



To: John McDonough, City Manager
From: Ronnie Young, Recreation & Parks Director
Date: January 31, 2014, for Submission onto the February, 4, 2014 City Council Meeting
Description: Sandy Springs Youth Sports Association Contract Renewal

CMO (City Manager's Office) Recommendation:

Ronnie Young, Director of Recreation & Parks, will present a Facility Use Agreement renewal extension for the Sandy Springs Youth Sports Association.

Background:

The Morgan Falls Athletic Complex has been under contract by Sandy Springs Youth Sports for the past five years. The City currently pays for electric and water service to the facility. The City last extended the contract for Sandy Springs Youth Sports Association through June 30, 2013.

Discussion:

The contractor is performing in accordance with the stipulations of the contract and has very good participation. The working relationship between the Recreation & Parks Department and the company is excellent.

Financial Impact and Staff Recommendation:

It is staff's recommendation to extend the current contract with Sandy Springs Youth Sports. Sandy Springs Youth Sports should continue to deliver quality service to our citizens at no additional cost to the City. The contract will be renewed for a term of one year and can be renewed automatically for five additional one year terms.

*Recreation
and Parks*

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

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

WITNESSETH:

WHEREAS, the Association 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 (hereinafter referred to as the "Park"). A map of the Park (the "Park Map") is attached hereto as Exhibit C and incorporated herein by reference; and

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

WHEREAS, the Association and the City desire to enter into this Agreement in order to provide for the Association 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:

"Association" shall mean Sandy Springs Youth Sports Inc.

"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.

"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.

"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 the Association, with which the Association shall enter or have entered into a written or other agreement relating to the provision of professional or other services in fulfillment of the Association's 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 January 1, 2014 and terminating at midnight on December 31, 2014, 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, phone, electricity, and natural gas, as may be utilized to operate and support the Park.

ARTICLE 2. ASSOCIATION'S RESPONSIBILITIES

Section 2.1. The Program. The Association 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. The Association 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 The City Recreation & Parks Department shall maintain control of the park when Sandy Springs Youth Association activities are not scheduled, and shall use the park facilities for department sponsored activities.

2.2.4 The Sandy Springs Youth Association shall present a schedule of association activities for the coming year to the City Recreation and Parks Department in December each year.

2.2.5 Public Use. During the term of this agreement third party uses will be scheduled and permitted through the Sandy Springs Recreation & Parks Department. Fees will be applied and retained by the city.

Section 2.3. Compliance. The Association 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 the Association's 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 the Association's Board of Directors and officers must be current residents of the City.

In addition, the Association 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 stands; 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, the Association 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.

The Association 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. The Association 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 the Association as provided in subsection (c) above shall be approved in advance by the Director. Specifically, the Association 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 the Association shall become the property of the City and shall remain a component part of the Park and shall be surrendered by the Association with the Park at the termination of this Agreement or any renewal thereof. Should the Association 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, the Association shall be responsible for maintaining all improvements made to the Park which are for the primary benefit of the Association 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 the Association 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, the Association agrees to take the following actions in that regard:

2.5.1 Vandalism

- (a) Completed or abandoned acts of vandalism. The Association 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. The Association shall report any and all active acts of vandalism to, at or upon the Park which the Association or its representatives witness, to the City's Police Department. The Association 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. The Association shall report any condition it discovers which constitutes a nuisance or which the Association 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. The Association 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. The Association 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, the Association 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. The Association 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, the Association 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.** The Association 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, the Association shall take any and all reasonable action to protect the participants and bystanders from the unsafe condition.

Section 2.6. **Maintenance.** The Association 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.** The Association shall furnish the Finance Director or his designee and the Director, at the Association's 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.

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. **Association.**

4.1.1 **Administration of Program.** The Association 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. The Association 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 the Recreation and Parks Director.
- 4.1.3 Satisfactory operation of Program. The Association 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 the Association 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. The Association 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. The Association shall ensure that all persons volunteering (to coach or supervise) or paid Park workers have successfully completed the City's background check (Southeastern Security Consultants, Inc.) the city SSCI. The Association shall be responsible for costs incurred in connection with any such training and background check.
- 4.1.5 Activities during school year. The Association agrees that no practice sessions or games shall begin after 8:30 o'clock p.m. during the school year.
- 4.1.6 Association Duty to Minimize Utility Fees and Cooperate with City Energy Audit. The Association shall use all reasonable methods possible to minimize the use of utilities in the Park including but not limited to: gas, water, and electricity. The Association shall designate one person as the primary contact with the City regarding utility use. The person designated to serve as the utility coordinator shall meet with the City designee no less than one time per month to evaluate utility usage and to develop a strategy of meeting the goal of minimizing costs to the City which the Association shall implement.
- 4.1.7 Managers and coaches. The Association 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. The Association 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 (National Youth Sports Coaches Association) or such other sports specific program as may be approved in writing by the Director.

4.1.8 Equal employment opportunity. The Association shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Association 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. The Association 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, the Association 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 the Association 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 the Association 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 the Association that it shall be an event of default hereunder if the Association 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

The Association shall procure at its own expense and shall maintain for the Term of this Agreement the following insurance (with limits as shown herein) and shall protect the Association and the City from any claims for property damage or personal injury, including death, which may arise out of operations under this Agreement, and the Association shall furnish the Finance Director certificates of such insurance (as shown below) with the City as an additional named insured:

A. Comprehensive General Liability Insurance. The Association shall provide, maintain, and pay for comprehensive general liability insurance providing coverage with one million dollars (\$1,000,000.00) single limit for bodily injury and property damage for each occurrence, including contractor's liability insurance covering any indemnification or hold harmless provision of this Agreement, with the certificate evidencing such insurance and acceptable to the Finance Director, to be sent to the Finance Director prior to commencement of the Association's operations and activities at the Park pursuant to this Agreement.

B. Automobile Liability Insurance. The Association shall obtain, maintain, and pay for automobile liability insurance providing the following coverage: personal injury, including death limits of \$200,000.00 for each person and \$500,000.00 for each accident; property damage limits of \$100,000.00 for each accident and \$200,000.00 for the aggregate of operations; vehicular liability limits of \$100,000.00 for any person or \$200,000.00 for each occurrence, with a certificate evidencing such insurance and acceptable to the Finance Director, to be sent to the Finance Director prior to commencement of operations and activities at the Park pursuant to this Agreement.

C. Worker's Compensation-Statutory and Employer's Liability. The Association shall obtain, maintain and pay for workers compensation insurance in the amount of \$500,000.00 each occurrence and \$1,000,000.00 for aggregate of operations, with a certificate evidencing such insurance and acceptable to the Finance Director to be sent to the Finance Director prior to commencement of operations and activities at the Park pursuant to this Agreement.

The insurance coverage evidenced by all of the above-described certificates shall not be cancelled or materially altered, or allowed to lapse except after ten (10) days' written notice has been received by the Finance Director, and it shall be the Association's responsibility to see that each company providing this coverage understands and complies with this required notice.

The Association shall further either (a) require each of its Subcontractors to procure and to maintain during the term of his subcontract Subcontractor's public liability and property damage and vehicle liability insurance of the type and in the same amounts as specified in the preceding paragraphs, or (b) insure the activities of the Association's Subcontractors in the Association's own insurance policy.

ARTICLE 6. INDEMNIFICATION AND HOLD HARMLESS

The Association 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 the Association's 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, commencing at on the first (1st) day of January 1, 2014, and terminating at midnight on the thirtieth (31st) day of December 31, 2014, absolutely and without further obligation of any kind on the part of the City. Thereafter, the Agreement will be renewed automatically for five (5) 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 the Association under this Agreement, the City agrees to pay the Association the amount of One Hundred and Twenty-Seven Thousand, Five Hundred Dollars (\$127,500) for the Term of this contract (as defined in Article 7), unless otherwise agreed to by the parties in writing, payable in equal monthly installments prior to the tenth (10th) day of each month. This amount includes all expenses incurred by the Association in the performance of its obligations under this Agreement including, but not limited to, any expenses incurred by the Association to obtain and maintain certifications required by this Agreement and any expenses incurred by the Association 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 the Association 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 the Association, 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 the Association.

ARTICLE 10. ASSIGNMENT

This Agreement and any of the rights of the Association hereunder may not be assigned or transferred in any amount by the Association, 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 the Association 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 the Association 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
7840 Roswell Road, Building 500
Sandy Springs, Georgia 30350
Attention: John McDonough, City Manager

To the Association: 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 the Association.

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

Section 13.9. Counterparts. This Agreement may be executed in one or more counterparts, all of which together shall be deemed to constitute one and the same instrument.

Section 13.10. Duplicate Originals. Four (4) identical copies of this Agreement shall be executed by each of the parties hereto, and each such executed copy shall be deemed to constitute an original instrument. One (1) such original Agreement shall be retained by each of the parties to this Agreement, and the Finance Director and the City Clerk shall each receive an original Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals, this _____ day of _____, 2014.

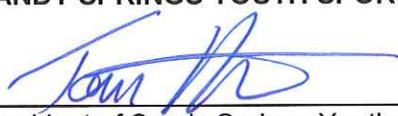
CITY OF SANDY SPRINGS, GEORGIA

Attest:

Michael Casey, City Clerk

John McDonough, City Manager

SANDY SPRINGS YOUTH SPORTS INC.



President of Sandy Springs Youth Sports *fy*

Approved as to form:

Wendell K. Willard, 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 the Association Pursuant to Section 2.6

The Association 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. remove leaves and mulch Park during the Fall season;
9. line playing fields and prepare the playing fields for play;
10. set up pitching machines and tees;
11. maintain football fields;
12. maintain irrigation systems and repairs on a regular basis;
13. prepare football fields for game days;
14. 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 the Association Pursuant to Section 2.6

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

15. mow grass and trim weeds from common areas of Park on a weekly basis during Program season;
16. mow grass on fields within fenced areas with appropriate machinery for type of turf on a weekly basis during Program season;
17. provide portable bathrooms during Winter season;
18. maintain locks for Park and provide a set of keys to such locks to the City.
19. inspect Park for vandalism and report any issues discovered to the Association on a daily basis during Program season;
20. 21. inspect and maintain Park restrooms on a daily basis during Program season, and three (3) days per week during off-season;
21. provide a seven (7) point fertilization and chemical program for all turf areas in the Park;
22. 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;
23. repair damage to existing permanent assets at the Park, such as fencing, gates, buildings and other structures; and
24. winterize Park for Winter season;
25. remove and store all football goal posts;
26. install temporary fences on dual use fields; to include the green screen and field yardage signs for each season;
27. perform leaf removal, weed eating and weed killer at the base of all fences around fields;
28. 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 the Association Pursuant to Section 2.6

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

29. drag and rake infields and add new infield dirt mix (dirt to be supplied by the Association);
30. rake batting cages and add granite dust (granite dust to be supplied by the Association);
31. power wash/clean stadium and bleachers located at Field #1*;
32. remove debris from hard surfaces, including comprehensive cleaning of dug-outs;
33. clean up and prune foliage on embankment along Field #1 and Field #2*;
34. inspect and repair drainage/erosion problem areas;
35. 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 light bulbs as necessary.
5. Repair major damage to existing permanent assets at the Park, such as fencing, gates, buildings and other structures; and
6. Repair and maintenance of park infrastructure, i.e. water fountains
7. Provide access to dumpster on-site at Morgan Falls Park for disposal of limbs and other trash and debris. The cost of the dumpster fees will be the responsibility of the city.

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)



CONTRACT AMENDMENT

AGREEMENT NUMBER AND TITLE: FACILITY USE AGREEMENT

AMENDMENT NUMBER ONE

THIS AMENDMENT to the Agreement is made and entered into as of 1st of January, 2014 by and between the CITY OF SANDY SPRINGS, (hereinafter referred to as "Sandy Springs"), and Sandy Springs Youth Sports Inc., (hereinafter referred to as the "Association"), a non-profit corporation created and existing pursuant to the laws of the State of Georgia.

RECITALS

WHEREAS, the City of Sandy Springs and the Association entered into that certain agreement dated January 18, 2011, entitled Facility Use Agreement, (the "Agreement");

WHEREAS, said Facility Use Agreement provided for the Association to implement and conduct a youth athletic program, including, but not limited to, baseball, softball, football, and cheerleading at the Park; and

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

I. Article 4.1.6 Association Duty to Minimize Utility Fees and Cooperate with City Energy Audit

The Parties mutually agree that during the March 1, through July 1, period of each contract year the City shall reduce payments by \$720 per month to offset utility costs. In consideration of the payment reduction, the Association shall be authorized to turn lights on thirty (30) minutes before dark.

II. Governing Law

This First Amendment shall be governed in all respects by the laws of the State of Georgia.

III. Entire Agreement

The Agreement, as amended by this Amendment, constitutes the entire agreement between the parties with respect to the subject matter contained herein. Except for the terms and conditions of the Agreement as set forth above, all prior agreements, representations, statements, negotiations, and undertakings are hereby superseded. Neither party has relied on any representation, promise, nor inducement not contained herein. All other terms, provisions, and requirements in, as set forth in the Agreement shall continue in full force and effect. The execution of this Amendment does not in any manner waive, settle, or modify any of the obligations of the Association for the work completed under the Agreement. Further, the terms, provisions, and requirements of the Agreement shall apply

to all as set forth in this Amendment. The Association expressly reaffirms that all warranties and representations of the Agreement continue to be true and correct.

IV. Notices

All notices or other communications required or permitted to be given under this First Amendment shall be in writing and shall be deemed to have been duly given when delivered personally in hand, or when mailed by certified or registered mail, return receipt requested with proper postage prepaid, addressed to the appropriate party at the following address or such other address as may be given in writing to the parties:

If to the City:

John McDonough, City Manager
7840 Roswell Rd Bldg. 500
Sandy Springs, GA 30350

With copies to:

Wendell Willard, City Attorney
Two Ravinia Drive, Suite 1630
Atlanta, Georgia 30346

If to the Association:

With copies to:

All other terms and conditions of original agreement not inconsistent with this amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF SANDY SPRINGS, GEORGIA

By: _____
John McDonough, City Manager

Date of Execution

ATTEST:

Approved as to form:

By: _____
City Clerk

Assistant City Attorney

(SEAL)

ASSOCIATION

By: 
Name (signature)

12/12/13
Date of Execution

Tom Hutchens
(typed or printed name)

by

President
Title

Executed in quadruplicate originals of four (4).

APPENDICES

APPENDICES

1. AFFIDAVITS

- Affidavit Verifying Status for City Public Benefit Application
- Contractor Affidavit Under O.C.G.A. §13-10-91(b(1))

Affidavit Verifying Status
for City Public Benefit Application

By executing this affidavit under oath, as an applicant for a City of Sandy Springs, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit, execution of contract or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for a City of Sandy Springs license/permit and/or contract for

[Name of natural person applying on behalf of individual, business, corporation, partnership, or other private entity]

1) I am a United States citizen

OR

2) I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.*

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant: Tom H Date: 12/24/13

Printed Name: Tom Hutchens

*Alien Registration number for non-citizens

****PLEASE INCLUDE A COPY OF YOUR PERMANENT RESIDENT CARD, EMPLOYMENT AUTHORIZATION, GREEN CARD, OR PASSPORT WITH A COPY OF YOUR DRIVER'S LICENSE IF YOU ARE A LEGAL PERMANENT RESIDENT (#2).**

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____.

Notary Public: _____

My Commission Expires: December 17, 2014

*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

CERTIFICATION OF SPONSOR DRUG-FREE

WORKPLACE

I hereby certify that I am a principle and duly authorized representative of

_____, ("Contractor"), whose address is _____,

_____, _____, and I further certify that:

(1) The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia

Annotated, relating to the "Drug-Free Workplace Act" have been complied with in full; and

(2) A drug-free workplace will be provided for Contractor's employees during the performance of the Agreement; and

(3) Each Subcontractor hired by Contractor shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. Contractor shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with Contractor, certifies to Contractor that a drug-free workplace will be provided for the Subcontractor's employees during the performance of this Agreement pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated, Section 50-24-3"; and

(4) The undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.

CONTRACTOR

Date: 12/24/13 Signature: Tom [Signature]

Title: President

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of (name of public employer) has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Name of Project

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on 12/24/13 in Sandy Springs (city), GA (state).


Signature of Authorized Officer or Agent

Tom Hutchens, President
Printed Name and Title of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME

ON THIS THE _____ DAY OF _____

NOTARY PUBLIC

My Commission Expires:
