



## SANDY SPRINGS

GEORGIA

TO: Peggy Merriss, Interim City Manager

FROM: Michael Perry, Director of Recreation and Parks

DATE: August 1, 2019, for Submission onto Regular Agenda of August 6, 2019

ITEM: Resolution to Approve Facility Use Agreement (“2019 Agreement”) between the City of Sandy Springs, Georgia (“City”), and Sandy Springs Youth Sports Inc. (“SSYS”), Morgan Falls Park the City of Sandy Springs for Morgan Falls Park (“Park”)

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### ***Recommendation:***

Staff recommends that the Mayor and City Council approve the attached resolution and 2019 Agreement regarding certain programs conducted at Morgan Falls Park.

### ***Background and Discussion:***

Since 2008, SSYS has been implementing and conducting a youth athletic program, including baseball, softball, football, and cheerleading (“Program”) at the Park pursuant to Facility Use Agreements. The most current Facility Use Agreement (“2013 Agreement”) is now expiring and the City desires to continue using the services of SSYS to perform the Program on basically the same terms and conditions as the previous Agreements. The only substantial change in the 2019 Agreement is that the insurance provisions have been updated by the City’s risk manager.

### ***Alternative:***

Council could choose to not approve the 2019 Agreement, make further revisions, and/or provide further direction to staff.

### ***Financial Impact:***

The term of the 2019 Agreement is five (5) years. SSYS will receive \$127,500 annually as compensation under the 2019 Agreement. This is the same amount paid under the 2013 Agreement.

### ***Attachments:***

Resolution with attached 2019 Agreement.

**STATE OF GEORGIA  
COUNTY OF FULTON**

**RESOLUTION TO APPROVE FACILITY USE AGREEMENT (“2019 AGREEMENT”) BETWEEN THE CITY OF SANDY SPRINGS, GEORGIA (“CITY”), AND SANDY SPRINGS YOUTH SPORTS INC. (“SSYS”), MORGAN FALLS PARK THE CITY OF SANDY SPRINGS FOR MORGAN FALLS PARK (“PARK”)**

**WHEREAS**, since 2008, SSYS has been implementing and conducting a youth athletic program, including baseball, softball, football, and cheerleading (“Program”) at the Park pursuant to Facility Use Agreements; and

**WHEREAS**, the most current Facility Use Agreement (“2013 Agreement”) is now expiring; and

**WHEREAS**, the City desires to continue using the services of SSYS to perform the Program on basically the same terms and conditions as the previous Agreements; and

**WHEREAS**, City Council desires to approve the 2019 Agreement as attached to this resolution.

**NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA, AS FOLLOWS:**

1. The City Council hereby approves the 2019 Agreement as attached to this resolution.
2. The City Council authorizes the Interim City Manager and City Attorney to make such minor changes to the 2019 Agreement as may be necessary to effectuate the intent of this resolution.
3. The City Council authorizes the Mayor to execute the Agreement and to take any other steps which may be necessary to effectuate the intent of this resolution.

**RESOLVED**, this the \_\_\_\_\_ day of August, 2019.

Approved:

\_\_\_\_\_  
Russell K. Paul, Mayor

Attest:

\_\_\_\_\_  
City Clerk

(SEAL)

**CITY OF SANDY SPRINGS  
DEPARTMENT OF RECREATION AND PARKS  
FACILITY USE AGREEMENT  
MORGAN FALLS PARK**

**THIS FACILITY USE AGREEMENT** ("Agreement") is made and entered into by and between the City of Sandy Springs, Georgia ("City"), a municipal corporation existing under and pursuant to the laws of the State of Georgia, and Sandy Springs Youth Sports Inc. ("SSYS"), a non-profit corporation created and existing pursuant to the laws of the State of Georgia.

**WITNESSETH:**

**WHEREAS**, SSYS and the City are mutually interested in and concerned with providing and making available recreation programs, activities, and facilities for the use and benefit of the citizens of the City, particularly the youth citizens; and

**WHEREAS**, the City owns the property and facilities located at 450 Morgan Falls Place, Sandy Springs, Georgia, known as Morgan Falls Park ("Park"). A map of the Park ("Park Map") is attached hereto as Exhibit C and incorporated herein by reference; and

**WHEREAS**, SSYS desires to implement and conduct a youth athletic program, including, but not limited to, baseball, softball, football, and cheerleading ("Program") at the Park; and

**WHEREAS**, SSYS and the City desire to enter into this Agreement in order to provide for SSYS to implement and conduct the Program and to assume certain operation and management responsibilities at the Park as more particularly described hereinafter;

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises herein contained, the parties hereto agree as follows:

**ARTICLE 1. DEFINITIONS**

In addition to words and terms that may be elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent or unless specifically provided otherwise herein:

"City" shall mean the City of Sandy Springs, Georgia.

"City Clerk" shall mean the City Clerk of the City of Sandy Springs, Georgia.

"Council" shall mean the Mayor and City Council of the City of Sandy Springs, Georgia.

"Department" shall mean the Department of Recreation and Parks of the City of Sandy Springs, Georgia.

"Director" shall mean the Director of the Department of Recreation and Parks of the City of Sandy Springs, Georgia.

"Finance Director" shall mean the Director of Finance of the City of Sandy Springs, Georgia, or designee.

“NYSCA” shall mean the National Youth Sports Coaches Association.

“Park” shall mean Morgan Falls Park located at 450 Morgan Falls Place, Sandy Springs, Georgia, as shown on Exhibit C hereto, and shall include the entire premises of the Park including, without limitation, the grounds, the parking lot, the buildings, the playing fields, and all equipment, fixtures, and appurtenances thereto appertaining.

“PCA” shall mean Positive Coaching Alliance, a national organization dedicated to training coaches, parents, and participants the balance of winning and learning life lessons.

“Preparation” or “prepared”, when referring to the Park playing fields, shall mean dragging, raking, lining, cleaning and performing such other tasks as may be required to ready the Park playing fields for Program activities.

“Program” shall mean a youth athletic program including, but not limited to, baseball, softball, football, and cheerleading and shall include, but not be limited to, practices, games, meetings in connection therewith, clinics, and demonstrations for the promotion of the sports involved for the benefit, interest, and welfare of the citizens of the City, and in particular, the youth of the City.

“School year” means the school year adopted by Fulton County, Georgia, as determined from year to year.

“SSYS” shall mean Sandy Springs Youth Sports Inc.

“Subcontractor” shall mean any individual, partnership, corporation, or other entity, including any individual, partnership, corporation or entity which is related to or affiliated with a parent or subsidiary of SSYS, with which SSYS shall enter or have entered into a written or other agreement relating to the provision of professional or other services in fulfillment of SSYS’ obligations and responsibilities hereunder. PCA, for example, is a Subcontractor within the meaning of this definition. All Subcontractors shall be subject to prior reasonable approval by the Director as hereinafter provided.

“Term” shall mean, initially, the period of time that this Agreement is in effect commencing at midnight on July 1, 2019 and terminating at midnight on June 30, 2020, and thereafter shall mean each successive twelve (12) month period that this Agreement is in effect as provided in Article 7 hereof.

“Utility expenses” shall mean those charges for utilities services including water and sewer, solid waste, electricity, and natural gas, as may be utilized to operate and support the Park.

## **ARTICLE 2. SSYS’ RESPONSIBILITIES**

Section 2.1. The Program. SSYS shall implement and provide the Program as a service to the City in accordance with the City’s existing guidelines, policies, and procedures for sports associations operating on the City’s property and such guidelines, policies, and procedures which may be enacted or adopted by the Council during the term of this Agreement.

Section 2.2. Use of Park.

2.2.1 Association Use. SSYS shall use the Park solely for the purposes of youth athletic practices, games, meetings in connection therewith, clinics, and demonstrations for the promotion of the sports involved for the benefit, interest, and welfare of the citizens of the City.

2.2.2 City Use. During the Term of this Agreement, the City shall continue to maintain control to the following areas of the Park as delineated on the Park Map attached hereto as Exhibit C:

- (a) general maintenance building;
- (b) parking area adjacent to general maintenance building; and
- (c) grounds adjacent to general maintenance building for City public works use.

2.2.3 Public Use. During the Term of this Agreement, SSYS agrees to make the Park available for use by the general public at such times as it is not being used or prepared for use by SSYS, as described herein.

Section 2.3. Compliance. SSYS currently has and during the Term of this Agreement shall maintain a Board of Directors elected annually by an open vote of all parents and guardians of participating youth pursuant to SSYS' official bylaws, and shall otherwise comply with all laws of the State of Georgia regulating and governing non-profit corporations. The President of the Board and a majority of SSYS' Board of Directors and officers must be current residents of the City.

In addition, SSYS shall, throughout the Term of this Agreement:

- (a) operate the Program at the Park in accordance with the provisions of this Agreement and all rules and regulations of the City, including development and construction standards as may be adopted from time to time by the City; and
- (b) operate the Program in accordance with all rules and regulations of the Fulton County Health Department and all other applicable federal, state and local laws, regulations, and ordinances; and
- (c) obtain and maintain any and all permits and licenses which may be required to lawfully operate the Program at the Park, including the operation of the concession stand; and
- (d) maintain up-to-date registration, certification and good standing status with an appropriate professional organization which may be required to provide the Services, including but not limited to, the payment of all required fees and dues and the completion of all required continuing education; and
- (e) comply with any and all lawful agreements and understandings relating to wages, fees, and working conditions so as not to cause inconvenience or disruption to the operation of the Program arising from employee disputes and demonstrations.

Section 2.4. Condition of Park; Collection of Fees; Expenditures. Subject to the City's rights to control certain areas of the Park pursuant to Section 2.2.2 hereof, SSYS agrees to accept the Park including, without limitation, the grounds, the parking lot, the buildings, the playing fields, and all equipment, fixtures, and appurtenances thereto appertaining, in the condition existing as of the date of this Agreement.

SSYS shall establish and collect (a) participation fees from participants in the Program, (b) charges for concessions sold at the Park, and (c) such other charges as it deems reasonable and

necessary in the operation and administration of the Program. SSYS agrees to use such proceeds collected for the following purposes in the following order of priority:

- (a) first, to fund all obligations necessary for the operation of the Program pursuant to this Agreement;
- (b) second, to fund youth development programs and training programs for coaches, parents and volunteers designed to foster in young athletes the development of values, habits, and skills they need to become successful as athletes and as citizens;
- (c) third, to fund improvements to the sports-related equipment and fixtures used in the Program at the Park including, by way of example only, upgrades to the bleachers, score booths, and playing equipment.

Any improvements made by SSYS as provided in subsection (c) above shall be approved in advance by the Director. Specifically, SSYS shall obtain prior written approval from the Director to make any repairs, improvements, additions, or alterations to, at or upon any component of the Park. Further, any such improvements, additions, or alterations made by SSYS shall become the property of the City and shall remain a component part of the Park and shall be surrendered by SSYS with the Park at the termination of this Agreement or any renewal thereof. Should SSYS fail to obtain prior written approval and authorization from the Director as required by this section, the City may immediately terminate this Agreement.

Notwithstanding the preceding paragraph, SSYS shall be responsible for maintaining all improvements made to the Park which are for the primary benefit of SSYS in the operation of the Program at the Park as provided by this Agreement and as may otherwise be determined by the City and accordingly requested by the Director.

Section 2.5. Vandalism; Nuisance; Unsafe Condition. While SSYS recognizes that the City routinely inspects the Park for vandalism, for conditions or situations which may constitute or become nuisances and for situations or conditions that may constitute or become unsafe conditions, SSYS agrees to take the following actions in that regard:

#### 2.5.1 Vandalism

- (a) Completed or abandoned acts of vandalism. SSYS shall report any and all acts of vandalism discovered to have occurred to, at or upon the Park to the Director within twenty-four (24) hours of the discovery of such act or acts. The Director shall take such action as he deems appropriate in such an event.
- (b) Active acts of vandalism. SSYS shall report any and all active acts of vandalism to, at or upon the Park which SSYS or its representatives witness, to the City's Police Department. SSYS shall obtain and provide a copy of the police report to the Department no later than seven (7) days after the occurrence of any such active act of vandalism.

#### 2.5.2 Nuisance

- (a) Park condition constituting a nuisance. SSYS shall report any condition it discovers which constitutes a nuisance or which SSYS considers to have the potential to become a nuisance at the Park to the Director within twenty-four (24) hours of the discovery of the condition. The Director shall take whatever action he deems appropriate in such an event.

- (b) Active situation constituting a nuisance. SSYS shall report any active situation constituting a nuisance at the Park to the City's Police Department. An active situation constituting a nuisance may include, by way of illustration only, an argument among participants or bystanders which has escalated to the point of becoming a nuisance or a dangerous situation. SSYS shall obtain and provide a copy of the police report to the Department no later than seven (7) days after the report of any such active nuisance.

Notwithstanding the above provisions, SSYS shall take any action necessary to prevent or correct any nuisance or other grievance relating to or in connection with the Park during the Term of this Agreement and shall comply with and execute all rules, orders, and regulations of the Southeastern Underwriters Association for the prevention of fires. SSYS shall also notify the City's Police Department immediately in the event of a situation or condition for which the City's Police Department would ordinarily be notified. In such an event, SSYS shall obtain and provide a copy of the police report to the Department no later than seven (7) days after the City's Police Department has been notified.

- 2.5.3 Unsafe Condition. SSYS shall report to the City any unsafe condition or circumstance in, at, or upon the Park as soon as possible, but in any event not later than twenty-four (24) hours after learning of the unsafe condition or circumstance. Until such time as the City is able to respond to such notification, SSYS shall take any and all reasonable action to protect the participants and bystanders from the unsafe condition.

Section 2.6. Maintenance. SSYS shall be responsible for the operational needs of the Park as described in Exhibit A attached hereto and incorporated herein by reference.

Section 2.7. Financial Statements. SSYS shall furnish the Finance Director and the Director, at SSYS' expense, an annual un-audited financial statement prepared by a certified public accountant not later than March 31 of each year during the Term of this Agreement. SSYS shall also furnish the Finance Director monthly financials and participation reports during the Term of this Agreement.

### **ARTICLE 3. CITY'S RESPONSIBILITIES**

Section 3.1. Maintenance. The City shall be responsible for regular maintenance of the Park as described in Exhibit B attached hereto and incorporated herein by reference.

Section 3.2. Utilities. The City shall be responsible for paying all utility expenses related to the Park.

### **ARTICLE 4. OTHER RIGHTS AND RESPONSIBILITIES**

Section 4.1. SSYS.

4.1.1 Administration of Program. SSYS shall administer the Program at the Park in a safe and professional manner to advance the overall goal of helping Park leaders, coaches and parents establish a culture that fosters in young athletes the development of values, habits, and skills they need to become successful as athletes and as citizens.

4.1.2 Overnight stays. SSYS shall not permit any individual, including, without limitation, employees, Subcontractors, agents, and invitees, to sleep overnight, in vehicles or

otherwise, at the Park; provided, however, that overnight stays may be permitted under special circumstances related to a community event with the approval of Council.

- 4.1.3 Satisfactory operation of Program. SSYS shall operate the Program at the Park and furnish the services hereunder required or permitted subject at all times during the Term of this Agreement to the reasonable satisfaction of the City relating to the general quality of such operation or services, and it is understood and agreed that it shall be an event of default hereunder to the extent that SSYS shall fail to commence and diligently pursue remedial action to rectify any deficiency with respect to such operation and services within thirty (30) days following written notice thereof from the Director.
- 4.1.4 Supervision requirements. SSYS shall at all times have a sufficient number of persons present to supervise all activities related to the Program from the time of arrival of the first participant until the departure of the last participant. There shall at no time be less than two (2) adults supervising a particular Program activity. SSYS shall ensure that any person supervising a Program activity is appropriately trained in such activity and has successfully completed and cleared a criminal background check. SSYS shall be responsible for costs incurred in connection with any such training or criminal background check.
- 4.1.5 Activities during school year. SSYS agrees that no practice sessions or games shall begin after 8:30 o'clock p.m. during the school year.
- 4.1.6 Outdoor lighting. SSYS shall designate an Association member to be in charge of operating the outdoor lighting each night, and SSYS shall verify that all outdoor lighting is properly turned off before departing the Park.
- 4.1.7 Managers and coaches. SSYS shall provide to the Director the names, addresses and telephone numbers of all prospective managers, coaches, and assistant coaches who will participate in the Program. SSYS shall also provide the Director with information on the experience and background of each such manager, coach, and assistant coach in coaching a youth sports team and shall include therein proof that each manager, coach, and assistant coach has been certified by the NYSCA or such other sports specific program as may be approved in writing by the Director.
- 4.1.8 Equal employment opportunity. SSYS shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. SSYS shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. SSYS shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the U. S. Secretary of Labor.

#### Section 4.2. City.

- 4.2.1 Inclement weather. The City shall have the right to cancel any scheduled activity on any athletic field at the Park during inclement or threatening weather, or due to drought conditions, or when the City determines that such activity would affect the safety of any participant or bystander or severely damage any portion of the Park.

- 4.2.2 Lightning. Whenever there is the threat of lightning in the area of the Park, and for the safety of all participants and bystanders, all play shall be suspended until any danger has passed. On such occasions when any field is cleared of participants, SSYS shall be responsible for directing all participants and bystanders away from all metal objects, equipment, backstops, fences, and other facilities that have the potential to pose a risk to participants and bystanders.
- 4.2.3 Park damage. The City shall have the right to terminate this Agreement in the event of persistent damage or abuse to the Park, it being the responsibility of SSYS to be in charge of the day to day activities at the Park during the Term of this Agreement. The Director shall provide notice of the intent to terminate this Agreement based on such damage or abuse to SSYS no later than thirty (30) days after the determination is made by representatives of the City that persistent damage or abuse to the Park is occurring. It is understood and agreed by SSYS that it shall be an event of default hereunder if SSYS shall fail to commence and diligently pursue remedial action to rectify any deficiency with respect to such damage or abuse within thirty (30) days following written notice thereof from the Director.

## **ARTICLE 5. INSURANCE**

SSYS shall procure and maintain for the duration of this Agreement, at its sole cost and expense, such insurance as will fully protect it and the City and the City's appointed and elected officials, departments, agencies, boards, commissions, its officers, agents, employees and volunteers from incidents, accidents and claims for personal injury, bodily injury, and property damage.

The following is the minimum insurance coverage and limits that SSYS must maintain. If SSYS maintains broader coverage or higher limits than those shown below, the City requires and shall be entitled to all coverage and for higher limits maintained by SSYS. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

A. Workers' Compensation and Employer's Liability Insurance. Workers' Compensation Insurance in compliance with the applicable Workers' Compensation Act(s) of the state(s) wherein the work is to be performed or where jurisdiction could apply in amounts required by statutes. Employer's Liability Insurance, with limits of liability of not less than \$1,000,000 per accident for bodily injury or disease.

B. Commercial General Liability Insurance. Commercial General Liability Insurance, including contractual liability insurance, products and completed operations, personal injury, bodily injury, property damage and advertising injury, and any other type of liability for which this Contract applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate for personal injury, bodily injury, and property damage. Commercial General Liability Insurance shall be written on an "occurrence" form.

C. Automobile Liability Insurance. Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicle liability.

D. Other Insurance Provisions. The aforementioned insurance policies shall contain or be endorsed to contain, the following:

1. A provision that coverage afforded under such policies shall not expire, be canceled or altered without at least forty-five (45) days' prior written notice to the City.

2. Workers' Compensation and Employer's Liability and Property insurance policies shall contain a waiver of subrogation in favor of the City, its appointed and elected officials, departments, agencies, boards, commissions, its officers, agents, employees and volunteers.

3. Commercial Employer's Liability and General Liability insurance policies shall include an appropriate endorsement making the City, its appointed and elected officials, departments, agencies, boards, commissions, its officers, agents, employees and volunteers Additional Insureds under such policies.

A copy of these endorsements shall be provided to the Finance Director.

E. Certificates of Insurance and Verification of Insurance Coverage. SSYS shall furnish the City with original certificates of insurance, additional insured, waiver of subrogation, and amendatory endorsements. All certificates and endorsements are to be received and approved by the Finance Director prior to commencement of operations and activities at the Park pursuant to this Agreement.

#### **ARTICLE 6. INDEMNIFICATION AND HOLD HARMLESS**

SSYS hereby warrants, represents, covenants, and agrees to release, indemnify, save and hold harmless the City, its Mayor, Council members, officers, employees, Subcontractors, successors, assigns, and agents from and against any and all claims, losses, liabilities, damages, deficiencies, expenses, or costs (including, without limitation, reasonable attorney's fees, investigative and/or legal expenses, and costs of judgment, settlements, and court costs) suffered or incurred by such parties whether arising in tort, contract, strict liability, or otherwise and including, without limitation, personal injury, negligence, wrongful death, or property damage, regardless of the outcome of any such action, proceeding, or investigation caused by, related to, based upon, or arising out of SSYS' operations and activities under this Agreement. The language of this indemnification clause shall survive the termination of this Agreement, even if the City terminates this Agreement for convenience.

#### **ARTICLE 7. TERM OF AGREEMENT**

Subject to any provisions of this Agreement relating to earlier termination, this Agreement shall be effective for an initial term (the initial "Term") commencing at midnight on the 1st day of July, 2019, and terminating at midnight on the thirtieth (30<sup>th</sup>) day of June, 2020, absolutely and without further obligation of any kind on the part of the City. Thereafter, the Agreement will be renewed automatically for four (4) successive Terms of one (1) year each unless: (1) the funds being allocated for this purpose by the City are discontinued; or (2) either party delivers written notice of non-renewal to the other party at least ninety (90) days prior to the expiration of the then existing Term. If the funds are discontinued or written notice of non-renewal is given, this Agreement will terminate upon expiration of the then existing Term.

#### **ARTICLE 8. COMPENSATION**

In consideration of the Services to be performed by SSYS under this Agreement, the City agrees to pay SSYS the amount of One Hundred and Twenty-Seven Thousand Five Hundred Dollars (\$127,500) for each Term (as defined in Article 7), unless otherwise agreed to by the parties in writing, payable in equal monthly installments prior to the tenth (10<sup>th</sup>) day of each month. This amount includes all expenses incurred by SSYS in the performance of its obligations under this Agreement including, but not limited to, any expenses incurred by SSYS to obtain and maintain certifications required by this Agreement and any

expenses incurred by SSYS to meet the operational needs of the Park pursuant to the terms of Section 2.6 of this Agreement.

**ARTICLE 9. DEFAULT**

Any failure or refusal on the part of SSYS to observe, comply with, or otherwise fulfill or satisfy any of its requirements or obligations hereunder within thirty (30) days of a default, following the mailing by the City to SSYS, certified mail, postage prepaid, return receipt requested, of written notice thereof from the Director, shall be deemed an event of default hereunder, whereupon the City may immediately terminate this Agreement upon written notice to SSYS.

**ARTICLE 10. ASSIGNMENT**

This Agreement and any of the rights of SSYS hereunder may not be assigned or transferred in any amount by SSYS, except with the prior written approval of the City.

**ARTICLE 11. SUBCONTRACTS**

Any agreements with any Subcontractors relating to the provision of services or any other activities by SSYS required or permitted hereunder must be evidenced by written instrument, subject to the prior written approval of the Director as to the quality and sufficiency of such services and activities and as to the qualifications and experience of such Subcontractor.

**ARTICLE 12. REVISIONS AND AMENDMENTS**

If for any reason this Agreement shall need to be revised or otherwise amended, then such revision or amendment shall be carried out and agreed to in writing by SSYS and the City, and any such revision or amendment shall become a part of the Agreement. All amendment shall either revise specific provisions of the Agreement or shall provide for new provisions to become a part of the Agreement. All other provisions of the Agreement not otherwise affected shall remain in effect and unchanged.

**ARTICLE 13. GENERAL PROVISIONS**

Section 13.1. Notices. Any notices required to be given hereunder shall be effective if mailed in the United States Mail, certified with return receipt requested, to the following addresses:

To the City: City of Sandy Springs Department of Recreation and Parks  
City Hall  
1 Galambos Way  
Sandy Springs, Georgia 30328  
Attention: City Manager

To SSYS: Sandy Springs Youth Sports Inc.  
Post Office Box 76602  
Atlanta, Georgia 30358  
Attention: President

Section 13.2. Governing Law. This Agreement shall be governed by, interpreted, and construed in accordance with the laws of the State of Georgia, and may not be modified or amended except by written instrument executed by the City and SSYS.

Section 13.3. Entire Agreement. This Agreement represents the entire understanding and agreement of the City and SSYS regarding the Park and completely and fully supersedes any and all other prior understandings and agreements, both oral and written, of the City and SSYS relating to the Park.

Section 13.4. Section Headings. The section headings contained in this Agreement are for reference only and shall in no way define, limit or describe the scope of this Agreement or the intentions of the parties hereto, and shall in no way affect the meaning and interpretation of this Agreement.

Section 13.5. Gender and Number. Words of any gender in this Agreement shall be held to include masculine, feminine, or neuter forms and words in the singular shall be held to include the plural, and vice versa, as the context permits or requires.

Section 13.6. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the maximum extent permitted by law.

Section 13.7. No Waiver. Any delay or omission to exercise any right or power accruing upon default, or any waiver or failure by the City or SSYS to insist upon the strict performance of any of the requirements and obligations hereunder, shall not be deemed to be a waiver of any other requirement or obligation hereunder, or otherwise restrict the right to insist upon strict performance of any such requirement or obligation.

Section 13.8. No Remedy Exclusive. No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and in addition to every other remedy hereunder, now or hereafter existing in law or in equity.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and affixed their seals, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF SANDY SPRINGS, GEORGIA**

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**SANDY SPRINGS YOUTH SPORTS INC.**

\_\_\_\_\_  
President and CEO

Approved as to form:

\_\_\_\_\_  
City Attorney

**EXHIBIT A  
TO  
CITY OF SANDY SPRINGS  
DEPARTMENT OF RECREATION AND PARKS  
FACILITY USE AGREEMENT  
MORGAN FALLS PARK**

Maintenance to be Provided by SSYS Pursuant to Section 2.6

SSYS shall perform the following maintenance services to the Park during Program season:

1. clean the playing fields in the Park and place litter in the proper receptacles around the fields on a daily basis;
2. clean grounds, buildings, and concession areas on a daily basis during Program season, and three (3) days per week during off-season;
3. remove debris from hard surfaces, including dug-outs and stands on a weekly basis during Program season;
4. collect trash from receptacles on a daily basis during Program season and three (3) days per week during off-season;
5. open gates to the playing fields in the Park and remove helmets from storage;
6. drag playing fields before play;
7. rake infield and home plate areas of playing fields;
8. rake and maintain mulch areas around playground areas and on the entrance road to the Park on a regular basis;
9. remove leaves and mulch Park during the Fall season;
10. line playing fields and prepare the playing fields for play;
11. set up pitching machines and tees;
12. maintain football fields;
13. maintain irrigation systems and repairs on a regular basis;
14. prepare football fields for game days;
15. prepare Park fields at the beginning of each Program season;

**EXHIBIT A  
TO  
CITY OF SANDY SPRINGS  
DEPARTMENT OF RECREATION AND PARKS  
FACILITY USE AGREEMENT  
MORGAN FALLS PARK  
(CONTINUED)**

Maintenance to be Provided by SSYS Pursuant to Section 2.6

SSYS shall perform the following maintenance services to the Park during Program season:

16. mow grass and trim weeds from common areas of Park on a weekly basis during Program season;
17. mow grass on fields within fenced areas with appropriate machinery for type of turf on a weekly basis during Program season;
18. provide portable bathrooms during Winter season;
19. maintain locks for Park and provide a set of keys to such locks to the City.
20. inspect Park for vandalism and report any issues discovered to SSYS on a daily basis during Program season;
21. inspect and maintain Park restrooms on a daily basis during Program season, and three (3) days per week during off-season;
22. provide a seven (7) point fertilization and chemical program for all turf areas in the Park;
23. treat all areas of the Park for fire ants two (2) times per year, to include treatment to the football field at the end of the Summer season;
24. repair damage to existing permanent assets at the Park, such as fencing, gates, buildings and other structures; and
25. winterize Park for Winter season;
26. remove and store all football goal posts;
27. install baseball fences on Field #4\*, Field #6\* and Tom Lowe Field\*, to include the green screen and field yardage signs;
28. perform leaf removal, weed eating and weed killer at the base of all fences around fields;
29. apply weed control chemicals to grass areas (first treatment of seven point program);

**EXHIBIT A  
TO  
CITY OF SANDY SPRINGS  
DEPARTMENT OF RECREATION AND PARKS  
FACILITY USE AGREEMENT  
MORGAN FALLS PARK  
(CONTINUED)**

Maintenance to be Provided by SSYS Pursuant to Section 2.6

SSYS shall perform the following maintenance services to the Park during Program season:

30. drag and rake infields and add new infield dirt mix (dirt to be supplied by SSYS;
31. rake batting cages and add granite dust (granite dust to be supplied by SSYS;
32. install new mulch in playground areas;
33. power wash/clean stadium and bleachers located at Field #1\*;
34. remove debris from hard surfaces, including comprehensive cleaning of dug-outs;
35. clean up and prune foliage on embankment along Field #1\* and Field #2\*;
36. inspect and repair drainage/erosion problem areas on or about Field #6\*, field #5\* and Field #1\*;
37. repair, re-align and paint three (3) gates located at the entrances of service roads to the Park;
38. repair and re-stretch fencing along infield lines at Field #5\*, Field #1\*, and Field #2\*; and
39. maintain Park embankments and side of street areas for erosion control on a regular basis.

\*As designated on the map attached to the Agreement as Exhibit C.

**EXHIBIT B  
TO  
CITY OF SANDY SPRINGS  
DEPARTMENT OF RECREATION AND PARKS  
FACILITY USE AGREEMENT  
MORGAN FALLS PARK**

Regular Maintenance to be Provided by the City Pursuant to Section 3.1

The City shall perform the following maintenance services to the Park:

1. inspect Park embankments and side of street areas for erosion control on a regular basis;
2. inspect playground equipment and surfaces for safety related issues on a regular basis;
3. pay utility bills incurred in connection with Park activities; and
4. evaluate overhead Park lighting and replace fading lightbulbs once per year.

**EXHIBIT C  
TO  
CITY OF SANDY SPRINGS  
DEPARTMENT OF RECREATION AND PARKS  
FACILITY USE AGREEMENT  
MORGAN FALLS PARK**

Map of Morgan Falls Ball Fields

(Attached)