

**AGREEMENT BETWEEN ELIZABETHTOWN INDEPENDENT SCHOOLS
AND THE CITY OF ELIZABETHTOWN TO CANCEL CONTRACT
REGARDING TENNIS COURTS AT AMERICAN LEGION PARK**

1. On or about March 16, 2020, the City of Elizabethtown (CITY) and the Elizabethtown Independent Schools (EIS) entered into a contractual agreement whereby EIS would use tennis courts owned by the CITY at American Legion Park. The contract entered into between the CITY and EIS is attached hereto as Exhibit 1 and sets forth the rights and obligations of the parties, the term of the agreement, and other pertinent details.

2. Since the parties agreed to the contract attached as Exhibit 1, circumstances have changed; most notably, EIS has acquired property on which it plans to construct tennis courts for use by EIS teams/students to be utilized for practices, matches, etc.

3. Because EIS will have the use of tennis courts on property owned by the school district, it will no longer need to use the tennis courts at American Legion Park.

4. Paragraph 8 of the Exhibit 1 agreement states that any modifications to the terms of the agreement shall be in writing and mutually agreed upon by both parties. The parties hereby agree, in writing, to terminate the contract attached as Exhibit 1, effective as of the date this document is executed by the CITY and EIS.

5. To the extent that paragraph 2 of the Exhibit 1 agreement may not have contemplated mutual cancellation of the contract prior to the initial five (5) year term, that paragraph is amended to add the following language: "By written consent of both parties, this agreement and the rights and obligations attendant thereto may be terminated at any time."

6. Neither the CITY nor EIS shall have any further rights, duties, or obligations with respect to the Exhibit 1 agreement.

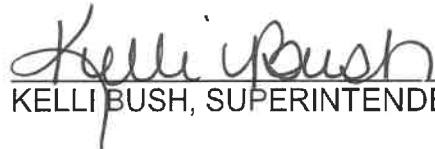
7. Both the Mayor of the City of Elizabethtown and the Superintendent of the Elizabethtown City Schools represent by their signatures that they have asked for and received any approval that may be necessary to cancel the Exhibit 1 agreement from the Elizabethtown City Council and the Elizabethtown Independent School Board, respectively.

Signed this ____ day of _____, 2022.

CITY OF ELIZABETHTOWN

ELIZABETHTOWN INDEPENDENT
SCHOOLS

JEFF GREGORY, MAYOR



KELLI BUSH, SUPERINTENDENT

ELIZABETHTOWN INDEPENDENT SCHOOL TENNIS AGREEMENT FOR AMERICAN LEGION PARK

THIS AGREEMENT, dated this 16 day of March, 2020, is between the **City of Elizabethtown**, hereinafter referred to as "CITY" and the **Elizabethtown Independent Schools**, hereinafter referred to as "EIS".

Whereas, EIS has been granted permission by the CITY to use the eight (8) tennis courts at 1527 University Drive as their home courts for the EIS Tennis Program for more than 30 years; and

Whereas, the CITY intends to remove said University Drive courts due to continual flooding which has resulted in deteriorating condition of the courts; and

Whereas, the CITY owns property at 801 North Miles Street known as *American Legion Park* which is adjacent to the EIS campus and which contains tennis courts; and

Whereas, EIS has requested the CITY'S permission to utilize the four (4) *American Legion Park* tennis courts as their home courts for the EIS tennis program and for EIS to finance the construction of one additional tennis court.

NOW, THEREFORE, the following terms shall serve as an Agreement between the CITY and EIS:

1. The commencement of this Agreement shall be the 2021 Tennis Season (February 15, 2021) with improvements that may begin prior to this time.

2. This Agreement shall extend for a five (5) year term to be automatically renewed for twenty-five (25) successive one-year terms, unless either party gives the other a ninety (90) day notice to terminate this lease.

3. **Maintenance** of the tennis court facilities will be as follows, which includes, but is not limited to:

- The CITY shall maintain and care for the general site and surrounding areas which includes grass mowing, trimming along the fence, litter pick-up and blowing off facility areas (inside and outside courts). A single trash receptacle will be provided by the CITY at the entry gate to the courts.
- The CITY and EIS will routinely check the facility (area inside the tennis court fence) to ensure the facility is in good order and no outstanding issues exist.
- EIS will maintain the facility accoutrements as needed. This will include: court surfacing, court fencing, court windscreens, court nets and court benches.
- Any needed maintenance or repairs outside of the scope identified in this agreement will be discussed between the CITY and EIS in order to reach a mutual decision on how best to resolve the situation. Both parties should expect to have a certain level of responsibility towards repairs and/or costs in consideration of the lease.

- The CITY agrees to construct one additional court in the same dimensions as the present courts, as well as surrounding apron to join adjacent EIS property improvements, the costs of which shall be paid for by EIS as part of the consideration for this lease. This section not to be executed until further approval by EIS Board.
- The CITY will provide a key of access to the fence entry gate. The gate is expected to be closed and locked when EIS tennis functions are not in session. However, CITY park personnel may unlock the gate for use of the tennis courts by the general public.
- EIS will be responsible for any necessary bleachers needed for events. The actual location/placement is to be coordinated with the CITY'S on-site park manager.
- Parking should not disrupt daily park operations and activities. At times it may be necessary for EIS tennis event parking to take place on EIS grounds.
- Any future EIS events that wish to be held at the *ALP Tennis Courts* outside of the regular tennis season activities, will be coordinated with at least thirty (30) days' notice to the CITY Director of Parks and Recreation. Activities shall be conducted in a way as not to impede on the daily operations of the *American Legion Park* and its patrons.

4. The *ALP Tennis Courts* are a public facility. EIS will have first priority during the EIS tennis season. A monthly schedule will be posted to notify the general public of scheduled games and practices. This posting of this schedule will be at the expense of EIS. At least two (2) days of every week shall be left open for use by the general public during the tennis season. Additionally, the general public may access the courts during normal park operating hours on a daily basis prior to 2:00 p.m. EIS will also have first priority for two days per week during the fall tennis season, August 15 – October 31.

5. EIS agrees that it shall not subordinate the property interest of the CITY without the written approval of the Mayor.

6. General Liability Insurance shall be maintained by EIS in the minimum amount of \$1,000,000.00 with the CITY named as an additional insured under the policy to cover accidents or injuries that might occur at the facility during use by EIS.

7. EIS and any representatives designated by EIS, its successors or assigns shall indemnify and hold harmless the CITY, its agents and employees, from and against any and all claims, damages, losses, liability, injuries, harms, and expenses, including attorney's fees, arising out of the performance of the duties pursuant to this Agreement.

8. Any modifications to the terms of this Agreement shall be in writing and mutually agreed upon by both parties.

9. This Agreement constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon the execution of this agreement.

10. EIS acknowledges any use and operation at the *American Legion Park Tennis Courts* are subject to deed restrictions, local ordinances and policies, easements and public right-of-way.

11. This Agreement and obligations hereunder shall be governed in all respects by the laws of this Commonwealth of Kentucky.

12. If any portion of this Agreement shall be held to invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.

13. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

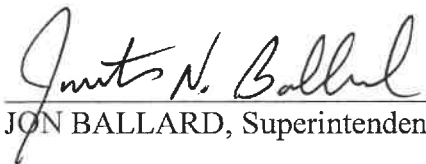
14. The provisions of this Agreement shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

CITY OF ELIZABETHTOWN, KENTUCKY

ELIZABETHTOWN
SCHOOLS

INDEPENDENT

JEFF GREGORY, Mayor



JON BALLARD, Superintendent

Authorized by Municipal Order # -2018
as adopted by the Elizabethtown City
Counsel on _____, 2020.

As approved by vote of the
Elizabethtown Independent School Board
on March 16, 2020.

March, 2020