



CONTRACT # 070534

**USE AGREEMENT
FOR Baseball/Softball FIELDS**

THIS USE AGREEMENT ("Agreement"), made and entered into as of the 11th day of May, 2007 by and between

MECKLENBURG COUNTY
referred to herein as the
"COUNTY"

AND

Myers Park Trinity Little League, Incorporated
referred to herein as
the **ORGANIZATION**

WITNESSETH:

WHEREAS, the COUNTY owns property at Randolph, Grier Heights, Independence, and Pearl Street Parks herein the PROPERTIES, which are suitable and appropriate for use as the location for baseball, softball and T-ball related athletic events; and

WHEREAS, the Board of County Commissioners is authorized to enter into use agreements for the operation of COUNTY property for recreation and leisure pursuits, provided that the COUNTY reserves appropriate controls to assure public use of such Park and Recreation property; and

WHEREAS, a use agreement for the PROPERTIES providing for youth practice, games and tournaments in return for maintenance and/or other services at the PROPERTIES by the ORGANIZATION is consistent with said purposes; and

WHEREAS, the Board of County Commissioners for the COUNTY has authorized agreements with independent associations for the first right of reservation of park facilities under certain conditions consistent with Exhibit A attached hereto and incorporated herein by reference;

WHEREAS, the ORGANIZATION has operated under a priority use agreement approved by the COUNTY for the preceding ten years and has maintained the athletic facilities and constructed improvements for each of the PROPERTIES during such period;

WHEREAS, the ORGANIZATION has plans for additional improvements to the Properties in cooperation with the County;

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

PREMISES

- 1.01** Premises. The COUNTY hereby enters into this agreement with the ORGANIZATION for the PROPERTIES (also described as “the Premises”).
- 1.02** Use. The Premises shall be used only and exclusively for baseball/softball practice, league games, tournaments, and such other purposes as are related, and for no other purposes whatsoever, unless prior written approval is granted by the COUNTY.
- 1.03** Condition of Premises. ORGANIZATION acknowledges personal inspection of the Premises and the surrounding area and evaluation of the extent to which the physical condition will affect the use and operation of athletic facilities. ORGANIZATION acknowledges the possible existence of easements for roadway, sewer and water lines on the Premises. ORGANIZATION accepts the Premises in its present condition and acknowledges that COUNTY has made no representations or warranties as to the condition of the Premises or its fitness for the use intended hereunder. ORGANIZATION agrees that it will make no demands upon the COUNTY for any improvements or alterations thereof, except for those denoted in Section 6. Notwithstanding anything to the contrary herein, should a pre-existing defect be discovered after execution of this Agreement which cannot be corrected, contained, repaired, eliminated, or otherwise made safe for public recreation uses within a reasonable cost to the COUNTY, using funds available for that purpose at that time by the COUNTY, this Agreement may be terminated by ORGANIZATION. Under no circumstances shall ORGANIZATION be liable for any pre-existing conditions, and COUNTY agrees to indemnify, defend and save harmless ORGANIZATION from and against any and all liability arising from such pre-existing conditions.
- 1.04** Warranty of Title. COUNTY warrants that it holds fee simple title to the Premises. ORGANIZATION acknowledges the title to the Premises held by the COUNTY and covenants and agrees never to assail, contest or resist said title. COUNTY further warrants that the execution, delivery and performance of this Agreement will not conflict with or violate any other agreement, by which the COUNTY is bound, or any law, rule, regulation or ordinance by which the COUNTY is bound.
- 1.05** Quiet Enjoyment. Subject only to the terms of this Agreement, so long as ORGANIZATION complies with its obligations, the COUNTY shall secure to ORGANIZATION the quiet and peaceful enjoyment of the Premises as provided herein without objection or interference from the COUNTY or any party claiming under the COUNTY.

1.06 Inspection by COUNTY. ORGANIZATION agrees that it will at all times permit the COUNTY access to the Premises when necessary for inspection and compliance. ORGANIZATION agrees that the COUNTY reserves the right to install, rearrange, and/or maintain facilities at the Premises as necessary to ensure the safety of park patrons.

2. TERM

2.01 Term. The term of the Agreement shall be for a period, commencing on January 1, 2007 and expiring December 31, 2016. After expiration of the initial term and pending the COUNTY'S determination that all conditions and terms of this Agreement have been successfully and satisfactorily performed and ORGANIZATION'S use of the Premises is consistent with the public's need for use of the Premises, the COUNTY and ORGANIZATION hereby agree to renew this agreement annually for twelve month periods, provided that the ORGANIZATION submits a written request to renew to COUNTY along with an acceptable certificate of insurance per Section 9.01.

3. ORGANIZATION and COUNTY'S BASIC SERVICE OBLIGATIONS

3.01 Duties of ORGANIZATION

- A. ORGANIZATION will be authorized to provide full organization, administration, and supervision of athletic competition, including organization of leagues, scheduling of games/practices, facilitation and/or organization of tournament play, and instructional programs and clinics as provided herein;
- B. ORGANIZATION will request to reserve fields on a "first right of refusal" basis for actual practice, game, and tournament dates and times for PROPERTIES. For scheduling purposes, ORGANIZATION will submit a written request schedule no later than November 1st of each year, prior to the calendar year in question. The COUNTY will respond to ORGANIZATION in writing by January 15th of each year with confirmation of dates and times as requested and approved. No requests from third parties will be entertained until after ORGANIZATION and COUNTY activities have been scheduled. Remaining blocks of time will be open to general public reservations as deemed appropriate by the COUNTY;

The order of priority is:

- 1. ORGANIZATION games, practices, clinics, and programs;
- 2. COUNTY games, practices, clinics, and programs;
- 3. General Public use;

Note: Mecklenburg County reserves the right to block out periods of times for the purpose of hosting regional or national level tournaments and to host traditional park events in Freedom Park. COUNTY will endeavor to give ORGANIZATION

180 days notice of such events and will not schedule tournaments during the ORGANIZATION's regular spring Little League season.

Additionally, ORGANIZATION shall not sub-lease or re-book any reservations to any other group or entity without written approval by the COUNTY.

- C. ORGANIZATION agrees to provide all necessary athletic equipment to the County as well as provide all labor, and materials necessary to adequately meet minimum service requirements. This inventory shall include, but is not limited to athletic equipment, bases, home plates, pitching rubbers, and athletic field marking supplies/materials/equipment and any and all necessary training equipment.
- D. ORGANIZATION agrees to keep and maintain all fenced baseball/softball fields, structures, and utility systems in good, safe, and first class working condition through the terms of the Agreement, providing for such repairs, general maintenance, and modifications or additions that may be needed. All such repairs, maintenance, and modifications or additions to the facility requiring expenditures over \$5,000 shall be in accordance with the facility master plan and also have written approval by the Director of Park and Recreation prior to implementation.
- E. ORGANIZATION agrees to correct, in a timely manner, deficiencies in the ORGANIZATION'S performance noted in the monthly maintenance inspections performed by the COUNTY.
- F. ORGANIZATION agrees to provide grounds maintenance services of the fenced, baseball/softball fields at Randolph and Grier Heights Parks, including, but not limited to reel mow, edge, trim, overseed, fertilize, aerate, irrigate, and renovate turf areas as well as to provide weed, disease and pest control maintenance as denoted in Exhibit B of this Agreement. ORGANIZATION shall comply with all applicable state, federal, or local laws, ordinances, codes, rules or OSHA regulations, minimum wage and hour regulations as set forth in the Fair Labor Standards Act, and National Fire Protection Association regulations. ORGANIZATION shall provide the COUNTY with a certificate of Insurance from any contracted service provider listing Mecklenburg County as an additional insured as provided in Section 9.01.
- G. ORGANIZATION shall work cooperatively with the COUNTY to plan and coordinate monthly, semi-annual, and annual maintenance such as fertilization, aeration, and turf renovation.
- H. ORGANIZATION shall identify one (1) person as the official point of contact for this Agreement;
- I. ORGANIZATION shall agree to meet quarterly with a representative of the COUNTY to inspect the Premises, and discuss issues and resolutions. ORGANIZATION will provide documentation (receipts for expenditures) of all costs associated with construction, upkeep and maintenance of the fields that will be credited toward field use fees. ORGANIZATION will submit documentation of actual field usage by field, date and time, per Exhibit C.
- J. ORGANIZATION agrees to properly dispose of all refuse in containers provided by the COUNTY. In addition, ORGANIZATION agrees to provide a dumpster, at

its expense, at those Premises where concessions are operated by the ORGANIZATION if concessions are ever operated by the ORGANIZATION.

3.02 DUTIES OF THE COUNTY

- A. COUNTY shall reserve the athletic fields upon receipt of written request from ORGANIZATION, on a priority use basis for practices, games and tournaments at the Premises per section 3.01.B.
- B. COUNTY shall agree to keep and maintain all common areas, structures and utility systems in good, safe, and working condition through the term of the Agreement, providing for such repairs, general maintenance, and modifications or additions that may be mutually agreed upon and provide grounds maintenance services. COUNTY will continue to maintain all of Pearl Street and Independence Parks.
- C. COUNTY shall agree to meet quarterly with a representative of ORGANIZATION to inspect the Premises, and discuss issues and resolutions as provided in 3.01.I. A written report of such inspections shall be recorded, ranked, and retained for reference by both parties. The inspections will be established and agreed upon jointly by both parties.
- D. COUNTY shall dispose of all refuse deposited in all COUNTY provided containers at the baseball/ softball fields, concession stands, picnic areas and restrooms.
- E. COUNTY reserves the right to open and close fields as it deems necessary due to weather or construction related field conditions. COUNTY will provide advance notice of construction related closure and will attempt to avoid closure during ORGANIZATION'S spring, fall and tournament seasons.

4. PAYMENT

- 4.01** In lieu of direct payment for services, this Agreement creates an exchange of the identified services performed by ORGANIZATION for the designated facilities and fields unless otherwise noted in this Agreement;
- 4.02.** ORGANIZATION shall have the option of operating any/all concessions within the Premises as defined and shall keep all revenues as generated;
- 4.03.** ORGANIZATION shall have the option of seeking and securing private sponsorship, donations, and other cash or service contributions to meet the obligations of this Agreement providing that any signage denoting such contribution shall be approved by the COUNTY.
- 4.04.** For accounting purposes, in December of each year ORGANIZATION agrees that the value of their maintenance services (mowing costs, turf improvements, athletic equipment contributions and related items) and any approved capital

improvements will be compared with the cost of scheduled field reservations. In the event that maintenance services and approved capital improvements are less than field reservations, ORGANIZATION agrees to submit payment to the COUNTY by December 31 of each year. Reservation fees are calculated per the most current Fees and Charges Policy established by the Mecklenburg County Board of Commissioners. All documents, books and accounting records for the Premises shall be maintained and open for inspection at any reasonable time during the term of this Agreement and for three (3) years thereafter. In addition, the COUNTY may from time to time conduct an audit of the books and operations conducted at the Premises by ORGANIZATION and observe the operation of the activities and recordkeeping so that accuracy of the above records can be confirmed. All information obtained in connection with the COUNTY's inspection of records or audit shall be treated as public information pursuant to the General Statutes of North Carolina.

4.05. In the event that the value of ORGANIZATION maintenance services exceeds the value of field reservations, ORGANIZATION agrees the COUNTY will NOT reimburse monies or offer credits to ORGANIZATION for maintenance services. However, if the annual value of capital improvements exceeds the annual cost of scheduled field reservations (after maintenance services has been deducted) the ORGANIZATION will receive a credit to carry forward for succeeding years until the credit is exhausted.

5. OPERATING RESPONSIBILITIES

5.01 Compliance with Laws. ORGANIZATION shall conform to and abide by all Municipal and COUNTY ordinances, and all State and federal laws and regulations, insofar as the same or any of them are applicable, including any COUNTY Park Ordinances; and where permits and/or licenses are required for operations and/or any construction required or authorized, the same must be first obtained from the regulatory agency having jurisdiction.

5.02 Disorderly Persons. ORGANIZATION agrees not to allow any loud, boisterous or disorderly persons to remain about the Premises during any ORGANIZATION activity.

5.03 Illegal Activities. ORGANIZATION shall not knowingly permit any illegal activities or violation of any COUNTY park ordinances to be conducted upon the Premises during an ORGANIZATION activity.

5.04 Signs. ORGANIZATION shall not post additional signs upon the Premises or improvements thereon, unless prior approval is obtained from the COUNTY. Approval shall be deemed given unless refused in writing within thirty (30) days after written request is provided to COUNTY.

- 5.05** Public Use. By working jointly, ORGANIZATION and the COUNTY shall each use its best efforts to maximize the public use of the Premises and the facilities thereon.
- 5.06** ORGANIZATION Volunteers ORGANIZATION shall maintain an adequate and proper number of volunteers and/or contracted labor to provide the services required within this Agreement. The COUNTY may at any time give ORGANIZATION written notice to the effect that the conduct or action of a designated volunteer or employee of ORGANIZATION is, in the reasonable belief of the COUNTY, detrimental to the interest of the public patronizing the Premises. Following the COUNTY's written notice, ORGANIZATION shall: (1) terminate such volunteer or employee's work assignment at the Premises; or (2) ORGANIZATION shall meet with representatives of the COUNTY to consider the appropriate action with respect to such a matter and ORGANIZATION shall take reasonable measures under the circumstances to assure the COUNTY that the conduct and activities of ORGANIZATION volunteers or employees will not be detrimental to the interest of the public patronizing the Premises.
- 5.07** Emergency Services. ORGANIZATION will at the execution of this Agreement provide the COUNTY with the names and telephone numbers of at least two (2) Members of the Board of Directors who can be called by COUNTY representatives when emergency conditions occur during hours when ORGANIZATION normal volunteer or employed work force is not present. The COUNTY shall call for such assistance only in the event of a genuine and substantial emergency.
- 5.08** Utilities. COUNTY shall pay for any necessary utilities used on the Premises unless payment is otherwise documented in this Agreement.
- 5.09** Safety. ORGANIZATION shall immediately correct any unsafe practices by its volunteers, employees, or patrons. ORGANIZATION shall contact emergency medical care providers by calling 911 for any member of the public who is in need of emergency medical care because of illness or injury occurring on the Premises during any times that ORGANIZATION is using the Premises. ORGANIZATION shall cooperate fully with the COUNTY in the investigation of any injury or death occurring on the Premises during such use, including making a prompt report to the COUNTY.
- 5.10** Use of Facilities: Restrictions. ORGANIZATION shall obtain the COUNTY's prior written approval of any events or activities not otherwise specifically provided for and authorized herein.
- 5.11** Reporting. ORGANIZATION or its representative shall meet with a COUNTY Representative at such time(s) as may be required by the COUNTY to review ORGANIZATION'S performance under this Agreement and to conduct a site inspection to review and discuss any problems or matters as determined by the COUNTY or ORGANIZATION.

- 5.12** Equipment and Trade Fixtures. ORGANIZATION, at its own expense, shall provide and install any additional fixtures, equipment, etc. that are required for operation of the Premises as baseball/ softball fields and such items will immediately become the property of the COUNTY.
- 5.13** Habitation. The Premises shall not be used for human habitation.
- 5.14** Advertising and Promotional Materials. ORGANIZATION shall not distribute any advertising or promotional materials regarding the Premises unless prior approval is obtained from COUNTY. This approval shall not be unreasonably withheld or delayed and shall be deemed to be given if no objection is made within five (5) working days following the request for approval. Such materials include, but are not limited to advertising in newspapers, magazines and trade journals, and radio and/or television commercials, and signage. This does not include ORGANIZATION program promotion such as league sign-ups or sponsorship solicitation.
- 5.15** Credit in Promotional Materials. ORGANIZATION agrees that any advertising or promotional materials for the Premises will recognize Mecklenburg County Park and Recreation via placement of logo or other method approved by the COUNTY.
- 5.16** Non-ORGANIZATION Activities. Notwithstanding anything to the contrary herein, during all times in which the Premises are being used for other than ORGANIZATION activities, programs and other ORGANIZATION-related activities, ORGANIZATION shall have no responsibility to monitor or supervise such uses or to provide volunteers or staff in any capacity with respect to such uses. If the COUNTY deems such services and personnel as necessary for such uses, the COUNTY shall provide such services and personnel at its expense.

6. CONSTRUCTION BY THE COUNTY AFFECTING PREMISES

- 6.01** Future COUNTY Construction. In the event the COUNTY shall construct or cause to be constructed new facilities on the Premises, ORGANIZATION agrees to cooperate with the COUNTY by vacating and removing items of inventory, trade fixtures, equipment and furnishings for such periods as are reasonably required for the construction of such new facilities.
- 6.02** Resumption of Operations. Following completion of any new facility constructed pursuant to Section 6.01, ORGANIZATION shall resume operations within thirty (30) days of written notice from the COUNTY that the Premises are tenantable or when its next playing season begins. COUNTY agrees to negotiate in good faith an alternate location if construction of a new facility results in the Premises becoming unsafe or unusable during a playing season.
- 6.03** Partial or Total Closure. The provisions of Sections 6.01 and 6.02 shall also be

applicable in the event of performance of work on the Premises that requires a partial or total closure.

7. LICENSEE

7.01 Licensee. This Agreement is by and between the COUNTY and ORGANIZATION as its licensee, and is not intended, and shall not be construed, to create the relationship of agent, tenant, servant, employee, partnership, joint venture or association.

7.02 Workers Compensation. ORGANIZATION agrees to meet any applicable N.C. General Statute requirements.

8. HOLD HARMLESS AND INDEMNIFICATION

8.01 ORGANIZATION Indemnification. ORGANIZATION agrees to indemnify, defend and save harmless the COUNTY, its agents, officers and employees from and against any and all liability, expense (including defense costs and legal fees) and claims for damages including, but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with ORGANIZATION'S operations or its services hereunder, including any Worker's Compensation suits, liability or expense, arising from or connected with services performed on behalf of ORGANIZATION by any person pursuant to this Agreement. ORGANIZATION'S duty to indemnify the COUNTY shall survive the expiration or other termination of this Agreement.

9. INSURANCE

9.01 Insurance. ORGANIZATION shall provide and maintain at its own expense during the term of this Agreement the following program(s) of insurance covering its operations. Such insurance shall be provided by insurer(s) satisfactory to the COUNTY as approved by the COUNTY'S Risk Management Division and evidence of such programs satisfactory to the COUNTY shall be delivered to the COUNTY on or before the effective date of this Agreement. Such evidence shall specifically identify this Agreement and shall contain express condition that the COUNTY is to be given written notice of at least thirty (30) days in advance of any modification or termination of any program of insurance. Such insurance, with the exception of Workers' Compensation insurance, shall be primary to, and not contributing with any other insurance maintained by COUNTY, and shall name MECKLENBURG COUNTY as an additional insured:

Commercial General Liability: Insurance endorsed for Independent Contractor, Professional Liability, Premises-Operations, Products/Completed Operations, Contractual, bodily injury and property damage with a combined single limit of not less than **ONE MILLION DOLLARS (\$1,000,000) per occurrence**.

Comprehensive Auto Liability: Endorsed for all owned and non-owned vehicles with a combined single limit of at least ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury and property damage. If ORGANIZATION owns no vehicles to be used during the term of this contract hired and non-owned auto liability coverage will be provided and will comply with this requirement.

Worker's Compensation: A program of Workers' Compensation insurance in an amount and form to meet all applicable requirements of the State of North Carolina (if applicable).

- 9.02** Breach of Contract. Failure on the part of ORGANIZATION to procure or maintain required insurance shall constitute a breach of contract upon which the COUNTY may immediately terminate this Agreement.
- 9.03** Commencement of Operations. Conduct of operations shall not commence until ORGANIZATION has complied with the aforementioned insurance requirements. Further, said operations, in whole or in part, shall be subject to suspension by the COUNTY during any period that ORGANIZATION fails to maintain said policies in full force and effect.
- 9.04** No Cancellation. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of ORGANIZATION to furnish insurance during the term of this Agreement. No less than thirty (30) days prior to the expiration of any such policy, a signed and complete certificate of insurance verifying that coverage has been renewed or extended shall be filed with the COUNTY.
- 9.05** Waiver of Subrogation. The COUNTY and ORGANIZATION agree that in the event any part or parts of the Premises or property upon, in, or about the Premises are damaged or destroyed by fire or other casualty, or in the event of any damage or injury to persons or other property interests, the rights or claims of either party, its agents, successors or assigns against the other with respect to such liability for any loss, destruction, damage or injury resulting therefrom, including loss or injury suffered as a result of the negligence of either party or its agents, are hereby released and discharged to the extent such loss, destruction, damage or injury is covered by insurance, and any and all subrogation rights or claims under any insurance coverage's insuring the Premises and any property upon, in or about the Premises, and/or the parties hereto are hereby waived to the extent such loss, destruction, damage or injury is covered by insurance. All policies of fire, liability and/or other insurance covering the Premises, property upon, in, or about the Premises, and/or the parties hereto shall contain a clause or endorsement providing, in substance, that the insurance shall not be prejudiced if the insured have waived any rights of recovery or subrogation against any person or persons prior to the date of such loss, destruction, damage or injury.

10. [RESERVED]

11. TRANSFERS

11.01 No Assignment. ORGANIZATION shall not assign, hypothecate, or mortgage this Agreement or lease or license any portion of the Premises. Any attempted assignment, hypothecation, mortgage, lease or license without the express written consent of the Board of County Commissioners shall render this Agreement null and void.

12. NON-DISCRIMINATION AND CIVIL RIGHTS COMPLIANCE

12.01 Use. ORGANIZATION hereby certifies and agrees that it will comply with any applicable provision of the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, where applicable, Title 43, part 17 of the Code of Federal Regulations Subparts A and B, and laws of the State of North Carolina, ORGANIZATION agrees that it will not discriminate against any person, on the grounds of race, creed, national origin, political affiliation, marital status, sex, age or handicap, under the privileges and use granted by this Agreement or under any project, program or activity supported by this Agreement.

12.02 Employees. ORGANIZATION certifies and agrees that all persons used with respect to the Premises are and shall be treated equally without regard to or because of race, religion, color, national origin, political affiliation, marital status, sex, age or handicap and in compliance with all federal and State laws and regulations prohibiting discrimination in employment.

12.03 Contractors. ORGANIZATION certifies and agrees that with respect to the Premises, any subcontractors, bidders and vendors are and shall be selected without regard to or because of race, religion, color, national origin, political affiliation, marital status, sex, age or handicap.

12.04 Records. All records of ORGANIZATION with respect to the Premises shall be open for inspection at any reasonable time during the term of this Agreement for the purpose of verifying the practice of non-discrimination by ORGANIZATION in the areas described.

12.05 Violations. If the COUNTY finds that any of the above provisions of this Section 12 have been violated by ORGANIZATION with respect to the Premises, such violations shall constitute a breach of contract upon which the COUNTY may determine to cancel, terminate, or suspend this Agreement. While COUNTY reserves the right to determine independently that the nondiscrimination provisions of

this Agreement have been violated, in addition, a determination by the Equal Employment Opportunity Commission that ORGANIZATION has violated State or federal non-discrimination laws or regulations shall constitute a finding by the COUNTY that ORGANIZATION has violated the non-discrimination provisions of this Agreement.

13. EASEMENTS

13.01 Reservation of Right to Grant Easement. The COUNTY reserves the right to establish, grant or utilize easements or rights-of-way over, under, along and across the Premises for utilities and/or public access to the Premises provided COUNTY shall endeavor to exercise such rights in a manner as will avoid any substantial interference with the operations to be conducted.

14. CANCELLATION OF AGREEMENT

14.01 Default. Upon the occurrence of any one or more of the events of default hereinafter described, this Agreement shall be subject to cancellation. As a condition precedent, unless otherwise noted as grounds for immediate termination of this Agreement, the COUNTY shall give ORGANIZATION thirty (30) days notice by registered or certified mail of the date set for cancellation, the grounds, and that an opportunity to be heard by the County Manager will be afforded ORGANIZATION on or before said date, if request is made.

14.02 Possession. Upon cancellation after any default of as provided herein, the COUNTY shall have the right to take possession of the Premises, including all improvements, equipment, and inventory located thereon, and use same for the purpose of satisfying and/or mitigating all damage arising from a breach of this Agreement.

14.03 Remedies Cumulative. Action by the COUNTY to effectuate a cancellation and forfeiture of possession shall be without prejudice to the exercise of any other rights provided or by law to remedy a breach of this Agreement.

15. EVENTS OF DEFAULT

15.01 Abandonment. The abandonment, vacation or discontinuance of operation of the Premises for ninety (90) consecutive days during a normal season unless approved by COUNTY.

15.02 Failure to Operate. The failure of ORGANIZATION to operate in the manner required by this Agreement, where such failure continues for more than thirty (30) days after written notice from the COUNTY to correct the condition therein specified.

15.03 Failure to Perform other Covenants. The failure of ORGANIZATION to keep,

perform and observe all other promises, covenants, conditions and agreements set forth in this Agreement, where such failure continues for more than thirty (30) days after written notice from the COUNTY for correction, provided that where fulfillment of such obligation requires activity over a period of time and ORGANIZATION shall have commenced to perform whatever may be required to cure the particular default within thirty (30) days after such notice and continues such performance diligently, said time limit may be waived in the manner and to the extent allowed by the COUNTY.

15.04 Filing of Bankruptcy. The filing of a voluntary or involuntary petition in bankruptcy by ORGANIZATION; the adjudication of ORGANIZATION as a bankruptcy, the appointment of any receiver of ORGANIZATION'S assets; the making of a general assignment for the benefit of creditors; a petition or answer seeking an arrangement for the reorganization of ORGANIZATION; the occurrence of any act which may operate to deprive ORGANIZATION permanently of the rights, powers and privileges necessary for the proper conduct and operation of the Premises; the levy of any attachment or execution which substantially interferes with ORGANIZATION'S operation(s) under this Agreement and which attachment or execution is not vacated, dismissed, stayed or set aside within a period of sixty (60) days.

15.05 Discrimination. An act of discrimination has been practiced by ORGANIZATION with respect to any use or proposed use of the Premises in violation of State and/or federal laws. The ORGANIZATION shall be given written notice by the County of alleged acts of discrimination and allowed 30 days following notice to correct any deficiencies.

16. WAIVER

16.01 Waiver Not Subsequent Waiver. Any waiver by the COUNTY or the ORGANIZATION of any breach of any one (1) or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure on the part of the COUNTY or the ORGANIZATION to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements herein contained be construed as in any manner changing the terms of this Agreement or stopping the COUNTY or the ORGANIZATION from enforcing the full provisions.

16.02 Delay Not Waiver. No delay, failure, or omission of the COUNTY or the ORGANIZATION to re-enter the Premises or to exercise any right, power, privilege or option, arising from any default, nor any subsequent acceptance of payments then or thereafter shall impair any such right, power, privilege or option, or be construed as a waiver of or acquiescence in such default or as a relinquishment of any right.

16.03 Time of Essence. No notice to ORGANIZATION shall be required to restore or

revive "time of the essence" after the waiver by the COUNTY of any default.

16.04 Remedies Cumulative. No option, right, power, remedy or privilege of the COUNTY or the ORGANIZATION shall be construed as being exhausted by the exercise in one (1) or more instances. The rights, powers, options, privileges and remedies given the COUNTY by this Agreement shall be cumulative.

17. RIGHT OF ENTRY

17.01 Failure to Perform Obligations. Should ORGANIZATION be deemed deficient in satisfying its obligations under this Agreement, as determined by the COUNTY, upon notice duly given of its obligation required, the COUNTY, in addition to all other available remedies may, but shall not be so obliged, to enter upon the Premises and correct ORGANIZATION'S deficiencies using COUNTY forces, equipment and materials on the Premises suitable for such purposes or by employing a separate private contractor. The COUNTY's costs so incurred, including direct and indirect overhead costs as determined by the COUNTY, shall be reimbursed to the COUNTY by ORGANIZATION'S and/or its sureties within thirty (30) days of demand.

17.02 Abandonment. In the event of an abandonment, vacation or discontinuance of operations for a period in excess of ninety (90) days (during a normal season), ORGANIZATION hereby irrevocably appoints the COUNTY as an agent for continuing operation of the services granted and in connection therewith authorizes the officers and employees to: (1) take possession of the Premises, including all improvements, equipment and inventory thereon; and (2) remove any and all persons or property on said Premises and place any such property in storage for the account of and at the expense of ORGANIZATION; and (3) lease the Premises; and (4) after payment of all expenses of such leasing or licensing apply all payments realized to the satisfaction and/or mitigation of all damages arising from ORGANIZATION'S breach of the Agreement. Entry by the officers and employees of the COUNTY upon the Premises for the purpose of exercising the authority conferred as agent of ORGANIZATION shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this Agreement.

18. SURRENDER

18.01 Vacate Premises. Upon expiration of the term hereof, or cancellation as herein provided, ORGANIZATION shall peaceably vacate the Premises and any and all improvements and deliver the same to the COUNTY in a reasonably good condition, ordinary wear and tear excepted, subject to the right of the COUNTY to demand removal to the extent that paragraph 17 may be applicable.

19. INTERPRETATION

19.01 Governing Law. This Agreement shall be interpreted in accordance with the laws of the State of North Carolina.

19.02 Captions. The heading herein contained is for convenience and reference only and are not intended to define or limit the scope of any provision.

19.03 Defined Terms. The following words as used shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:

"County": Mecklenburg County, North Carolina

"State": The State of North Carolina

20. ENFORCEMENT

20.01 Director. The Director of the Mecklenburg County Park and Recreation Department shall be responsible for the enforcement of this Agreement on behalf of the COUNTY and shall be assisted by those officers and employees of the COUNTY having duties in connection with the administration of this Agreement.

20.02 Other COUNTY Officials. Any officers and/or authorized employees of the COUNTY may enter upon the Premises at any and all reasonable times for the purpose of determining whether or not ORGANIZATION is complying with the terms and conditions, or for any other purpose incidental to the rights of the COUNTY within the Premises.

21. NOTICE OF NON-COMPLIANCE

21.01 Notice to Correct Deficiencies. If the COUNTY determines that there are deficiencies in ORGANIZATION'S performance as authorized and required, the COUNTY will provide a written notice to ORGANIZATION to correct said deficiencies within specified time frames as noted herein.

21.02 Failure to Correct. In the event that ORGANIZATION fails to correct the deficiencies within the aforementioned time frames the COUNTY may, at its option and as appropriate exercise its rights as outlined in Section 17.

22. NOTICES

22.01 Delivery of Notice. Any notice required to be given under the terms of this Agreement or any law applicable may be: (1) delivered by personal service; or (2) placed in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, return receipt requested, and deposited in a post office, mailbox, sub-post office, substation or mail chute, or other like facility regularly maintained by the

United States Postal Service.

The address to be used for any notice served by mail upon ORGANIZATION shall be:

Joe Lucas
6815 Sardis Rd.
Charlotte, NC 28270

and to

Thomas S. Marshall
3800 Sedgewood Circle
Charlotte, NC 28211

or such other place as may hereafter be designated in writing to the COUNTY by ORGANIZATION.
Any notice served by mail upon the COUNTY shall be addressed to:

Director
Mecklenburg County Park and Recreation Department
5841 Brookshire Boulevard
Charlotte, North Carolina 28216-2403

and to:

County Manager
Charlotte-Mecklenburg Government Center
600 East Fourth Street
Charlotte, North Carolina 28202

or such other place as may hereafter be designated in writing to ORGANIZATION by the COUNTY.
Service by mail shall be deemed complete upon receipt in the above-mentioned manner.

23. ENTIRE AGREEMENT

23.01 Exhibits. The following are marked as Exhibits to this Agreement and are incorporated by reference as if fully set forth herein:

Exhibit A - Mecklenburg County First Right of Reservation Policy
Exhibit B – Annual Bermuda Athletic Field Routine Maintenance Schedule
Exhibit C- Field Usage Report

- 23.02** Inconsistencies. In the event of inconsistencies between any Exhibit and this Agreement the terms of the Agreement shall govern and control.
- 23.03** Entire Agreement. This document and the Exhibits attached plus others to be added, constitute the entire Agreement between the COUNTY and ORGANIZATION. All other agreements, promises and representations with respect thereto, other than eventually contained herein, will be expressly revoked, as it will have been the intention of the parties to provide for a complete integration within the provisions of this document, and the Exhibits attached hereto, the terms, conditions, promises and covenants relating to the operation of the Premises to be used in the conduct thereof. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.
- 23.04** Modification. This document may be modified only by further written agreement between the two (2) parties. Any such modification shall not be effective unless and until executed by ORGANIZATION and COUNTY.

CONTRACT # 070534

In WITNESS WHEREOF, the parties have duly executed this Contract as of the date first above written.

LICENSEE:

Myers Park Trinity Little League, Incorporated

ATTEST:

Richard Lutz VICE PRESIDENT
SECRETARY
(N/A for Sole Proprietor)

[Signature] President
Licensee Signature
56-1276279

FED ID#

MECKLENBURG COUNTY:

ATTEST:

[Signature]
County Manager

[Signature]
Clerk to the Board of County
Commissioners

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

APPROVED AS TO FORM:

[Signature]
Finance Director

[Signature]
County Attorney

APPROVED AS TO INSURANCE REQUIREMENTS:

[Signature]
Director, Park and Recreation

[Signature]
Director, Charlotte-Mecklenburg Division
Of Insurance Risk Management

EXHIBIT A

MECKLENBURG COUNTY PARK & RECREATION DEPARTMENT

FIRST RIGHT OF RESERVATION POLICY

The Park & Recreation Department shall encourage private funding of public recreation facility improvements and continued maintenance by independent recreation associations and organizations.

Relationships shall be defined on a case-by-case basis through a performance contract that clearly identifies the level and type of support provided, including the monetary value and any other agreed upon duties and responsibilities of the independent association and department. This program is intended only for those fields that are undeveloped, under utilized, or those the department would not consider developing with budgeted or bond funds.

Granting first right of reservation of a facility to an independent association is acceptable providing it is defined within the performance contract as to amount of use and term of commitment. The public should still maintain access when not in use by the association. The extent of first right of reservation granted will be established in proportion to the value of funding and/or services received by the department. A method of accounting will be established to monitor the exchange of services between the independent association and the department. For example, an association provides \$X in funding for a specific facility. The department will "credit" the association that amount in facility use. As the association utilizes the facility, the department deducts the corresponding value from the credit amount established.

Quarterly audits to ensure adherence to a performance agreement shall be conducted, and should include review of facility use and on-site inspection.

Deadlines shall be established for associations to submit facility use requests prior to general public registration.

Additional variables for consideration when establishing an agreement include history of field use, level of routine care and maintenance provided by an association, and operating costs such as utilities and consumable item replenishment/replacement.

Generally, First Right of Reservation agreements will be of a term of one (1) year and subject to annual review. For development of new facilities requiring considerable capital investment and construction, the department will consider entering into a ground lease to facilitate the project, in which the principles of the First Right of Reservation policy will be incorporated.

EXHIBIT B

Annual Bermuda Athletic Field Routine Maintenance Schedule

January or February

- Apply initial application of lime (if needed)
- Apply initial application of post-emergent herbicide (clean-up winter weeds)

March/April

- Initial application of pre-emergent herbicide when soil temperatures reach 54-58 degrees
- Reel mowing begins mid March and continues once a week per field in April

May

- Initial application of fertilizer (well balanced w/ relatively high nitrogen content-1.5 lbs/1000sf)
- Apply bermuda seed if applicable
- Aerify field in two (2) different directions last week of the month
- Top dress with sand/compost
- Reel mowing once a week per field

Note: Aerification will allow soil temperatures to rise and water and air to penetrate down into the root zone. This, along with a good shot of fertilizer, will stimulate bermuda growth tremendously.

June

- Apply slow release, well balanced fertilizer (1 lb.per 1000s.f.)
- Apply post emergent, broad spectrum herbicide as needed
- Reel mowing twice a week per field

July/August

- Apply fertilizer (relatively uniform analysis- 1 lb. Per 1000s.f)
- Apply post emergent, broad spectrum herbicide as needed
- Aerify field in two(2) different direction
- Topdress with sand/compost
- Reel mowing twice a week per field

Note: Aerification will again relieve soil compaction and allow water and air to reach the root zone. Fertilizer application will stimulate new and healthy growth.

September

- Apply fertilizer near the middle to end of month (4 lbs. per 1000 s.f. w/ high concentration of potassium)
- Overseed with Bermuda seed the last week of the month or 1st two (2) weeks of October
- Reel mowing twice a week per field until mid-September and once a week last two weeks of October
- Overseed with Bermuda seed the first two (2) weeks of the month
- Reel mowing once a week until mid-October.

November/December

- Complete soil testing/analysis in prep for following year

Note: 48 reel mows typically occur during the season March-October. Schedule varies year to year but the outlined presented above in close.

EXHIBIT C Field Usage Report

Month: _____

Day: _____

Time/Fields	1	2	3	4	5
8am-9am					
9am-10am					
10am-11am					
11am-12pm					
12pm-1pm					
1pm-2pm					
2pm-3pm					
3pm-4pm					
4pm-5pm					
5pm-6pm					
6pm-7pm					
7pm-8pm					
Total					

Person Reporting: _____

Record number of participants per field per hour

Month: _____

Day: _____

Time/Fields	1	2	3	4	5
8am-9am					
9am-10am					
10am-11am					
11am-12pm					
12pm-1pm					
1pm-2pm					
2pm-3pm					
3pm-4pm					
4pm-5pm					
5pm-6pm					
6pm-7pm					
7pm-8pm					
Total					

Person Reporting: _____

Record number of participants per field per hour

CERTIFICATE OF LIABILITY INSURANCE

DATE 1/12/07

Keystone Risk Managers, LLC
1995 Point Township Drive
Northumberland, PA 17867

CERTIFICATE # 3330306-2

3 33 03

ADDITIONAL NAMED INSURED:

MYERS PARK TRINITY LL
 JOE LUCAS
 6815 SARDIS RD

CHARLOTTE NC 28270

INSURERS AFFORDING COVERAGE:

INSURER A: **LEXINGTON INSURANCE COMPANY**

INSURER B: **NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA**
 (Non-Liability)

INSURER C: **LANDMARK INSURANCE COMPANY**

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE MM/DD/YYYY	POLICY EXPIRATION DATE MM/DD/YYYY	LIMITS	
A	X	GENERAL LIABILITY	5098195-02	1/01/2007	1/01/2008	EACH OCCURRENCE	\$1,000,000
		X OCCURRENCE				GENERAL AGGREGATE	\$2,000,000
		X INCL. PARTICIPANTS				PRODUCTS/COMP OPS AGGREGATE	\$1,000,000
		X SEXUAL ABUSE				SEXUAL ABUSE OCCURRENCE	\$1,000,000
		Property Damage Deductible: \$250				SEXUAL ABUSE AGGREGATE	\$2,000,000
A	X	DIRECTORS & OFFICERS	162-1094	1/01/2007	1/01/2008	EACH LOSS	\$1,000,000
						AGGREGATE	\$1,000,000
A		CRIME COVERAGE				EACH LOSS	\$35,000
						AGGREGATE	NONE
		Crime Deductible: \$250 Property/\$1,000 Money					
B	X	SPORTS EXCESS ACCIDENT	SRG9105434	1/01/2007	1/01/2008	As in Master Policy Med. Max. \$100,000 Ded. \$50	As in Master Policy Excess

"X" INDICATES COVERAGE SELECTED FOR ADDITIONAL NAMED INSURED

ADDITIONAL INSURED

Who is an insured (SECTION II) of the General Liability policy is amended to include as an insured the person or organization shown in the schedule, but only with respect to liability arising out of the above named Little League's maintenance or use of ball fields, or other premises loaned, donated, or rented to that Little League by such person or organizations and subject to the following additional exclusions:

- Structural alterations, new construction, maintenance, repair or demolition operations performed by or on behalf of the person or organization designated in the Schedule and/or performed by the above named Little League and
- That part of the ball field or other premises not being used by the above named Little League

NAME AND ADDRESS OF PERSON OR ORGANIZATION:

1. MECKLENBURG COUNTY PARK AND RECREATION DEPARTMENT 2. CHARLOTTE-MECKLENBURG SCHOOL DISTRICT

INSURED

Little League Baseball Risk Purchasing Group, Inc.
539 U.S. RT. 15 HIGHWAY
South Williamsport, PA 17702

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES TO THE ABOVE NAMED LITTLE LEAGUE BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER OR THEIR REPRESENTATIVE WILL MAIL 30 DAYS WRITTEN NOTICE TO THE DESIGNATED PERSON OR ORGANIZATION AT THEIR LAST KNOWN ADDRESS TO US.

AUTHORIZED REPRESENTATIVE



January 12, 2007

Mecklenburg County Park and Recreation Department
Attention: Director
5841 Brookshire Boulevard
Charlotte, NC 28216-2403

RE: Myers Park Trinity Little League 333-03-06

To Whom It May Concern:

This letter is with regard to the Certificate of Liability Insurance issued to Myers Park Trinity Little League as proof of insurance for 2007. The Certificate does show Mecklenburg County Park and Recreation Department as an Additional Insured. Outside interests which may incur liability through the loaning, donating, or rental of that part of the premises used by the league, may be included as an additional insured under the policy.

Please note that we do not use the standard language of other Certificates of Liability Insurance and our certificate has been specifically altered to meet the needs of property owners. For example, our certificate does not include the generic language found on other Certificates of Liability, namely, "This Certificate is issued as a matter of information only and confers no rights upon the Certificate Holder." Our certificate also states that the property owner listed as an additional insured will be provided with thirty days notice of cancellation.

Please submit this Certificate of Liability Insurance along with this letter of clarification for approval as proof of insurance so that Myers Park Trinity Little League can be issued permits to use your property for their scheduled games and practices.

Sincerely,

A handwritten signature in cursive script that reads "Kitty Strouse".

Kitty Strouse
Liability & Crime Insurance
Risk Management Department