

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** The Honorable City Council

**FROM:** Mary K. Lindley, Director of Parks, Recreation, and Community Services

**DATE:** February 7, 2007 (Meeting of March 7, 2007)

**SUBJECT:** Consider Use Agreements with Moorpark Little League and Moorpark Girls Softball

**BACKGROUND**

In 1997 and then again in 2002, the City Council approved five-year use agreements with the major youth sports organizations in Moorpark. Among other things, the agreements identify parks and park amenities, use dates, site and amenity improvements, and maintenance responsibilities granted to each organization. The annual use fee for those organizations using sports fields is \$1.00 per year; Moorpark Basketball Association pays a reduced hourly use fee for the use of the Arroyo Vista Recreation Center (AVRC) gymnasium. Moorpark Girls Softball Association, AYSO, and Packer Football also pay for the use of the concession stands at AVCP from the proceeds of their food sales.

**DISCUSSION**

Little League and Girls Softball agreements are the first of the youth sports agreements to expire in 2007 and the City Council is being asked to approve new five-year agreements. Language has been added to the proposed agreements requiring both groups to adhere to the City's sign policy and providing for the implementation of a non-resident player fee at the start of the 2008 season. As a fairness issue, staff proposes setting a youth sports non-resident fee equal to the amount Moorpark residents pay annually to maintain City parks. In FY 2006/2007, single-family residences paid \$47.32. Staff proposes working with the youth sport organizations to develop a fee methodology whereby a non-resident participant would pay an equivalent of \$47.32 (current amount for a single family unit for the Parks Maintenance Assessment) per year to participate in Moorpark based youth sports. To address the probability that a non-resident youth may play in more than one sport or several youth family members may participate with

Moorpark youth sports organizations, the fee methodology may include a prorated formula or other means, to ensure that a non-resident family does not pay more than the then current assessment rate approved each year. The final methodology will be a topic at the next Youth Sports Committee and will be presented to the Council for action prior to implementation.

Other than the aforementioned additions, only minor cleanup changes were made to the previous agreement's provisions. The respective organizations were provided with draft copies for their review and comment. The agreements address the following conditions:

#### Moorpark Little League

Little League has the use of the two baseball fields at Poindexter Park between February 1 through July 31, at \$1.00 per year, each year the agreement is in effect. As with the previous agreement, Little League is authorized to install a temporary chain-link outfield fence on each of the two ball fields, at its cost; use portions of the City's storage room to store equipment and a maintenance vehicle; and perform certain field maintenance work with the approval of, and under the supervision of, the City. The City agrees to schedule the use of additional parks for Little League team practices. The City typically assigns Little League the use of Campus Canyon Park for this purpose.

Little League's agreement includes the use of the Poindexter Park ball fields for one League tournament in which they are a participant. During the tournament, the League pays direct costs incurred by the City including, but not limited to, staff time (a minimum of one employee is schedule to monitor park facilities during tournament play).

#### Moorpark Girls Softball

The use agreement with Girls Softball provides them with use of the four softball fields at Arroyo Vista Community Park (AVCP) between the dates of January 15 and July 31 of each year. This is considered Girls Softball's primary season. They are also granted use of AVCP softball fields on a limited basis (Sundays only) for their smaller winter season, which runs September 1 through November 30. Girls Softball's winter season overlaps with AYSO's season, although AYSO plays its games on Saturday. Similar to the other youth sports agreements, Girls Softball's use fee is \$1.00 for use of the fields and \$1,000 for the use of the concession facility, payable each year. Additionally, Girls Softball is granted the use of storage room space to store equipment and a maintenance vehicle; and to perform certain field maintenance work with the approval of, and under the supervision of, the City.

The Girls Softball Use Agreement includes the use of AVCP and other City park facilities for one annual softball tournament in which they are a participant. Girls

Softball typically holds its tournament in June and includes teams from a larger regional area. It serves as a major fundraiser for the group.

Most of the Moorpark youth sports organizations like to host regional tournaments. They often serve as fundraising events for the organization. In an effort to provide consistency among the Youth Sports Use Agreements and to ensure that the City is not overly burdened with the cost of wear and tear of its park facilities, staff proposes that each agreement include one tournament with no additional fees except direct costs, including, but not limited to ball field lights, if needed, and a minimum of one staff person to monitor facility use and respond to the public's needs. Tournaments generate an intense use of park facilities, typically over a two-day period. Any tournaments beyond the one granted in the use agreement would be subject to the City's Park Facility Rental Fee Schedule.

While the youth sports groups who enter into use agreements with the City have primary rights to use the facilities granted in the agreement during the dates identified, the City maintains its exclusive right to manage the use of its facilities, including the softball and baseball fields, and to allow for their use by other groups or individuals when they are not in use by the aforementioned parties. Additionally, the City may preempt the use of said facilities upon thirty days written notice. Each Use Agreement also includes a Use Fee Adjustment provision that allows the City to adjust use fees thirty days before the start of each respective season, upon written notice.

### **STAFF RECOMMENDATION**

Approve five-year Use Agreements with Moorpark Little League and Moorpark Girls Softball Association, subject to final language approval of the City Manager, and authorize the City Manager to execute the agreements on behalf of the City.

Attachments A: Little League Agreement  
B: Girls Softball Agreement

**AGREEMENT BETWEEN THE CITY OF MOORPARK  
AND MOORPARK LITTLE LEAGUE**

THIS USE AGREEMENT (hereinafter "Agreement") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by and between the CITY OF MOORPARK (hereinafter "City") and Moorpark Little League, a California Non - Profit Corporation (Hereinafter "League").

THE PARTIES AGREE THAT:

Section 1.            PREMISES

City, in consideration of the fees to be paid and of the indemnifications, covenants, and agreements agreed to herein, hereby grants to League, and League hereby accepts from City, the use of certain real property and associated facilities and equipment including but not limited to baseball diamonds and bleachers, described in Exhibit "A" attached hereto and by this reference incorporated herein, together with any and all improvements thereon (all of which are hereinafter referred to as the "Premises").

Section 2.            TERM

The term of this Agreement shall be for five years, commencing on the date executed and ending on January 31, 2012, provided however, that City's obligations hereunder shall be contingent upon League's payment in full of all use and related fees and fulfillment of all obligations as set forth in this Agreement.

This Agreement may be terminated by either party with or without cause by providing written notice to the other party, no less than thirty (30) days in advance of such termination.

Section 3.            USE FEES

League further agrees to pay the City an annual use fees in the amount of One Dollar (\$1.00) for the period between February 1 through July 31 of each year, through the term of this Agreement.

Section 4.            ADJUSTMENTS USE OF FEES

Beginning February 1, 2008, and as long as the Agreement is in effect, the City may adjust the Use Fees on or before the beginning of the new year by giving League written notice prior to February 1. If no such notification is given, the Use Fees for the next year shall be the same amount as the prior year. Furthermore, Association agrees to work with the City to implement a non-resident Use Fee if so directed by City. If no such notification is given, the Use Fees for the next year shall be the same amount as the prior year.

Section 5.      USE

The Premises shall be used for the following specified purposes only and shall not be used for any other purpose without the prior written consent of the City:

- A. Authorized games and practices for Moorpark Little League between February 1 through July 31 each year this Agreement is in effect. A schedule of said games and practices shall be furnished to the Director of Community Services for the City's written approval prior to February 1 of each year. Upon written request to the City, and receipt and approval by the City, additional use may be considered.
- B. During the aforementioned approved season, the general public shall have access to and use of said Premises at times and, or, on dates that are not included in the written schedule submitted by the League and approved by the City. League shall not have priority use of Premises outside of the City approved schedule.
- C. League may use a portion of the storage room located at the restroom facility on Premise during its approved season. League shall be responsible for keeping the storage room clean and free of debris and shall maintain open access to electrical panels located within. The League shall remove all of its property within two weeks after July 31 each year. League shall use the storage room to store maintenance and game equipment only. League shall provide the City with a combination lock that will be used to secure the storage room and shall be responsible for securing the room during its use. Upon vacating the storage room, League shall remove its combination lock. In the event the City requires use of the entire storage room during the League's approved season, League shall be required to vacate said storage room upon thirty (30) days written notice from the City.
- D. The sale and consumption of food and beverages shall be at the discretion of the League with the exception that no alcoholic beverages shall be sold or consumed on Premises. The League shall be responsible for adhering to all state, county, and local public health codes concerning the sale and distribution of food and beverages.
- E. In addition to Premises, City may provide League with practice fields on City property during the League's approved season. Said field shall be used for practices directly associated with the Leagues regular play. City shall be responsible for assigning said fields in consultation with League. The use of practice fields will be provided at no cost to the League. All provisions contained

in this agreement shall cover the use of any and all practice fields on City property by League.

- F. League agrees to provide the City with a certified accounting of its financial status each year. Also included shall be the number of participants registered in the program and the number of Moorpark residents.
  
- G. League is authorized to operate and store a maintenance utility vehicle (ATV) on Premises. The Association may not store more than 10 gallons of gas on premises. Said vehicle shall be used to drag the dirt in-fields only and shall be operated by an adult with a valid driver's license. There shall be no minor passengers at anytime. League further agrees not to operate the maintenance vehicle on the grass when the grass is wet, for whatever reason, without first obtaining the City's written approval.

Section 6. SIGNS

League agrees not to allow the construction or placement of any sign, signboard, banner, or other form of outdoor advertising on the Premises without the prior written consent of the City. In the event of a violation of this provision by League or any one claiming under League, League hereby authorizes City as League's Agent, to enter the Premises and to remove and dispose of any such sign, signboard or other advertising, and to charge the cost and expense of any such removal and disposal to League who agrees to pay the same upon demand.

Furthermore, Association agrees to adhere to the sign provisions of the Moorpark Municipal Code.

This provision does not exclude the use of identification banners for individual teams and sponsors, which may be displayed during games and shall be removed following the end of each game.

Section 7. INDEMNIFICATION AND HOLD HARMLESS

League hereby agrees to hold harmless and indemnify City, its officers, agents, and employees, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability arising or growing out of loss or damage to property, including City's own personal property, or injury to or death of persons, including employees of City, resulting in any manner whatsoever directly or indirectly, by reason of this Agreement or the use of the Premises by League or any person claiming use under or through League. The League shall also hold the City harmless from all costs and expenses, including costs of investigation arising out of or incurred in the defense of any claim, proceeding, or action brought for injury to persons or damage to property, resulting from or associated with the use of said Premises under this Agreement and shall further save and hold harmless the City from any and all orders, judgements, and decrees which may be entered in

any and all such suit or actions. The League and all others using said Premises under this Agreement hereby waive any and all claims against the City of damage to persons or property in, or about said Premises.

The City does not, and shall not, waive any rights that it may have against the League by reason of this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. Said hold harmless and indemnification provision shall apply regardless of whether or not said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense described in this Section. The provisions of this Section 8 shall survive the expiration or termination of this Agreement.

Section 8.      LIABILITY INSURANCE

As a condition precedent of the effectiveness of this Agreement, League shall procure, and thereafter maintain in full force and effect at League's sole cost and expense, a public liability insurance policy written with a company acceptable to City and authorized to do business in the State of California as specified in Exhibit "C". Such policy shall provide for a minimum coverage of Two Million Dollars (\$2,000,000) for bodily injury or death of any person or persons in any one occurrence, and One Million Dollars (\$1,000,000) for loss by damage or injury to property in any one occurrence. The policy shall contain a provision providing for a broad form of contractual liability, including licenses and if food and beverages are dispensed on Premises, Product Liability coverage shall also be provided. The policy shall also contain automobile coverage for any motor vehicles driven on premises. The policy or policies shall be written on an occurrence basis. The policy shall name League as the insured and the City as an additional insured. The policy shall also provide that the City shall be notified in writing, at least thirty (30) days prior to any termination, amendment cancellation or expiration thereof. League shall furnish City evidence of all insurance policies required by this Agreement in the form of a Certificate of Insurance and a policy Endorsement form which identifies the City as additionally insured under the policy.

Section 9.      CASUALTY INSURANCE

The parties each specifically acknowledge that City shall not be obligated to keep the Premises insured against fire, or any other insurable risk. League hereby and forever waives all right to claim or recover damages from City in any amount as the result of any damage to the Premises by fire, earthquake, flooding, storm or any other cause.

Section 10.     IMPROVEMENTS

League shall not make any alterations, additions, repairs, or improvements upon the Premises without the prior written consent of the City. All alterations, additions, repairs and improvements shall be done in a good and workmanlike manner and diligently prosecuted to completion, and shall be performed and maintained in strict accord with all Federal, State, County, and local laws, ordinances, codes and standards relating thereto. Performance of work shall be subject to City monitoring and inspection. At City's sole discretion, work may

be stopped if it does not conform to City specifications and standards. Unless otherwise expressly agreed to in writing by the City, any alterations, additions, repairs and improvements shall remain on and be surrendered with the Premises upon the expiration or termination of this Agreement. League shall timely pay all costs associated with any and all improvements, and shall keep the Premises free and clear of all mechanics liens. League agrees to and shall indemnify, defend and save City free and harmless against all liability, loss, damage, costs, attorney's fees and other expenses of any nature resulting from any League alterations, additions or improvements to the Premises.

At such time as League vacates Premises, all improvements to Premises not already owned by City shall become the property of the City unless otherwise authorized by City in writing.

Upon the execution of this Agreement, City and League agree to the following improvements to be made at the League's sole cost, unless otherwise specified herein, upon the City approval of said improvement plans and conditions:

- A. Temporary Outfield Fence: League may install a temporary fence around the outfield perimeter of the north and south baseball diamond from February 1 through July 31 of each year provided League obtains the prior written approval of City and said temporary fence does not use sleeves to secure fence. League must store fence off-site from August 1 through February 1.

Section 11. FLAMMABLE, WASTE AND NUISANCES

League agrees that it will not place or store any flammable materials on the Premises, that it will not commit any waste or damage, nor suffer any to be done. League also specifically agrees that it will not allow others to take such actions on the Premises. League further agrees that it will keep the Premises clean, free from weeds, rubbish and debris and in a condition satisfactory to City.

League shall also provide adequate controls for dust, odors, noise which may emanate from the Premises or from League's activities on adjacent property and take appropriate steps necessary to prevent dust contamination of City's facilities located on, near or adjacent to the Premises. League also agrees to take preventative action to eliminate such dust, odor, noise or any other nuisance which may disturb the adjacent or nearby community and agrees to be responsible for and to assume all liability for such dust, odor, noise or other nuisance disturbances.

Notwithstanding the above, League shall not install, operate or maintain, or cause, or permit to be installed, operated or maintained any electrically charged fence on the Premises.

Section 12. PESTICIDES AND HERBICIDES



League agrees that prior to any application of either pesticides or herbicides, it shall receive written consent from City, and further any pesticide or herbicide applications on the Premises shall be made in accordance with all Federal, State, County and local laws. League further agrees to dispose of any pesticides, herbicides or any other toxic substances which are declared to be either a health or environmental hazard in such a manner as prescribed by law.

This shall include, but shall not be limited to, contaminated containers, clothing, equipment or any other contaminated material.

Section 13.        STORAGE TANKS

Notwithstanding anything to the contrary set forth in this Agreement, League shall not have the right to install underground or above ground storage tanks, as defined by any and all applicable laws or regulations, without the prior written consent of the City.

Section 14.        HAZARDOUS MATERIALS INDEMNITY

League hereby agrees to indemnify and hold harmless City, and its respective officers, employees, and agents, from and against any and all claims, actions, losses, liabilities, costs and expenses: (a) including, without limitation, all foreseeable and all unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage or disposal of Hazardous Material on the Premises; and (b) including, without limitation, the cost of any required or necessary repair, cleanup, or detoxification and the preparation of any closure or other required plans, to the full extent that such action is attributable, directly or indirectly, to the presence, or use, generation, storage, release, threatened release, or disposal of Hazardous Materials on the Premises. As used in this Section, Hazardous Materials means any flammable explosives, radioactive materials, asbestos, PCBs, hazardous water, toxic substances of related materials, including, without limitation, substances, defined as "hazardous substances", "hazardous materials", or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC, Section 9601, et seq.; the Resource Conservation and Recovery Act, 42 USC, Section 6901, et seq.; the Toxic Substances Control Act, 15 USC, Section 2601, et seq.; any other Federal, State or local law applicable to the Premises; and in the rules and regulations adopted or promulgated under or pursuant to any of said laws. The provisions of this Sections shall survive the expiration or earlier termination of this Agreement.

Section 15.        UTILITIES

In the event the League constructs City approved improvements upon Premises which require the uses of utilities, League agrees to pay a pro rata share of all charges and assessments for or in connection with electricity, water, and sewer and any other utilities which may be furnished to or used upon the Premises by League during the period covered by this Agreement. It is further agreed that in the event League shall fail to pay the above mentioned charges when due, City shall have the right to pay the same on demand, together with interest thereon at the maximum rate allowed by law and to charge the cost and expense to League who agree to pay the same upon demand.

Section 16. MAINTENANCE

Except as specifically provided for in the Agreement, all maintenance of, and repairs to Premises shall be done at City's sole discretion and shall be performed by City force account or by City's authorized agent unless approved by City in writing. All maintenance and repair authorized to be performed by League shall adhere to City specifications and standards. All improvements shall meet City and other applicable codes, regulations, and standards including but not limited to building and zoning codes.

During the period of February 1 through July 31, League shall be responsible to perform the following field maintenance on and around both the north and south baseball diamonds of Premises:

- A. Overseed the grass infields using a seed mix specified and approved by the City.
- B. Groom, drag, and rake the dirt portions of infield. League agrees to hand rake the dirt infield within 18 inches of the grass in-field and out-field lines to prevent the build up of a lip.
- C. Replace dirt in-field when necessary using an in-field mix to be specified and approved by the City.
- D. Use only white, water-based acrylic paint, manufactured specifically for marking game lines on sports fields may be used. Athletic field paint must not contain calcium carbonate, vinyl copolymers, herbicides, or pesticides that may harm the turf.
- D. Only white field chalk, manufactured specifically for marking lines on ballfields may be used on the dirt portions of the infield. Field chalk should not contain any lime-based products, or other chemicals known to cause skin and eye irritation.
- E. Provide weed abatement on grass area on both sides of south diamond temporary outfield fence.
- F. Pickup trash on and around the north and south baseball diamonds, bleachers, and dug-outs. On each day of use, following the last scheduled game or practice, empty contents of trash containers into trash dumpster located in the trash enclosure in the parking lot on said Premises. City will provide replacement trash bags to be stored on Premise.
- G. Maintain, and replace when necessary, base pegs, pitcher's mound, practice mound, pitching rubber, and base and home plate.
- H. City shall not be obligated to repair, replace or maintain the Premises in any manner

throughout the term of this Agreement. City shall not be obligated to perform any precautionary or preventative measures with respect to the Premises, including, but not limited to drainage and flood control measures. Should City perform any of the foregoing, such services shall be at the sole discretion of City, and the performance of such services shall not be construed as an obligation or warranty by City of the future or ongoing performance of such services.

Section 17.        ENTRY BY CITY

City may enter upon the Premises at all reasonable times to examine the condition thereof, and for the purpose of providing maintenance and making such repairs as City desires to make.

Section 18.        GOVERNING LAW

League agrees that in the exercise of its rights under this Agreement, League shall comply with all applicable Federal, State, County and City laws and regulations in connection with its use of the Premises. The existence, validity, construction, operation and effect of this Agreement and all of its terms and provisions shall be determined in accordance with the laws of the State of California.

Section 19.        DISCRIMINATION

League agrees not to discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the Premises.

Section 20.        ASSIGNMENT AND SUBLETTING

The Agreement granted herein is personal to League and shall not assigned. League shall not assign this Agreement or any interest therein, and shall not assign use of the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents and servants of League excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of City. A consent to one assignment, subletting, occupation, or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. This Agreement shall not, or shall any interest therein, be assignable, as to the interest of League, by operation of law, without the written consent of City. Any assignment or subletting without such consent shall be void, and shall, at the option of the City, terminate this Agreement. No legal title or interest in Premises is created or vested in League by this Agreement.

Section 21.        INSOLVENCY OR BANKRUPTCY

If League shall be adjudged bankrupt or insolvent, this Agreement shall thereupon immediately terminate and the same shall not be assignable by any process of law, or be treated as an asset of the League under such adjudication, nor shall it pass under the control

of any trustee or assignee by virtue of any process in bankruptcy or insolvency, or by execution or assignment for the benefit of creditors. If any such event occurs, this Agreement shall immediately become null and void and of no effect, and City may thereupon repossess said Premises and all rights of the League thereupon shall cease and terminate.

Section 22.            DEFAULT OR BREACH

Except as otherwise provided, at any time one party to this Agreement is in default or breach in the performance of any of the terms and conditions of this Agreement, the other party shall give written notice to remedy such default or breach. If default or breach is remedied within 30 days following such notice, then this Agreement shall continue in full force and effect. If such default or breach is not remedied within 30 days following such notice or if the nature of the default is such that it cannot reasonably be cured within 30 days, if League fails to commence to cure within the 30 day period, the other party may, at its option, terminate this Agreement. Such termination shall not be considered a waiver of damages or other remedies available to either party because of such default or breach. Each term and condition of this Agreement shall be deemed to be both a covenant and a condition.

Section 23.            INTERPRETATION

Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

Section 24.            WAIVER

A waiver by either party or any default or breach by the other party in the performance of any of the covenants, terms or conditions of this Agreement shall not constitute or be deemed a waiver of any subsequent or other default or breach.

Section 25.            ACQUIESCENCE

No acquiescence, failure or neglect of any party hereto to insist on strict performance of any or all of the terms hereof in one instance shall be considered or constitute a waiver of the rights to insist upon strict performance of the terms hereof in any subsequent instance.

Section 26.            PARTIES BOUND AND BENEFITED

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

Section 27.            CONDEMNATION

If the whole of the Premises should be taken by a public authority under the power of eminent domain, then the term of this Agreement shall cease on the day of possession by the public authority. If a part only of the Premises should be taken under eminent domain, League shall have the right to either terminate this Agreement or to continue in possession of the remainder of the Premises. If League remains in possession, all of the terms hereof shall continue in effect, with the fees payable being reduced proportionately for the balance of the Agreement term.

Section 28.        TIME

Time is of the essence of this Agreement.

Section 29.        REMEDIES

In case of the failure or refusal of League to comply with and perform each and all of the terms and covenants on its part herein contained, this Agreement and all rights hereby given shall, at the option of City, cease and terminate, and City shall have the right forthwith to remove League's personal property from the Premises at the sole cost, expense and risk of League, which cost and expense League agrees to pay to City upon demand, together with interest thereon at the maximum rate allowed by law from the date of expenditure by City.

Section 30.        ATTORNEY'S FEES

In case City shall bring suit to compel performance of or to recover for breach of any covenant, agreement or condition herein contained and such suit results in a judgment for City, League will pay to City reasonable attorney's fees in addition to the amount of judgment and costs.

Section 31.        NOTICES AND PAYMENTS

All notices required under this Agreement including change of address shall be in writing, and all notices and payments shall be made as follows:

- A. All payments and notices to League shall be given or mailed to the current League president:

Moorpark Little League  
P.O. Box 496  
Moorpark, CA 92021  
Emergency Contact Person: Gary Kelman  
Phone Number: (818) 515-1007

League agrees to notify City when a new president takes office and to provide a

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current 24-hour contact person and phone number.

B. All payments and notices to City shall be given or mailed to:

City of Moorpark  
Director of Community Services  
799 Moorpark Avenue  
Moorpark, CA 93021  
Contact Phone Number: (805) 517-6300

Section 32.      PARTIAL INVALIDITY

If any term, covenant, condition or provision of this Agreement is found by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Section 33.      GENDER AND NUMBER

For the purpose of this Agreement wherever the masculine or neuter form is used, the same shall include the masculine or feminine, and the singular number shall include the plural and the plural number shall include the singular, wherever the context so requires.

Section 34.      PARAGRAPH HEADINGS

Paragraph headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants and conditions of this Agreement.

Section 35.      MODIFICATION

This Agreement may be terminated, extended or amended in writing by the mutual written consent of the parties hereto. Such amendments may be executed by the City Manager on behalf of the City.

Section 36.      VENUE

This Agreement is made, entered into, executed in Ventura County, California, and any action filed in any court for arbitration for the interpretation, enforcement or other action of the terms, conditions or covenants referred to herein shall be filed in the applicable court in Ventura County, California.

Section 37. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties, and supersedes all previous negotiations and understandings between the parties. There are no representations, warranties or commitments, oral or written, other than those expressly set forth herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative as of the date first written above.

City of Moorpark

Moorpark Little League

By: \_\_\_\_\_

By: \_\_\_\_\_

Steven Kueny, City Manager

Gary Kelman, President

Attest:

BY: \_\_\_\_\_  
Deborah S. Traffenstedt, ATCM/City Clerk

**AGREEMENT BETWEEN THE CITY OF MOORPARK  
AND MOORPARK GIRLS SOFTBALL ASSOCIATION**

THIS USE AGREEMENT (hereinafter "Agreement") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by and between the CITY OF MOORPARK (hereinafter "City") and Moorpark Girls Softball Association, a California Non-Profit Corporation (hereinafter "Association").

THE PARTIES AGREE THAT:

Section 2. PREMISES

City, in consideration of the fees to be paid and of the indemnifications, covenants, and agreements agreed to herein, hereby grants to Association, and Association hereby accepts from City, the use of certain real property as identified:

Premises A : Certain real property and associated facilities and equipment, including but not limited to improved softball fields, open turf areas, and the snack bar at Arroyo Vista Community Park (herein AVCP) as further described in Exhibit "A" attached hereto and by this reference incorporated herein, together with any and all improvements thereon (all of which are hereinafter referred to as "Premises A").

Premises B: Certain real property and associated facilities and equipment, including but not limited to improved softball fields and open turf areas at Mountain Meadows Park as further described in Exhibit "B" attached hereto and by this reference incorporated herein, together with any and all improvements thereon (all of which are hereinafter referred to as "Premises B").

Section 3. TERM

The term of this Agreement shall be for five years, commencing on the date executed and ending on January 31, 2012, provided however, that City's obligations hereunder shall be contingent upon Association's payment in full of all use and related fees and fulfillment of all obligations as set forth in this Agreement.

This Agreement may be terminated by either party with or without cause by providing written notice no less than thirty (30) days in advance of such termination.

Section 4.        USE FEES

Association further agrees to pay the City at time of execution of Agreement, in total, annual use fees in the amount of One Dollar (\$1.00) for the period between February 1 through January 31 of each year, through the term of this Agreement. Association also agrees to pay to City One Thousand (\$1,000) annually for use of the snack bar at Premises "A" (AVCP) for the Spring Season and Five Hundred (\$500) annually for use of the snack bar for the Winter Season. City agrees that the snack bar fee includes Association's use of water, electricity and pest control specifically associated with the operation of the snack bar as authorized by this Amendment. The fee for use of the snack bar during Spring Season shall be paid by June 1 of each year of this agreement. The fee for use of the snack bar for the Winter Season shall be paid by November 1 of each year of this agreement.

Furthermore, Association agrees to reimburse City for any direct costs incurred as a result of any approved post-season tournament, including but not limited to: staff time and electrical charges related to lights. Said payment shall be made by Association to the City within 30 days receipt of invoice.

Section 5.        ADJUSTMENTS OF USE FEES

Beginning January 15, 2008, and as long as the Agreement is in effect, the City may adjust the Use Fees on or before the beginning of the new year by giving Association written notice prior to January 15. Furthermore, Association agrees to work with the City to implement a non-resident Use Fee if so directed by City. If no such notification is given, the Use Fees for the next year shall be the same amount as the prior year.

Section 6.        USE

The Premises shall be used for the following specified purposes and conditions only and shall not be used for any other purpose or conditions without the prior written consent of the City:

- A. Premises A may be used for official games and practices and Premises B may be used for official practices of the Association. Association may hold one post season tournament on dates to be approved by City in writing.
- B. Association is granted use of Premises A and B beginning January 15 and ending June 31 (hereinafter referred to as Spring Season) of each year. Association is also granted use of Premises B, and limited use of Premises A, beginning

September 1 and ending November 30 (Winter Season). Limited use during Winter Season is restricted to the use of Premises A on Sundays only and includes the use of the snack bar.

Prior to January 1 and September 1 of each year, Association shall provide City, for City approval, a written schedule of its up-coming season including tryouts, opening day, game and practice dates for Premises A and B. Said approval will include dates and times when park amenities will be made available to Association.

In January of each year, City agrees to provide Association with dates when Premises A will not be available or available on a limited bases, due to use by others, such as, but not limited to, the City and Moorpark High School. These dates, and the schedule provided by the Association, will be used by the City in approving specific use dates for Association's season.

During Association's season, the general public shall have access to, and use of, Premises A and B at times and days not included in the written schedule submitted by the Association and approved by the City, or when not in use by Association. Association shall not have use of Premises outside of the approved schedule.

At all times, City retains the right to preempt Association's use Premises A and Premises B at its sole discretion, upon no less than thirty (30) days written notice to Association. The City agrees to minimize any impacts other uses may have on Association's use of Premises A and B whenever feasible.

- C. Association may have use of the snack bar on Premises A during its Spring and Winter Season. Association shall not begin storage of its property in snack bar until authorized by the City and it agrees to remove its property from the snack bar two weeks after the last game of each season for which it has been granted use. Said authorization will be considered by City upon receipt of Association's season schedule as required under Section 6.B of the agreement. Association shall be provided with a key to the snack bar prior to the start of the Spring Season and shall be responsible for securing said snack bar. Said key shall not be duplicated. Association shall vacate the snack bar one week following the last game of the season and shall return key to the City.

- D. Association agrees to request approval from City in writing prior to installing or using any machine or appliance, electrical or otherwise, on Premises A or Premises B, including the snack bar at Premises A. Association also agrees that it is fully responsible for any damage or repairs to, or loss of, or injury resulting from, any appliance or food and beverage items stored in the snack bar or snack bar storage room. Association will not seek or request from City any compensation for any damage to, or loss of, said items.
- E. The sale and consumption of food and beverages shall be at the discretion of Association with the exception that no alcoholic beverages shall be sold or consumed on Premises A or Premises B. Association shall obtain all required health and other necessary permits for preparation and sale of food and beverages and shall be responsible for any fines, levied at City or Association, that may arise from Association's sale and consumption of food and beverages.
- F. In addition to Premises A and B, Association may have the use of softball fields at certain City parks, to be approved in writing by the City, and at the City's sole discretion, for a regional post-season girls softball tournament each June. It is recognized by the parties, that Association charges a fee to individuals participating in said tournament and that the fee serves to raise funds for Association. Association agrees to reimburse City for any direct costs incurred by the City including, but not limited to, staff time and use of lights.
- G. Association agrees to provide the City with a certified accounting of its financial status each year. Also included shall be the number of participants registered in the program and the number of Moorpark residents.
- H. City agrees to allow Association to use a pitching machine at Premises A, operated using power from the restroom/snack bar facility. The electrical cord must be secured in a manner approved by City and which does not pose a safety hazard. Said pitching machine shall be stored in Association's storage room at the end of each use.
- I. City agrees to allow Association to use a vehicle on Premises A for the sole purpose of field maintenance and preparations. Association agrees not to use the said vehicle on the Premises when the grass is wet, for whatever reason, without obtaining City's written approval. Association also agrees that vehicles approved for use shall not exceed a gross vehicle weight (GVW) of 5,400 pounds and shall be stored in Association's storage room, or off site, when not in use. The Association may not store more than 10 gallons of gas in storage room

at any time. Said vehicle shall be used to drag the dirt in-fields only and shall be operated by an adult with a valid driver's license. There shall be no minor passengers at anytime.

Section 7. SIGNS

Association agrees not to permit the construction or placement of any sign, signboard or other form of outdoor advertising on the Premises without the prior written consent of the City. In the event of a violation of this provision by Association or any one claiming under Association, Association hereby authorizes City as Association's Agent, to enter the Premises and to remove and dispose of any such sign, signboard or other advertising, and to charge the cost and expense of any such removal and disposal to Association who agrees to pay the same upon demand.

Furthermore, Association agrees to adhere to the sign provisions of the Moorpark Municipal Code.

This provision does not exclude the use of identification banners for individual teams and sponsors, which may be displayed during games and shall be removed following the end of each game.

Section 8. INDEMNIFICATION AND HOLD HARMLESS

Association hereby agrees to hold harmless and indemnify City, its officers, agents, and employees, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability arising or growing out of loss or damage to property, including City's own personal property, or injury to or death of persons, including employees of City, resulting in any manner whatsoever directly or indirectly, by reason of this Agreement or the use of the Premises by Association or any person claiming use under or through Association unless such loss, damage, injury, or death is due to the sole negligence of the City. The Association shall also hold the City harmless from all costs and expenses, including costs of investigation arising out of or incurred in the defense of any claim, proceeding, or action brought for injury to persons or damage to property, resulting from or associated with the use of said Premises under this Agreement and shall further save and hold harmless the City from any and all orders, judgements, and decrees which may be entered in any and all such suit or actions. The Association and all others using said Premises under this Agreement hereby waive any and all claims against the City of damage to persons or property in, or about said Premises.

The City does not, and shall not, waive any rights that it may have against the

Association by reason of this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. Said hold harmless and indemnification provision shall apply regardless of whether or not said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense described in this Section. The provisions of this Section 8 shall survive the expiration or termination of this Agreement.

Section 9.      LIABILITY INSURANCE

As a condition precedent of the effectiveness of this Agreement, Association shall procure, and thereafter maintain in full force and effect at Association's sole cost and expense, a public liability insurance policy written with a company acceptable to City and authorized to do business in the State of California as specified in Exhibit "C" attached to and part of this agreement. Such policy shall provide for a minimum coverage of Two Million Dollars (\$2,000,000) for bodily injury or death of any person or persons in any one occurrence and One Million Dollars (\$1,000,000) for loss by damage or injury to property in any one occurrence. The policy shall contain a provision providing for a broad form of contractual liability, including licenses and if food and beverages are dispensed on Premises, Product Liability coverage shall also be provided.

The policy shall also contain automobile coverage for any motor vehicles driven on premises. The policy or policies shall be written on an occurrence basis. The policy shall name Association as the insured and the City as an additional insured. The policy shall also provide that the City shall be notified in writing, at least thirty (30) days prior to any termination, amendment cancellation or expiration thereof. Association shall furnish City evidence of all insurance policies required by this Agreement in the form of a Certificate of Insurance and Endorsement Form. Said Endorsement shall indicate that Association's policy has been amended to include City as additionally insured under policy.

Section 10.     CASUALTY INSURANCE

The parties each specifically acknowledge that City shall not be obligated to keep the Premises insured against fire, or any other insurable risk. Association hereby and forever waives all right to claim or recover damages from City in any amount as the result of any damage to the Premises by fire, earthquake, flooding, storm or any other cause.

Section 11.     IMPROVEMENTS

Association shall not make any alterations, additions, or improvements upon the

Premises without the prior written consent of the City. All alterations, additions and improvements shall be done in a good and workmanlike manner and diligently prosecuted to completion, and shall be performed and maintained in strict accord with all Federal, State, County, and local laws, ordinances, codes and standards relating thereto. Performance of work shall be subject to City monitoring and inspection. At City's sole discretion, work may be stopped if it does not conform to City specifications and standards. Unless otherwise expressly agreed to in writing by the City, any alterations, additions and improvements shall remain on and be surrendered with the Premises upon the expiration or termination of this Agreement. Association shall timely pay all costs associated with any and all improvements, and shall keep the Premises free and clear of all mechanics liens. Association agrees to and shall indemnify, defend and save City free and harmless against all liability, loss, damage, costs, attorney's fees and other expenses of any nature resulting from any Association alterations, additions or improvements to the Premises. At such time as Association vacates Premises, all improvements to Premises not already owned by City shall become the property of the City unless otherwise authorized by City in writing.

Section 12.                    FLAMMABLE, WASTE AND NUISANCES

Association agrees that it will not place or store any flammable materials on the Premises, that it will not commit any waste or damage, nor suffer any to be done. Association also specifically agrees that it will not allow others to take such actions on the Premises. Association further agrees that it will keep the Premises clean, free from weeds, rubbish and debris and in a condition satisfactory to City.

Association shall also provide adequate controls for dust, odors, noise which may emanate from the Premises or from Association's activities on adjacent property and take appropriate steps necessary to prevent dust contamination of City's facilities located on, near or adjacent to the Premises. Association also agrees to take preventative action to eliminate such dust, odor, noise or any other nuisance which may disturb the adjacent or nearby community and agrees to be responsible for and to assume all liability for such dust, odor, noise or other nuisance disturbances.

Notwithstanding the above, Association shall not install, operate or maintain, or cause, or permit to be installed, operated or maintained any electrically charged fence on the Premises.

Section 13.                    PESTICIDES AND HERBICIDES

Association agrees that prior to any application of either pesticides or herbicides, it shall receive written consent from City, and further any pesticide or herbicide applications on

the Premises shall be made in accordance with all Federal, State, County and local laws. Association further agrees to dispose of any pesticides, herbicides or any other toxic substances, which are declared to be either a health or environmental hazard in such a manner as prescribed by law. This shall include, but shall not be limited to, contaminated containers, clothing, equipment or any other contaminated material.

Section 14.        STORAGE TANKS

Notwithstanding anything to the contrary set forth in this Agreement, Association shall not have the right to install underground or above ground storage tanks, as defined by any and all applicable laws or regulations, without the prior written consent of the City.

Section 15.        HAZARDOUS MATERIALS INDEMNITY

Association hereby agrees to indemnify and hold harmless City, and its respective officers, employees, and agents, from and against any and all claims, actions, losses, liabilities, costs and expenses: (a) including, without limitation, all foreseeable and all unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage or disposal of Hazardous Material on the Premises by Association; and (b) including, without limitation, the cost of any required or necessary repair, cleanup, or detoxification and the preparation of any closure or other required plans, to the full extent that such action is attributable, directly or indirectly, to the presence, or use, generation, storage, release, threatened release, or disposal of Hazardous Materials on the Premises by Association. As used in this Section, Hazardous Materials means any flammable explosives, radioactive materials, asbestos, PCBs, hazardous water, toxic substances of related materials, including, without limitation, substances, defined as "hazardous substances", "hazardous materials", or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC, Section 9601, et seq.; the Resource Conservation and Recovery Act, 42 USC, Section 6901, et seq.; the Toxic Substances Control Act, 15 USC, Section 2601, et seq.; any other Federal, State or local law applicable to the Premises; and in the rules and regulations adopted or promulgated under or pursuant to any of said laws. The provisions of these Sections shall survive the expiration or earlier termination of this Agreement.

Section 16.        MAINTENANCE

Except as specifically provided for in the Agreement, all maintenance of, and repairs to Premises shall be done at City's sole discretion and shall be performed by City force account or by City's authorized agent unless approved by City in writing. All maintenance and repair authorized to be performed by Association shall adhere to City

specifications and standards. All improvements shall meet City and other applicable codes, regulations, and standards including but not limited to building and zoning codes.

During the approved Seasons, Association shall be responsible to perform the following field maintenance:

- A. Groom, drag, and rake the dirt infields. League agrees to hand rake the dirt infields within 18 inches of the in-field grass line to prevent the build up of a lip. Replace dirt in-field when necessary using an in-field mix to be specified and approved by the City. City and Association agree to share equally in the cost of said dirt.
  - 1. Only white, water-based acrylic paint, manufactured specifically for marking lines on sports turf and athletic fields may be used on grass/fields. Athletic field paint should not contain calcium carbonate, vinyl copolymers, herbicides, or pesticides.
  - 2. Only white field chalk, manufactured specifically for marking lines on ballfields may be used on the dirt portions of the infield. Field chalk should not contain any lime-based products, or other chemicals known to cause skin and eye irritation.
- B. Pick up trash on and around Premises. Following the last scheduled game on any given day, remove trash liners and dispose in trash dumpster located at Premises A and B. Insert replacement liners in containers. City shall provide Association with replacement trash container liners to be used for this purpose only.
- C. Maintain base pegs, pitcher's mounds, pitching rubbers, and base and home plates.
- D. Maintain and repair backstops and dugouts, including fence material.
- E. Maintain in-field irrigation on ballfield number 3.
- F. Remove graffiti from the storage bins, fences, backstops, dugouts and sideline fences within seventy-two hours of City's notification to do so. In the event of violation of this provision, Association authorizes City, as Association's agent, to remove graffiti and to charge the cost and expense of any such removal to Association who agrees to pay the same upon demand.

- G. Maintain and clean Snack Bar, including counters, sinks, floors, and walls after each use; remove and dispose of trash in and around Snack Bar to trash bins provided in the dumpster located in the improved parking lot at AVCP. Make necessary repairs for any damage that may occur as a result of Association's use, with prior authorization from City.
- H. Maintain and repair benches and bleachers on ballfield number 3 as needed to insure the safety of park users, or when requested in writing by City.
- I. Association agrees that in its efforts to fulfill its maintenance obligations under this agreement, it will not alter the grade of the turf or field areas of Premises A or B, or alter any park amenity without receiving the written approval of the City prior to any such work.

The City hereby agrees to mow and irrigate all grass areas included in Premises and leave the grass clippings on the turf, at its expense. City shall not be obligated to repair, replace or maintain the Premises in any manner throughout the term of this Agreement. City shall not be obligated to perform any precautionary or preventative measures with respect to the Premises, including, but not limited to drainage and flood control measures. Should City perform any of the foregoing, such services shall be at the sole discretion of City, and the performance of such services shall not be construed as an obligation or warranty by City of the future or ongoing performance of such services.

Section 17.        ENTRY BY CITY

City may enter upon the Premises at all reasonable times to examine the condition thereof, and for the purpose of providing maintenance and making such repairs as City desires to make.

Section 18.        GOVERNING LAW

Association agrees that in the exercise of its rights under this Agreement, Association shall comply with all applicable Federal, State, County and City laws and regulations in connection with its use of the Premises. The existence, validity, construction, operation and effect of this Agreement and all of its terms and provisions shall be determined in accordance with the laws of the State of California.



Section 19.            DISCRIMINATION

Association agrees not to discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the Premises.

Section 20.            ASSIGNMENT AND SUBLETTING

Association shall not assign this Agreement, or any interest therein, and shall not assign use of the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents and servants of Association excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of City. A consent to one assignment, subletting, occupation, or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. This Agreement shall not, or shall any interest therein, be assignable, as to the interest of Association, by operation of law, without the written consent of City. Any assignment or subletting without such consent shall be void, and shall, at the option of the City, terminate this Agreement. No legal title or interest in Premises is created or vested in Association by this Agreement.

Section 21.            INSOLVENCY OR BANKRUPTCY

If Association shall be adjudged bankrupt or insolvent, this Agreement shall thereupon immediately terminate and the same shall not be assignable by any process of law, or be treated as an asset of the Association under such adjudication, nor shall it pass under the control of any trustee or assignee by virtue of any process in bankruptcy or insolvency, or by execution or assignment for the benefit of creditors. If any such event occurs, this Agreement shall immediately become null and void and of no effect, and City may thereupon repossess said Premises and all rights of the Association thereupon shall cease and terminate.

Section 22.            DEFAULT OR BREACH

Except as otherwise provided, at any time one party to this Agreement is in default or breach in the performance of any of the terms and conditions of this Agreement, the other party shall give written notice to remedy such default or breach. If default or breach is remedied within 30 days following such notice, then this Agreement shall continue in full force and effect. If such default or breach is not remedied within 30 days following such notice or if the nature of the default is such that it cannot

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reasonably be cured within 30 days, if Association fails to commence to cure within the 30 day period, the other party may, at its option, terminate this Agreement. Such termination shall not be considered a waiver of damages or other remedies available to either party because of such default or breach. Each term and condition of this Agreement shall be deemed to be both a covenant and a condition.

Section 23.        INTERPRETATION

Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

Section 24.        WAIVER

A waiver by either party or any default or breach by the other party in the performance of any of the covenants, terms or conditions of this Agreement shall not constitute or be deemed a waiver of any subsequent or other default or breach.

Section 25.        ACQUIESCENCE

No acquiescence, failure or neglect of any party hereto to insist on strict performance of any or all of the terms hereof in one instance shall be considered or constitute a waiver of the rights to insist upon strict performance of the terms hereof in any subsequent instance.

Section 26.        PARTIES BOUND AND BENEFITED

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

Section 27.        CONDEMNATION

If the whole of the Premises should be taken by a public authority under the power of eminent domain, then the term of this Agreement shall cease on the day of possession by the public authority. If a part only of the Premises should be taken under eminent domain, Association shall have the right to either terminate this Agreement or to continue in possession of the remainder of the Premises. If Association remains in possession, all of the terms hereof shall continue in effect, with the fees payable

being reduced proportionately for the balance of the Agreement term.

Section 28.        TIME

Time is of the essence of this Agreement.

Section 29.        REMEDIES

In case of the failure or refusal of Association to comply with and perform each and all of the terms and covenants on its part herein contained, this Agreement and all rights hereby given shall, at the option of City, cease and terminate, and City shall have the right forthwith to remove Association's personal property from the Premises at the sole cost, expense and risk of Association, which cost and expense Association agrees to pay to City upon demand, together with interest thereon at the maximum rate allowed by law from the date of expenditure by City.

Section 30.        NOTICES AND PAYMENTS

A.     All payments and notices to Association shall be given or mailed to the current Association president. It is the responsibility of Association to notify City when there has been a change with regard to the individual serving as President and to provide the City with name, address, and 24-hour contact phone number of the new President:

President  
Moorpark Girls Softball Association  
P.O. Box 246  
Moorpark, CA 92020  
Emergency Contact Person: Gretchen Hall  
24 hour emergency contact number: (805) 231-6416

B.     All payments and notices to City shall be given or mailed to:

City of Moorpark  
ATTN: Director of Community Services  
799 Moorpark Avenue  
Moorpark, CA 93021

Section 31.        PARTIAL INVALIDITY

If any term, covenant, condition or provision of this Agreement is found by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Section 32.        GENDER AND NUMBER

For the purpose of this Agreement wherever the masculine or neuter form is used, the same shall include the masculine or feminine, and the singular number shall include the plural and the plural number shall include the singular, wherever the context so requires.

Section 33.        PARAGRAPH HEADINGS

Paragraph headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants and conditions of this Agreement.

Section 34.        MODIFICATION

This Agreement may be terminated, extended or amended in writing by the mutual written consent of the parties hereto. Such amendments may be executed by the City Manager on behalf of the City.

Section 35.        VENUE

This Agreement is made, entered into, executed in Ventura County, California, and any action filed in any court for arbitration for the interpretation, enforcement or other action of the terms, conditions or covenants referred to herein shall be filed in the applicable court in Ventura County, California.

Section 36.        ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties, and supersedes all previous negotiations and understandings between the parties. There are no representations, warranties or commitments, oral or written, other than those expressly set forth herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative as of the date first written above.

City of Moorpark

Moorpark Girls Softball Association

By: \_\_\_\_\_

By: \_\_\_\_\_

Steven Kueny, City Manager

Gretchen Hall, President

Attest:

BY: \_\_\_\_\_

Deborah Traffenstedt, City Clerk

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