is a third party beneficiary of the Tenant's rights against the provider and that the Landlord may enforce such rights against the provider directly with or without joining the Tenant in any action brought to enforce such rights.
- C. The rights provided under this Article 5 are unique and a violation of them shall entitle the Landlord to injunctive relief as well as any other relief to which the Landlord may be entitled under other Articles of this Lease. The Landlord shall not have to engage in arbitration pursuant to Article 30 of this Lease before seeking injunctive relief from the Court.
- D. Except for an alleged violation which the Landlord certifies will cause it imminent harm, the Landlord shall provide the Tenant with written notice of any claimed violation of Article 5 and shall allow the Tenant ten (10) days within which to cure the violation unless a longer period of time shall be reasonably required and the Tenant

commences and pursues a cure as quickly as possible in which case the Tenant shall have the length of time reasonable necessary to effect a cure.

6. **Contingencies.**

A. The performance of this Lease shall be contingent upon all of the following occurring:

1. The securing by the Tenant of all necessary and proper approvals from the Easton Planning and Zoning and Conservation Commissions to construct and operate the Facility for the purposes enumerated in Article 5;
2. The securing by the Tenant of all necessary approvals from the Town of Easton and the State of Connecticut including, without limitation, approvals from all health and other departments and all other agencies, for the construction, occupancy, and operation of the Facility; and
3. The securing by the Tenant of easements or similar agreements from the Board of Education to the extent they are required to provide access by motor vehicle and otherwise and for all public utilities serving the Facility across land controlled by the Board of Education.

B. The Tenant shall use its best efforts to satisfy these contingencies.

The parties shall cooperate in the Tenant's efforts to do so.



7. **Repairs, Maintenance and Cleaning.**

A. The Tenant shall, throughout the term of this Lease, at the Tenant's sole cost and expense, take good care of the Facility and all improvements now or any time erected on the Premises, the sewage disposal, heating, plumbing and electrical systems serving them, and keep the same in good order and condition, and shall promptly, at the Tenant's own cost and expense, make all necessary repairs, interior and exterior, structural and non-structural unless such repairs are required as a result of acts of the Landlord, its agents or invitees, in which event the Landlord shall pay for any repairs necessitated by acts of it, its agents or invitees. The term "repairs" shall include replacements or renewals when necessary, and all such repairs made by the Tenant shall be equal in quality and class to the original work. In determining whether or not the Tenant is in compliance with this section, the Tenant shall be deemed in compliance if it maintains the Facility to the same level of quality that the Town maintains its facilities. The Tenant further covenants throughout the term of this Lease, at the Tenant's sole cost and expense, promptly to comply with all laws and ordinances and the orders, rules, regulations and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards, bureaus, agencies and officers, and the orders, rules, regulations and requirements of the local board of fire underwriters (or any other body, now or after

constituted, exercising similar functions) whether such laws, ordinances, orders, rules, regulations and requirements are foreseen or unforeseen, ordinary or extraordinary, and whether or not the same require structural repairs or alterations, which may be applicable to the Facility unless such compliance is the result of acts of the Landlord, its agents, employees or invitees in which event the Landlord shall be responsible. The Tenant will likewise observe and comply with the requirements of all policies of public liability, fire and all other policies or insurance at any time in force with respect to the Facility.

- B. The Tenant shall be responsible for normal cleaning of the Facility and for normal outside maintenance of grounds of the Facility, such as lawn cutting and snow removal.
- C. Except for an alleged violation which the Landlord certifies will cause it imminent harm, the Landlord shall provide the Tenant with written notice of any claimed violation of this Article 7 and shall allow the Tenant ten (10) days within which to cure the violation unless a longer period of time shall be reasonably required and the Tenant commences and pursues a cure as quickly as possible in which case the Tenant shall have the length of time reasonable necessary to effect a cure.

**8. Insurance and Indemnification.**

- A. During the term of this Lease, the following insurance coverage shall be maintained on the Facility by the Tenant: fire, extended coverage, vandalism, and malicious mischief insurance in an amount sufficient to prevent the Landlord or Tenant from becoming a co-insurer within the terms of the applicable policy and, in any event, in an amount not less than eighty (80%) percent of the full insurable value as determined from time to time.
- B. The term "full insurable value" shall mean the actual replacement cost of the Building, less physical depreciation, excluding foundation and excavation costs.
- C. The Tenant shall procure and maintain, at the Tenant's cost, the insurance coverage required under this Article 8.
- D. The Tenant shall procure and maintain, at the Tenant's cost, comprehensive public liability insurance with limits of liability of not less than \$1,000,000 for injury to one person, \$3,000,000 for injury to two or more persons, and \$500,000 for property damage, which limits shall also apply to fire and explosion legal liability coverage, or in such other amounts as may, from time to time, be reasonably required by the Landlord.
  - 1. The policy shall contain a cross-liability endorsement stating that in the event a claim is brought by one insured against another insured under the policy, or by an employee of one

insured against another insured under the policy, each insured shall be considered a separate insured for purposes of the insurance.

2. The policy shall be written on the “caused by an occurrence” rather than written on the “caused by accident” basis for bodily injury and property damage liability coverage.
  3. The policy shall be written with a blanket contractual liability endorsement providing automatic coverage for bodily injury or property damage assumed under any type of written contract in addition to types of contract defined in the policy form.
  4. Unless otherwise later modified by special agreement, the Landlord and the Tenant have agreed in writing each to hold the other harmless for damage to each other’s property caused by the negligence of the other, and unless each shall have had its policies of property damage or business interruption insurance endorsed to acknowledge receipt and acceptance of advice that such hold harmless agreements have been undertaken, the policy effected by the Tenant shall specifically include coverage for legal liability for damage to the Premises or the Building or any portion of either by fire or explosion or by water damage (including, as appropriate, sprinkler leakage damage).
- E. The Tenant shall procure and maintain, at Tenant’s cost, such other forms of insurance as from time to time may be reasonably required

by the Landlord for risks which at the time are commonly insured against in the case of premises similarly situated, due regard being, or to be given, to the height and type of the Building, its construction, use and occupancy.

- F. All insurance required to be maintained under this Lease shall be effected under enforceable policies issued by insurers of recognized responsibility licensed to do business in the State of Connecticut. Each policy shall, to the extent possible, name as insureds the Landlord and the Tenant, as their respective interests may appear. Each policy shall, to the extent obtainable, be written pursuant to an agreement that such policy shall not be canceled without at least fifteen (15) days' notice to the party not required by this Lease to maintain such insurance.
- G. Upon request, the Tenant shall give notice to the Landlord of the payment of premiums for such insurance as the Tenant is required to maintain under this Lease and shall provide the Landlord with proof of the existence of the required insurance.
- H. The parties shall satisfy the reasonable requirement of all insurers writing insurance required by this Lease to be maintained so that such insurers shall be willing to write or to continue such insurance without increased premiums insofar as possible.
- I. The Tenant shall defend, pay, indemnify and save free and harmless the Landlord from and against any and all claims, demands, fines,

suits, actions, proceedings, orders, decrees and judgments of any kind or nature or by or in favor of anyone whosoever and from and against any and all costs and expenses, including attorneys' fees, resulting from or in connection with loss of life, bodily or personal injury or property damage arising, directly or indirectly, out of or from or on account of an occurrence, in, upon, about, at or from the Facility or occasioned wholly or in part through the use and occupancy of the Facility or by any act or omission of the Tenant or any provider, operator, concessionaire or licensee of the Tenant, or their respective employees, agents, contractors or invitees, in, upon, about, at or from the Facility unless such occurrence has been caused by the acts of the Landlord, its agents, employees or invitees.

- J. The Tenant and all those claiming by, through or under the Tenant, shall store their property in and shall occupy and use the Facility solely at their own risk, and the Tenant and those claiming by, through or under the Tenant release the Landlord from any and all claims of every kind, including loss of life, personal or bodily injury, damage to merchandise, equipment, fixtures or other property, or damage to business or operations or for business or operations interruption, arising directly or indirectly, out of or from or on account of such occupancy and use or resulting from any present or future condition or state of repair.

- K. The Landlord and its agents or employees shall not be responsible or liable at any time to the Tenant, or to those claiming by, through or under the Tenant, for any loss of life, bodily or personal injury, or damage to property or business or operations or for business or operations interruption, that may be occasioned by or through the acts, omissions or negligence of any other persons.
- L. The Landlord and its agents and employees shall not be responsible or liable at any time for any defects, latent or otherwise, in the Facility or any of the systems, equipment including plumbing, heating or air conditioning, electrical wiring or stairs, porches, railings or walks, machinery, utilities, appliances or apparatus, nor shall the Landlord be responsible or liable at any time for loss of life or injury or damage to any person or to any property or business or operations of the Tenant, or those claiming by, through or under the Tenant, caused by or resulting from the bursting, breaking, leaking, running, seeping, overflowing or backing up of sewer pipes, downspouts, tanks tubs, water closets, waste pipes, drains or other pipes, or caused by water, steam, gas, sewage, snow or ice in any part of the Facility, or caused by or resulting from injury done or occasioned by wind, rain, snow or leakage of water or from the interruption in the supply of any utilities, natural occurrences or the elements, or resulting from any defect or negligence in the occupancy, construction, operation or use of any building or

improvements on or in the Facility, or any of the equipment, fixtures, machinery, appliances or apparatus on the Facility or from broken glass, water, snow or ice coming through the roof, doors, windows, walks or other place or the falling of any fixtures, plaster, tile, stucco or other matter, or any equipment or appurtenance becoming out of order or repair or interruption of any service. Nothing in this section shall relieve the Landlord from injury or damage caused by the negligence of the Landlord, its agents and employees.

M. During the term of this Lease, the Landlord shall procure and maintain at the Landlord's costs comprehensive public liability insurance with limits of liability not less than One Million Dollars (\$1,000,000) for injury to one person, Three Million dollars (\$3,000,000) to two or more persons and five-hundred Thousand dollars (\$500,000) for property damage with respect to programs and activities conducted at the Facility by the Landlord, its agents and employees including but not limited to the Landlord's Parks and Recreation Commission.

9. **Public Utilities and Charges.** The Tenant shall be responsible and pay for all utilities or services provided to the Facility including but not limited to electricity, water, natural gas, telephone, cable television and all other communication services. The Landlord shall not be responsible for damages, whether direct or indirect, resulting from the failure to furnish or



delay in furnishing of any of the services or utilities to be provided under this Article.

10. **Alterations.** If at any time during the term of this Lease, the Tenant shall determine that the Facility does not then sufficiently satisfy the purposes for which it has been constructed, the Tenant may alter, modify or reconstruct the Facility or any portions, subject to the prior approval of the Landlord.
11. **Compliance with State Grant.** In the event that this Lease shall be inconsistent with or require additions to it in order to be consistent with or to comply with the terms and conditions of a grant from the State of Connecticut to the Tenant to be used for the construction of the Facility, any such terms and conditions are incorporated in this Lease by reference, it being the intention of the parties that this Lease shall comply in all respects with any such terms and conditions of any such grant; provided, however, that in the event that the Landlord shall in its reasonable opinion find, within sixty (60) days of notice that any such terms and conditions are unacceptable, it shall identify any such unacceptable terms or conditions and the Tenant shall within sixty (60) days after such notification have the opportunity to remove or modify them so that all terms and conditions of the grant are reasonably acceptable to the Landlord. If the Tenant has been unable to remove or modify, as the case may be, any such unacceptable term or condition within the sixty (60)-day

period and is unwilling to forego the grant, the Landlord shall have the right to terminate this Lease.

12. **Tenant's Tax Exempt Status.** The Tenant represents that it is exempt from federal income taxation under Section 501(c)(3) of the U.S. Internal Revenue Code. Should the Tenant fail to maintain such status and not take steps to restore such status within ninety (90) days after its loss, it shall so notify the Landlord which may terminate this Lease upon thirty (30) days' notice to the Tenant.
13. **Assessments, Taxes.** The Tenant shall be responsible for and pay as and when they become due any assessments and/or taxes levied against the Facility to which it shall become subject as an organization exempt from federal income tax under Section 501(c)(3) of the U.S. Internal Revenue Code. The Landlord shall not impose any real or personal property tax on the Facility or Tenant's personal property as long as the Tenant maintains its tax exempt status. Tenant shall make appropriate filings with the Internal Revenue Service, the State of Connecticut and the Town necessary to maintain its exempt status. Notwithstanding the foregoing, the Tenant shall have the right to contest any assessment or taxes which are claimed, provided that upon the resolution of any such contest, that Tenant shall pay any amount found to be due together with any interest and penalties in full.

14. **Tenant's Right to Name Facility.** The Tenant shall have the right to name the Facility in honor of a principal benefactor of the Facility, subject to the Landlord's approval.
15. **Prohibition Against Assignment and Encumbrances.** The Tenant shall not assign or encumber this Lease without the Landlord's prior written consent.
16. **Mechanic's Liens.** The Tenant shall not suffer or permit any mechanic's liens to be filed against the Facility, or any part, by reason of work, labor, services or materials supplied or claimed to have been supplied to the Tenant. If any such mechanic's liens shall at any time be filed against the Facility, of which Tenant shall have received written notice from the Landlord or the lienor, the Tenant shall cause the same to be discharged of record within thirty (30) days after the date of filing the same except as provided in this Article. The Tenant shall have the right to contest the amount or validity of any such lien by appropriate legal proceedings provided the Tenant, within twenty (20) days after notice of the attachment of such lien, shall give written notice to the Landlord of its intention to contest the same which shall specify the amount of the lien to be contested.
17. **Destruction by Fire or Other Casualty.** Should the Facility be damaged or destroyed by fire or other casualty, the Tenant shall give immediate notice to the Landlord and shall repair or rebuild, as the case may be, any such damage to the extent of any insurance proceeds available.

18. **Compliance with Laws.** The Tenant shall comply promptly with all laws, ordinances and regulations of the federal, state, and municipal governments or public authorities, and of all their departments, bureaus, and subdivisions, applicable to and affecting the use and occupancy of the Facility. The Tenant shall indemnify the Landlord from any liability for fines or penalties which the Landlord may incur as a result of any violations of the above by the Tenant.
19. **Condemnation.** In the event that any portion of the Premises or the Building or other improvements shall be taken under eminent domain or condemnation proceedings, all of the proceeds from such taking shall be the property of the Tenant without any participation by the Landlord except as to the value of the land as if unimproved which shall belong to the Landlord. In the event of condemnation, the Landlord shall use its best efforts to provide an alternate site for the erection of a comparable Facility for the Tenant, which shall use the proceeds of any such award, to the extent they are available, to construct another Facility which shall provide services and programs of the same type as those provided under Article 5 of this Lease. Landlord shall not be required to acquire land for any alternate site. Landlord shall not exercise its right of eminent domain with respect to the Premises.
20. **Environmental Matters.**
- A. The Tenant covenants that throughout the term of this Lease it will use the Premises in compliance with the provisions of Chapters 442,

445, 446c, 446d, 446i, 446j and 446k of the Connecticut General Statutes, and the rules and regulations of the Connecticut Department of Environmental Protection, and the U.S. Environmental Protection Agency, as the same now exist or may after be amended, and of all regulations issued under such laws as the same may now exist or may after be promulgated or amended.

- B. The Tenant shall not at any time permit to be used, stored or kept on the Premises any “chemical liquids”, “hazardous waste”, “solid, liquid or gaseous products” or “waste oil” as those terms are defined in Section 221-448 of the Connecticut General Statutes as the same now exist or may after be amended, except as may be necessary to maintain the Facility and in accordance with applicable law and regulations.
- C. The Tenant shall throughout the term of this Lease, handle and deal with “oil or petroleum” (as that term is defined in Section 22a-448 of the Connecticut General Statutes as the same now exists or may after be amended) in all respects in full compliance with the applicable provisions of Chapter 446k of the Connecticut General Statutes, as the same now exists or may after be amended, and with the applicable provision of all regulations issued under such laws as the same may now exist or may after be promulgated or amended.
- D. The Tenant shall, upon the request of the Landlord, either during the term of the Lease or at the expiration of it, take all steps and perform

all acts necessary and required to remove, remedy and correct, at the sole expense of the Tenant, any condition at the Premises or the Building or the land upon which the Building stands caused in whole or in part by discharge, spillage, uncontrolled, loss, seepage or filtration cause by the Lessee of "oil or petroleum" or "chemical liquids" or "solid, liquid or gaseous products" or "hazardous waste or waste oil" which may occur at any time during the term of the Lease and arising from the Tenant's use and occupancy of the Premises, to perform such removal, remedy or correction diligently and within a reasonable time, and to comply with all orders of governmental agencies which may be issued with respect to such discharge, spillage, uncontrolled loss, seepage or filtration at the sole expense of the Tenant and in a diligent manner. If the Tenant shall procure the survey or report described in subparagraph E upon the expiration of the term of the Lease, and such survey or report shall be reasonably acceptable to the Landlord as provided in subparagraph E, the Tenant shall be under no further liability to the Landlord with respect to the provisions of this subparagraph D.

- E. The Tenant shall, upon the request of the Landlord, during the term of this Lease or at the expiration of the term of the Lease, at the expense of the Tenant, procure and furnish to the Landlord an environmental survey or site investigation report prepared by engineers reasonably acceptable to the Landlord in order to

demonstrate that there has been no discharge, spillage, uncontrolled, loss, seepage or filtration of any chemical liquids, “hazardous waste”, “solid, liquid or gaseous products” or “waste oil” at the Premises, the Building or land upon which the Building stands, caused by the Tenant’s use of the Premises.

F. The Tenant shall indemnify and hold the Landlord harmless from and against any and all loss, claim or expense, including, but not limited to fines, penalties and counsel fees, which the Landlord may incur at any time relating to or arising out of any discharge, spillage, uncontrolled loss, seepage or filtration of any “chemical liquids”, “hazardous waste”, “solid, liquid or gaseous products” or “waste oil” at the Premises, the Building or the land upon which the Building stands which may occur in violation of any provision of this Article 20.

G. The Tenant shall send to the Landlord copies of all filings and reports submitted by the Tenant to any governmental agency relating to the use, storage, maintenance, discharge, spillage, uncontrolled loss, seepage or filtration of any “chemical liquids”, “hazardous waste”, “solid, liquid or gaseous products” or “waste oil” and Tenant’s use of any permitted hazardous waste incinerator on the Premises simultaneously with submission to such governmental agency. The Tenant shall also send to the Landlord, copies of any

notice or compliance received by the Tenant from any governmental agency relating to the same.

H. The Tenant hereby agrees to indemnify and hold harmless the Landlord from any and all loss, costs or damages, including attorney's fees and court costs, which the Landlord may sustain by reason of a hazardous waste spill, whether such liability arises, under Section 22-a-450, et seq. of the Connecticut General Statutes, as amended, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. 960, et seq.), the Hazardous Material Transportation Act, as amended (49 U.S.C. 18-01, et seq.), the Resource Conservation Recovery Act, as amended (42 U.S.C. 6901, et seq.), or otherwise.

21. **Title and Quiet Enjoyment.** The Landlord covenants and represents that the Landlord is the owner of the Premises and has the right and authority to enter into, execute and deliver this Lease; and does further covenant that the Tenant, on paying the rent and performing the conditions and covenants contained in this Lease shall and may peaceably and quietly have, hold and enjoy the Premises for the term provided in this Lease.
22. **Rights in Favor of Third Parties.** This Lease is an agreement between the parties only and the parties do not contemplate or intend to create rights in favor of any third party.



23. **Notices.** Any notice to be given pursuant to this Lease shall be sent by certified mail, return receipt requested, or by a recognized overnight delivery service, or hand-delivered as follows:

**If to the Landlord:**

First Selectman  
Town of Easton  
225 Center Road  
Easton, Connecticut 06612

**If to the Tenant:**

President  
Easton Community Center, Inc.  
P.O. Box 271  
Easton, Connecticut 06612

**With a copy to:**

Board of Directors  
Easton Community Center, Inc.  
P.O. Box 271  
Easton, Connecticut 06612

The Tenant shall provide the current name and residence address of the President to the Landlord.

The parties may, by notice, change the person or address to which notices are to be sent.

24. **Surrender.** The Tenant covenants that upon the expiration or termination of this Lease in accordance with the terms of this Lease, the Tenant shall peaceably and quietly surrender possession of the Premises to the Landlord the same condition as that in which the Premises were at the beginning of this Lease, less wear and tear from normal use and with the exception of the erection of improvements as permitted under this Lease which shall then be the property of the Landlord.
25. **Default; Termination.** In the event that the Tenant defaults in the performance of any of the covenants or conditions contained in this Lease and such default continues for a period of ninety (90) days after receipt of written notice of such default, or proceedings are instituted by or against the Tenant for bankruptcy, insolvency, receivership or an assignment for the benefit of creditors, the Landlord may elect to terminate this Lease and, in addition to any other remedies contained in this Lease or as may be permitted by law, re-enter the Facility and regain possession.
26. **Approvals by Landlord.** In the event any approval, consent, authorization or other action is required of the Landlord (collectively the "Landlord's Approval") for work or actions to be taken or performed by the Tenant under this Lease, the Landlord's Approval shall be deemed to have been given if such approval or action is authorized by the Landlord's Board of Selectmen, except where such approval falls within the jurisdiction of another Town agency, and such approval is required by such agency. The Tenant may rely on such approval or action by the

Landlord's Board of Selectmen as the Landlord's Approval as required under this Lease. Whenever the Landlord's approval is required under this Lease, such approval shall not be unreasonably withheld.

27. **Audited Statement.** The Tenant shall provide annually, the Landlord with an audited, certified financial statement for Tenant's prior fiscal year. The Landlord may, at its expense, have any statement reviewed by its accountant.
28. **Operating Revenues.** All revenues derived or received by the Tenant from the Facility shall be used to pay for operating costs of the Facility and related improvements, capital expenditures for the Facility and related improvements and funding for an endowment in accordance with Article 29.
29. **Endowment.** The Tenant will use reasonable efforts to develop a permanent endowment to provide a source for funding the maintenance, repair and replacement of the Facility and for improvements.
30. **Arbitration.** Except for any claim for injunctive relief pursuant to Article 5 of this Lease, the parties shall arbitrate any dispute which they cannot resolve between themselves. Any arbitration shall be before a panel of three (3) arbitrators. The party seeking to arbitrate shall give notice to the other party pursuant to the terms of this Lease. The notice shall specify the claim or demand for which the arbitration is sought including the applicable provision(s) of the Lease which is (are) alleged to have been violated. The notice shall also identify the name and address of the person

who is to serve as the arbitrator designated by the party seeking to arbitrate. Within ten (10) days after receipt of the notice to arbitrate, the other party shall file its reply and identify the name and address of the person who is to serve as the second arbitrator. Within ten (10) days after the second arbitrator has been designated, the two arbitrators shall exchange lists of ten (10) persons (including their addresses) who would be acceptable to each of them as the third arbitrator. The lists shall rank the persons in order of acceptability with the lowest number (1), etc. being the most acceptable. The person whose name appears on both lists with the lowest total number shall be the third arbitrator and the arbitration shall begin within thirty (30) days after his or her designation. No person who is an employee of either party, who is a member of any board or commission of the Landlord or who is a member of the Tenant's board of directors may serve as the third arbitrator. If the parties are unable to designate the third arbitrator within fifteen (15) days, the arbitration, including the selection of the third arbitrator, shall proceed according to the rules of the American Arbitration Association. If the parties have successfully designated the third arbitrator, the arbitration shall proceed in the same manner and subject to the same rules as if it were conducted under the rules of the American Arbitration Association.

31. **Notice of Lease.** The parties agree to execute and record on the Easton Land Records, a Notice of the Lease.

32. **Right of First Refusal.** In the event the Landlord shall at any time during the term of this Lease offer the Premises for sale, the Tenant shall have the right of first refusal to purchase the Premises according to the same terms and conditions which would otherwise be acceptable to the Landlord.
33. **Partial Invalidity.** Should any portion of this Lease be determined by any court of competent jurisdiction to be invalid or otherwise unenforceable, the remainder shall continue in full force and effect.

Dated at Easton, Connecticut this 25<sup>th</sup> day of November, 2002.

Witnessed by:

Alexia J. Falco  
ALEXIA J. Falco  
Michelle Sharma  
MICHELLE SHARMA  
AS TO BOTH

TOWN OF EASTON

By: William J. Kupinse, Jr.  
WILLIAM J. KUPINSE, JR.  
Its First Selectman

EASTON COMMUNITY CENTER, INC.

By: Anthony J. Colanese  
Its President

The Easton Board of Education authorizes the Easton Community Center Inc. to cross the Helen Keller Middle School property for the purpose of bringing utilities to their proposed building on the Veterans Field property so long as such access is restricted to 25 feet to either side of the mid line of the driveways as they will be laid out by the Building Committee responsible for the expansion of Helen Keller Middle School, and for travel over said driveways for the purpose of access and egress to and from said proposed facility provided:

1. That no authorized use interfere with the educational process and
2. That no construction within said driveway occurs while school is in session and
3. That any damage to said driveways during the construction is repaired at the Easton Community Center Inc. expense

Vote:

Yes: 4

No: 0

The Board of Education authorizes the Easton Community Center Inc. access to the parking lots under the Board of Education's control at the Helen Keller Middle School property for the purposes of overflow parking in a manner that does not interfere with scheduled school activities.

Vote:

Yes: 4

No: 0

APPROVED BY BOARD OF EDUCATIO 2/16/2000



EXHIBIT C

# Town of Easton

TOWN HALL - PLANNING & ZONING  
225 CENTER ROAD  
EASTON, CONNECTICUT 06612

TELEPHONE 268-6291

Certified Mail  
Return Receipt #Z289218581

March 30, 2000

Cindy Blum  
Easton Community Center, Inc.  
c/o Bruce Dubow  
44 Harvest Moon  
Easton, Ct. 06612

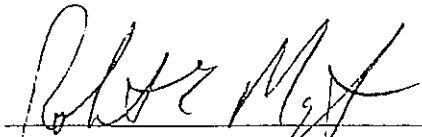
Re: SP-00-01 Special Permit for Easton Community Center,  
366 Sport Hill Road, Easton, Ct. Applicant: Easton  
Community Center, Inc., 44 Harvest Moon, Easton, Ct.  
Owner of Record: Town of Easton, 25 Center Road, Easton, Ct.

Dear Mrs. Blum:

At the Special Meeting of the Easton Planning and Zoning Commission on Wednesday, March 29, 2000 the Commission voted unanimously to grant the Special Permit Application SP-00-01, for the Easton Community Center Inc. and the Town of Easton for a community center for recreational social and educational programs, in accordance with Section 7.2 of the Easton Zoning Regulations and with conditions which are more fully described in the attached Resolution.

Very truly yours,

Planning and Zoning Commission

  
Robert Maquat, Chairman

cc: William J. Kupinse, First Selectman

Resolution  
Special Permit Application #SP-00-01  
TOWN OF EASTON and EASTON COMMUNITY CENTER INC.

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WHEREAS application has been made, pursuant to Easton Zoning Regulations Section 7.2, for a Special Permit for property owned by the Town of Easton and leased or to be leased by Easton Community Center Inc., a nonprofit Connecticut corporation, for premises located at 366 Sport Hill Road, as generally shown on a map titled "Plot Plan Prepared For Easton Community Center; Easton, Conn., Jan. 14, 2000; Scale: 1" = 100; Revised Feb. 17, 2000" certified substantially correct by Ronald J. Ochman, L.S.(License#9436), and

WHEREAS application maps, plans, leases, and other supporting data and documentation have been filed with the Planning and Zoning commission in compliance with the requirements of Section 7.2 of said regulations, and

WHEREAS a public hearing, duly noticed as required by the General Statutes of Connecticut, has been held on March 27, 2000, and

WHEREAS substantial evidence has been compiled by the Commission from the applicant's submission, reports of Town staff and agencies, and testimony at the public hearing, and

WHEREAS the Commission has determined, pursuant to Section 8-24 of the General Statutes, that the proposed lease and improvements are compatible with the Town Plan of Development and Town Zoning Regulations, and

WHEREAS the Commission, pursuant to Zoning Regulations Section 7.2, hereby finds as follows:

- A. The proposed use, a facility to provide recreational, social and educational programs primarily for Town residents who are eighteen years of age or less, will serve an important community need and its location will be convenient to the population served;
- B. The location and scope of use, nature and intensity of operations, size of site and relation of the site to access streets, are all such that the proposed use will be in harmony with the appropriate and orderly development of the surrounding neighborhood; considering the site's location in the center of a 31.5 acre tract of Town-owned land, its proximity to the Helen Keller School site, and the wide, well-buffered setbacks of both the proposed site and its access drive, together insulate the site from nearby residences.
- C. With the conditions attending this Special Permit, described below, the proposed buildings, landscaping, exterior illumination and other improvements will not hinder the appropriate use and development of adjacent land and buildings or impair their value.
- D. Operations of the proposed use will not generate objectionable noise, fumes, vibrations or other characteristics inimical to nearby properties, nor impose an undue burden on Town facilities, in consideration of the conditions governing this Special Permit.
- E. Parking areas and traffic facilities, as proposed, will be adequate and safe with suitable screening, in accordance with the conditions attached to this Special Permit.
- F. Public water supply and on-site sewage disposal will be sufficient for the proposed use, subject to final approval of plans by the appropriate agencies.
- G. Necessary wetlands permission for regulated activities involved in the proposed site development has been granted by the Town Conservation Commission, pursuant to Inland Wetlands Permit #00-003.



NOW, THEREFORE, be it resolved that Special Permit Application #SP-00-01 is APPROVED subject to the following conditions:

- (1) Minor disparities in the several site plans, as prepared respectively by the architect and by the engineer, shall be resolved and a new plan submitted which shows the basic parking, circulation, lighting, signage and landscaping layout as shown on the architect's plans ("Landscaping Plan" by Friar Associates Inc.), the storm drainage, adjusted contours, utilities, septic layout and other engineering details as shown on the engineer's plans ("Grading Plan" by Ochman Associates Inc., revised Feb. 11, 2000), which plan shall also incorporate the conditions following below.
- (2) The plan shall contain a note incorporating by reference the LEASE between the Town of Easton and the Easton Community Center Inc., the OPERATING AGREEMENT between the aforesaid parties, the INLAND WETLANDS PERMIT #00-003, and this Resolution pertinent to SPECIAL PERMIT #SP-00-01, with text stating that the provisions of these documents are binding conditions and are on file in the Town Land Records.
- (3) Vehicle parking overflow areas shall be shown schematically on the site plan, southerly of the tennis courts and in the general location of the "overflow parking" area planned on the adjacent Keller school site, indicating the approximate number of spaces which will be available at each area. A note shall be added that all Community Center activities will be planned to coordinate with school and outdoor recreational activities on the contiguous Town properties in such manner that open and safe access shall be maintained to all activity areas for emergency vehicles and attendance shall be limited to insure that all parking of vehicles is accommodated within the areas specified for parking on the plans.
- (4) Indicate on the site plan safe pedestrian walks or paths, not in conflict with traffic patterns, which will connect the main entrance of the Community Center building with planned overflow parking areas.
- (5) Pedestrian walks planned for the sides and rear of the Community Center building shall be redesigned for a width of ten (10) feet, at ten (10) feet of separation from the building, to afford emergency access to and egress from the building, as recommended by the Town Fire Marshal's office. Safety lighting, either free-standing low-level with shaded fixtures or building-mounted with shades to prevent glare, shall be provided for pedestrian walks at the rear of the building as recommended by the Town Police Department. Arrangements shall also be made for adequate building security as acceptable to the Town Police Department.
- (6) Water supply to the Community Center shall be by water main from the BHC System, at a main size verified by the site engineer and the supplier to be capable of meeting peak water demand for the facility, including a full sprinkler system for the building as recommended by the Town Fire Marshal's office.
- (7) The design and capacity of the sewage disposal system shall fully conform with requirements of the State of Connecticut and the Town Health Department, based on a reasonable estimate of daily water consumption.
- (8) Groundwater and storm drainage design and all other aspects of site engineering shall be in accordance with recommendations of the Town Engineer.

- (9) The proposed free-standing light standards (five in number ) which surround the proposed parking facility shall be of a specific design which minimizes glare and visibility of light source from any point beyond one hundred (100) feet from the fixture. The Landscape Plan shall show supplemental hardy evergreen planting, to be installed at appropriate spacing within cut bank areas along the south and east margins of the proposed parking facility, arranged to minimize winter visibility of the building and parking from adjacent residential properties. Additional planting shall be provided within the landscaped island in the center of the parking lot as well as along the facade of the building to soften the visual impact viewed from the surrounding area.
- (10) The final site plan, incorporating all of the above conditions, shall be supplied to the Commission for its review and approval to determine compliance with these conditions and for signed endorsement prior to Town issuance of construction permits.

**FIRST AMENDMENT TO AMENDED AND RESTATED LEASE  
BETWEEN THE TOWN OF EASTON (THE "TOWN")  
AND EASTON COMMUNITY CENTER, INC. ("ECC")  
DATED AS OF NOVEMBER 25, 2002**

**Background**

On November 25, 2002, the Town (referred to in the Lease as the "Landlord") and ECC (referred in the Lease as the "Tenant") entered into a lease dated as of November 25, 2002 for land shown as Parcels A and B on a Plot Plan Prepared for Easton Community Center, Easton, Connecticut, a copy of the plot plan being on file in the offices of the Town's First Selectman and the Easton Town Clerk (the "Lease"). The Lease permits ECC to erect, maintain and operate a building and other improvements on Parcel B as shown on the plot plan. The parties now wish to amend the Lease to permit the Town to erect a gazebo (the "gazebo") on a portion of Parcel B shown as an inner circle in the turn-around (the "gazebo site") on the plot plan and to be maintained and operated by ECC as provided in this First Amendment.

1. **Amendment of Lease.** The Lease is hereby amended as stated in this First Amendment. Defined terms in the Lease shall have the same meaning in this First Amendment as in the Lease unless the context clearly indicates otherwise.
2. **Lease of Gazebo.** The Premises as defined in the Lease shall include a structure, commonly known as a gazebo, to be erected by the Town, on the gazebo site pursuant and subject to the terms and conditions of this First Amendment, the Town will, at all times, own the gazebo.
3. **Erection of Gazebo.** The Town shall prepare plans for the gazebo promptly upon the execution of this First Amendment and submit them to ECC for its review and recommendations. The Town shall thereafter proceed with construction of the gazebo at its sole cost. Construction shall include the installation of electric lines from the gazebo to the ECC building and lighting and sound equipment at the gazebo.
4. **A. Use.**

**As to Both Parties.**

- (1) **General.** The gazebo is to be used in the best interests of the Town and members of ECC. The parties shall cooperate in the use of the gazebo including but not limited to the type and scheduling of any program, activity and event (collectively the "program") taking place there. No unlawful activity shall be conducted.

have rented the ECC building and their invitees for private use pursuant to ECC's rental policies. ECC may elect to rent the gazebo only. ECC shall be responsible for cleaning the gazebo when used by ECC or its renters.

5. **Operating Committee.** ECC shall appoint and maintain an operating committee which shall have the responsibility of overseeing use of the gazebo. The committee shall consist of no more than five members, two of whom shall be appointed by the Town and two by ECC. If each party has appointed two persons to serve on the committee, the persons so-appointed shall elect the fifth member of the committee. If each party has appointed only one person to serve on the committee, the persons so-appointed shall elect the third member of the committee. The terms of office of the persons appointed by the parties shall be determined by them. The term of the office of the person elected by the committee shall be determined by it, but shall not exceed three years. The committee shall elect a chairman from among its members; it shall meet once every three months and at such other times as the chairman or a majority of the committee shall determine. It shall keep minutes of its meetings which shall be distributed promptly to the parties. The committee shall meet promptly after its formation for the purpose of formulating additional rules consistent with this First Amendment for the use of the gazebo.

6. **Repairs, Maintenance and Cleaning.** ECC shall be responsible for repairs to the gazebo in order to keep it in good condition unless the repairs are caused by acts of Town employees, its members or invitees, in which case the Town shall be responsible for them. ECC shall be responsible for the cleaning and maintenance of the gazebo unless such cleaning or maintenance is required as a result of acts of the Town, its employees or invitees, in which case, the Town shall be responsible for them.

7. **Insurance.** ECC, having assumed the risk of for purposes of maintaining casualty insurance on the gazebo, each party shall maintain insurance on the gazebo to the same extent and having the same coverage as required of such party under Paragraph 8 of the Lease as it applies to the Premises.

8. **Electricity.** ECC shall be responsible and pay for electricity provided to the gazebo.

9. **ECC's Obligation to Rebuild.** In the event of fire or other casualty resulting in damage or destruction of the gazebo, ECC shall repair the damage at its expense, utilizing the proceeds of any casualty insurance on the gazebo for this purpose.

10. **Continuance of Lease.** The provisions of the Lease shall continue in full force and effect as they apply to the inclusion of the gazebo there under except as herein specifically modified.

Dated at Easton, Connecticut this 22<sup>nd</sup> day of May, 2008.

Witnessed by:

Althea J. Falco  
ALTHEA J. FALCO  
Diane Zadrozny  
Diane Zadrozny

TOWN OF EASTON

By: [Signature]  
Its First Selectman

EASTON COMMUNITY  
CENTER

By: [Signature]  
Its President

Diane Zadrozny  
Diane Zadrozny  
Anthony Colonese  
ANT HONY COLONESE