

## **LEASE TERMINATION RESOLUTION**

**Now Comes** the Board of School Directors of the Upper Darby School District and in the matter of the lease entered with the Borough of Clifton Heights on April 15, 1992 for a certain parcel resolves as follows:

**Whereas**, the Upper Darby School District (the “District”) owns a certain piece of real estate on Springfield Road (the “Clifton Field”) situated in and leased to the Borough of Clifton Heights (the “Borough”); and

**Whereas**, the District has leased the Clifton Field to the Borough continuously since at least 1977 under a series of lease agreements; and

**Whereas**, the current lease agreement, dated April 15, 1992 (the “Lease”), provides that the District’s Board of School Directors:

shall have the right to terminate [the] Lease at any time if the Board of School Directors ... determines in its sole discretion that the [Clifton Field] or any portion thereof is deemed as necessary or appropriate for public school use.

**Whereas**, the Board deems the Clifton Field necessary and appropriate for public school use; and

**Whereas**, the Board is aware that various community and municipal groups utilize the Clifton Field for various athletic and recreational uses and, where possible, the Board wishes for such uses to continue; and

**Therefore**, this 6<sup>th</sup> day of May 2019, the Board of School Directors for the Upper Darby School District, in consideration of the above recitals, resolves as follows:

1. The Board of School Directors of the Upper Darby School District (the “Board”) in exercising its discretion declares its determination that the Clifton Field is necessary or appropriate for public school use.
2. Specifically, the Board desires to build a school building and place improved fields at the Clifton Field all for the use of public school students, while also continuing the community uses of the property. The Board has determined that the use of the Clifton Field by the District for this purpose is both necessary and appropriate.
3. The Board directs that the District transmit a notice of termination of the Lease to the Borough immediately or as soon as reasonably possible. Termination to be effective August 6, 2019 or an earlier date if mutually agreed by the parties.
4. The Board wishes to continue the Clifton Field’s present community sports and recreational uses such as those under the auspices of the Borough, the Clifton PAL, the Boys and Girls Club and other similar community organizations. The District shall manage such use through its Recreation Department as follows:

- a. The District's Recreation Department shall reach out to the Borough to determine the groups that the Borough has permitted to utilize the Clifton Field, the use to which the group put the field, and the schedule of such use.
  - b. The Administration is directed to review the data from the Borough to determine the usage patterns for the Clifton Field previously authorized by the Borough.
  - c. Those community groups that wish to utilize the fields at the Clifton Field should contact the Recreation Department to schedule use of the fields.
  - d. The Board directs its Recreation Department to accommodate such requests from community and municipal groups as a priority on those fields to the extent that the requests are consistent with prior use and absent any violations of District rules by such groups making them ineligible under District policy.
  - e. Should the Borough have no records of prior use or refuse to provide them, then the Administration cannot establish the permutations of the prior use and will not give priority to any group in the use of the fields at Clifton Field.
  - f. The policies of the District relating to field use will apply except to the extent that the District authorizes continuation of a prior non-conforming use and the municipal or community group agrees to be responsible for all clean up, to be fully liable for any incidents arising from the use, and to provide appropriate insurance. Any community group wishing to continue such a non-conforming use should contact the District Administration to enter into the appropriate agreement.
  - g. The Administration is to coordinate with the Borough concerning the transition of scheduling responsibilities from the Borough to the District.
5. The above termination shall take effect as stated and without regard to any delays or interruptions leading to the above described construction project.

The Upper Darby School District Board of School Directors adopted the above resolution at their specially scheduled meeting of May 6, 2019 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against.

Attest:

Upper Darby School District

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By: Patrick Grant  
Secretary

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By: Rachel Mitchell  
President, Board of School Directors