

MEETING DATE: May 23, 2011

AGENDA ITEM: Approval of an Agreement with Culver City Little League for the Use of Culver City Park Sports Fields.

ATTACHMENT

Draft Agreement between the City of Culver City and the Culver City Little League for the Use of the Culver City Park Sports Fields.

Pages

1 - 10

CITY OF CULVER CITY

ATTACHMENT

AGREEMENT

WITH: CULVER CITY LITTLE LEAGUE

FOR: USE OF CULVER CITY PARK BASEBALL FIELDS

THIS AGREEMENT is made and entered into by and between the CITY OF CULVER CITY, a municipal corporation, hereinafter referred to as "CITY", and Culver City Little League, a California non-profit corporation, hereinafter referred to as "LEAGUE".

WHEREAS, City has constructed a baseball/soccer facility in Culver City Park, and designated as Bill Botts Field, CCLL Field 1, CCLL Field 2, CCLL Field 3 and Restrooms and Snack Bars on Exhibit A, attached hereto hereinafter referred to as "the Facility";

WHEREAS, League will use the Facility;

WHEREAS, City and League desire to set forth the rights and responsibilities of each with regard to use and maintenance of the Facility;

NOW, THEREFORE, CITY AND LEAGUE AGREE AS FOLLOWS:

1. PRIORITY USE: Subject to City's rights as set forth below, following the City and the Culver City Unified School District (CCUSD), the League shall have priority use of the Facility during the League's regular season which runs from January 16th to June 30th. CCUSD shall have priority use for its High School baseball games on Bill Botts Field and all dates and times shall be communicated to the League at least thirty (30) days before first date of use. City shall have full use of the outfield when League play is not in progress. The priority use granted to League by this Agreement is only to allow League to conduct its baseball league at the Facility. No other activity shall be conducted by League at the Facility without prior written approval from City's City Manager, or his/her designee. In the sole discretion of City's City Manager, or his/her designee, and with three (3) business-days' notice, City may cancel League's use of the Facility, and any portion or portions thereof, and League's use shall be subordinate to City's use of the Facility, and any portion or portions thereof, for City programs and activities or filming related activities approved by City.
2. TERM OF AGREEMENT. The term of this Agreement shall be from the effective date pursuant to Paragraph 19 of this Agreement and shall end on June 30, 2011.
3. FAILURE TO PERFORM. If League fails to perform any obligations regarding maintenance or repair upon written notification from City, then City, at its option, may perform such maintenance or repair and charge League the cost incurred therefore. League shall pay these costs within thirty (30) days after receipt of the bill therefore.
4. PROHIBITIONS. City retains the authority to prohibit or stop any activity being conducted by League at the Facility, if City determines such activity to be an immediate danger to the public health, safety and welfare.
5. DESIGNATED REPRESENTATIVE(S). League's President shall be the designated League Representative, and shall be responsible for negotiations, contractual matters, and coordination with City.

6. HOLD HARMLESS. League shall be responsible for any and all injuries to or death of any person, and for any and all damage to any and all real or personal property including City's or others, caused by or resulting from any acts, errors or omission of League, any of its employees, invitees or agents arising out of this Agreement. League shall defend, hold harmless and indemnify City and its officers and employees from any and all liability claims, including costs, for damages to real or personal property, or personal injury or death, resulting from League's, any of its employees', invitees' or agents' acts, errors or omissions arising out of this Agreement.
7. INSURANCE. Without limiting its obligations pursuant to Paragraph 8 of this Agreement, the League shall procure and maintain, at League's own cost and expense and for the duration of this Agreement, insurance coverage as set forth in "Insurance Requirements" attached to and incorporated into this Agreement as Exhibit "C."
8. PERMIT REQUIRED. League is responsible for obtaining a park permit prior to use of the field for games, practices or tournaments in order for City to have knowledge of the extent of use of the facility.
9. PERMIT APPLICATION PROCESS. A permit application may be made no more than six (6) months in advance of date desired. The permit application process begins the date of reservation. League's President shall be the signature authority for any park permit. City requires a minimum of one week to process park permits.
10. IMPROVEMENTS TO THE FACILITY. League shall not modify the Facility without written approval from the City's PRCS Director. All requests for such approval must include a "Letter of Intent", accompanied by a Master Plan including construction drawings and specifications. All modifications shall become the property of City. League must obtain proper City permits and utilize approved, licensed contractors.
11. RECORDS AND INSPECTIONS. League shall maintain full and accurate records with respect to League registration including participant home addresses. League shall furnish to City notification of how many Culver City residents are participating in League activities. League shall maintain an up-to-date list of key personnel and telephone numbers for emergency contact after normal business hours.
12. PARK REGULATIONS.
 - a. NO ALCOHOLIC BEVERAGES.
 - b. NO DOGS – Except dogs used for the purpose of service to the disabled.
 - c. NO FIREARMS, SLINGSHOTS, BOWS OR EXPLOSIVES.
 - d. NO SMOKING in Culver City public parks.
 - e. PARKS CLOSE AT 9:30 PM. Lights will be turned off at that time. The Facility use must be terminated by 9:30 PM as per City Code, unless granted a special permit by City's Parks, Recreation and Community Services Director.
 - f. No vehicles are allowed on the Facility. VIOLATORS ARE SUBJECT TO CITATION.
 - g. League shall report any vandalism, criminal offenses, or disturbances to the Recreation Division at (310) 253-6650 or the Culver City Police Department at (310) 837-1221.
 - h. No advertising signs shall appear on the Facility or Culver City Park unless approved in writing by the City's Park, Recreation and Community Services Director (see item I2, MODIFICATION OF FACILITY).

13. NOTICES. All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

To City: City of Culver City
Attention: Recreation Manager
4117 Overland Avenue
Culver City, California 90230

To League: Culver City Little League
Attn: President
P.O. Box 189
Culver City, CA 90230

14. MODIFICATION OF AGREEMENT. This Agreement may not be modified, nor may any of the terms, provisions or conditions be modified or waived or otherwise affected, except by a written amendment signed by all parties hereto.
15. WAIVER. If at any time one party shall waive any term, provision or condition of this Agreement, either before or after any breach thereof, then no party shall thereafter be deemed to have consented to any future failure of full performance hereunder.
16. PROHIBITION OF ASSIGNMENT. League shall not assign or transfer any rights or obligations it has under this Agreement, including subleasing of the Facility, without the express written consent of City. Any attempt to make such assignment, transfer or sublease shall automatically terminate this Agreement and all rights of League established by this Agreement shall be null and void; and any purported assignee, transferee or sub lessee shall not obtain any rights hereunder.
17. RIGHT TO TERMINATE. City may terminate this Agreement at any time, with or without cause, in its sole discretion, with thirty-days' (30-days') written notice.
18. GOVERNING LAW. The terms of this Agreement shall be interpreted according to the laws of the State of California. If litigation occurs, then venue shall be in the Superior Court of Los Angeles County.
19. LITIGATION FEES. If litigation arises out of this Agreement for the performance thereof, then the court shall award costs and expenses, including attorney's fees, to the prevailing party. In awarding attorney's fees, the court shall not be bound by any court fee schedule but shall award the full amount of costs, expenses and attorney's fees paid or incurred in good faith.
20. INTEGRATED AGREEMENT. This Agreement represents the entire Agreement between City and League for the use of the Facility and Culver City Park during the term of this Agreement, and all preliminary negotiations and agreements are deemed a part of this Agreement. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the parties to this Agreement, and any subsequent successors and assigns.
21. EFFECTIVE DATE. The effective date of this Agreement is the date it is signed on behalf of City, and shall remain in full force and effect until amended or terminated; provided, that the indemnification and hold harmless provisions shall remain in affect after that termination.

CULVER CITY LITTLE LEAGUE

Dated: _____

By _____
It's President

CITY OF CULVER CITY, CALIFORNIA

Dated: _____

By _____
John Nachbar
City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FINANCING:

Pam Robinson
Acting Parks, Recreation & Community
Services Director

Chief Financial Officer

APPROVED AS TO FORM:

Carol Schwab
City Attorney

EXHIBIT A

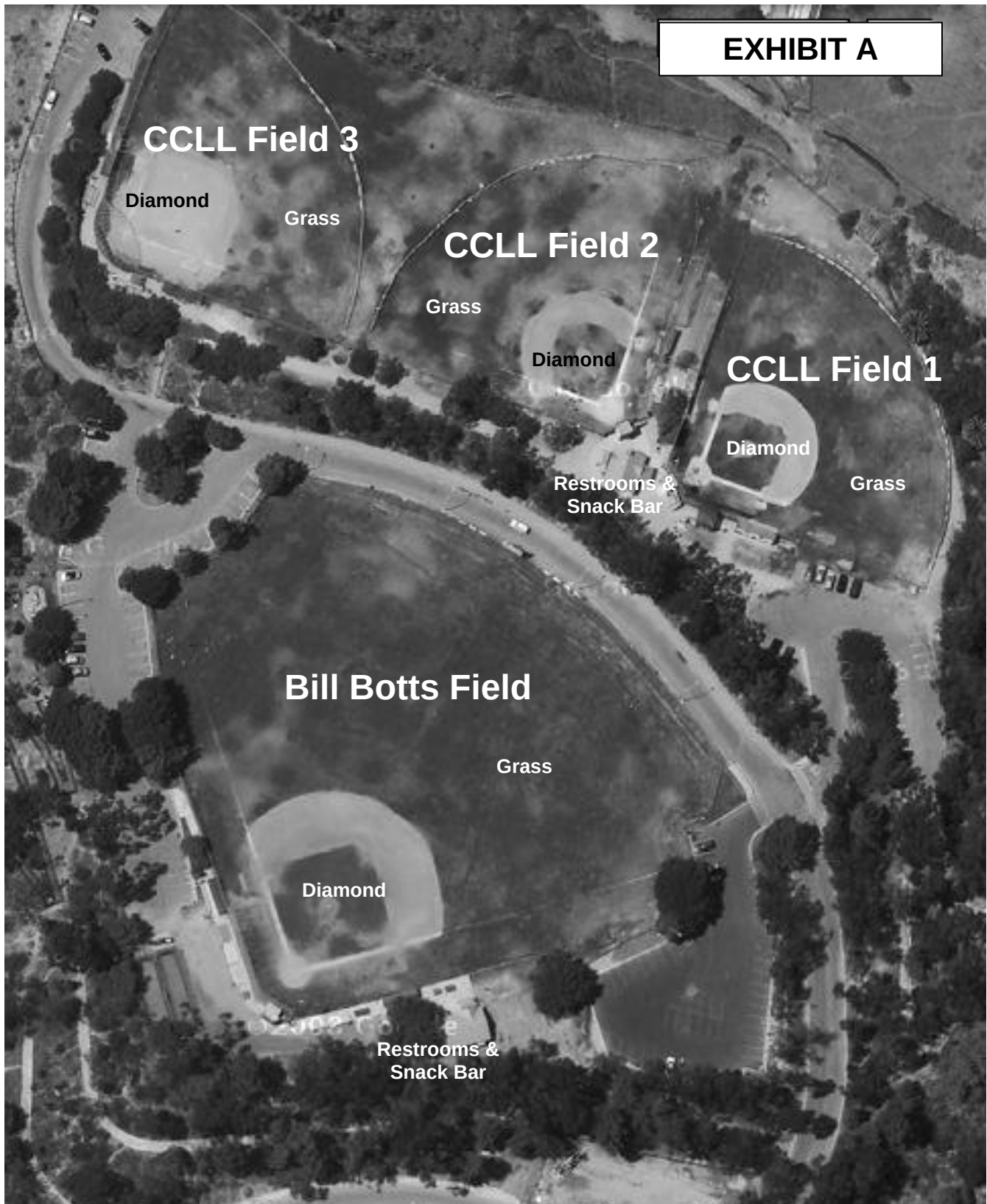


EXHIBIT B

CITY OF CULVER CITY AGREEMENT

WITH: CULVER CITY LITTLE LEAGUE

FOR: USE OF CULVER CITY PARK BASEBALL FIELDS

FACILITY MAINTENANCE & IMPROVEMENTS

1. CITY'S RESPONSIBILITIES:

- a. Maintain the outfield turf at the Facility, including removal of weeds and litter in common areas along perimeter fence line, mowing of grass as needed, fertilizing of turf, aeration, and disease control.
- b. Maintain the infield during periods of City's priority use.
- c. Maintain the roads that provide reasonable access to and from Jefferson Boulevard, and around the Facility.
- d. Reasonably maintain and sweep the parking lots in Culver City Park including the marking of parking stalls.
- e. Furnish trash cans and refuse containers at the Facility and empty containers weekly.
- f. Move portable bleachers, as reasonably requested by League for All Star Tournaments.
- g. Provide restroom facilities.
- h. Maintain the irrigation system.
- i. Place signage on back fence (along path and hillside edge) to discourage kicking balls against or leaning against the fence.
- j. Prior to the conclusion of the League's use of the Facility (as indicated under PRIORITY USE), City shall schedule a walk-through inspection of the Facility to be attended by representatives of City, the League, and the next contracted user for sign off by the City and the next contracted user.

2. LEAGUE'S RESPONSIBILITIES

- a. Maintain the infield at the Facility, including removal of weeds and debris, mowing of grass as needed, planting and fertilizing of turf, top dressing, aeration, maintenance of the baselines and other necessary maintenance.
- b. No chemicals such as pesticides, herbicides, insecticides, or fungicides may be applied without prior written consent of City's Park Manager. A request for consent must be accompanied by a Pest Control Advisors Report. All work must be performed by a Licensed Pest Control Applicator.
- c. Provide ongoing maintenance, including scoreboards and cleaning of the buildings, bleachers, restrooms at the Facility, maintenance of fencing and removal of graffiti.
- d. Repair and maintain League equipment used in maintaining the Facility. Store, secure and screen equipment in designated areas.

- e. Spread infield mix on the in-field at the beginning of the League's season, if required as determined by League. League shall supply the infield mix as approved by City's Park Manager.
- f. Line and otherwise mark the field at the Facility for League's use.
- g. Clean up of parking lots and ball field area in and around the Facility after each use and properly dispose of items into appropriate trash receptacles. Properly dispose of all concession stand trash, containers, boxes, etc into dumpsters daily/nightly. Oversized items that do not fit into park trash cans must be taken to dumpster. Remove, store or dispose of any tarps left outside on the grounds.
- h. Paint the restroom/snack bar buildings with the direction and approval of the City's Director of Public Works/City Engineer.
- i. Make improvements to the Facility as approved by the PRCS Dept, Public Works Dept, and any other appropriate City agency.
- j. Convert batting cage (between Field 1 and 2) into a secured, covered storage area by March 1, 2011.
- k. Maintain shades/screens around all seating areas during the season. Remove and store shades/screens at the conclusion of each season.
- l. Relocate infield mix mound presently next to Field 2. Place it next to storage bins close to entrance and tarp and fence off the mound by May 1, 2011.
- m. Purchase all supplies necessary for accomplishing League's responsibilities listed above.
- n. Prior to the conclusion of the League's use of the Facility (as indicated under PRIORITY USE), the League shall attend a walk-through inspection of the Facility as scheduled by the City for sign off by the City and the next contracted user.

EXHIBIT C

CITY OF CULVER CITY AGREEMENT

WITH: CULVER CITY LITTLE LEAGUE

FOR: USE OF CULVER CITY PARK BASEBALL FIELDS

INSURANCE REQUIREMENTS

- A. Prior to commencing operations pursuant to this Agreement, League shall submit duly executed certificates of insurance for the following:
1. An occurrence-based Comprehensive General Liability ("CGL") policy, at least as broad as ISO Form CG 001, in the minimum amount of one million dollars (\$1,000,000) each occurrence, with not less than two million dollars (\$2,000,000) in annual aggregate coverage. The CGL policy shall meet the following requirements:
 - a. The policy shall provide coverage for personal injury, bodily injury, advertising injury, death, accident and property damage, not excess or contributing with respect to self-insured retentions or pooled risk arrangements, as those terms are understood in the context of a CGL policy;
 - b. The policy shall provide coverage for owned, hired and non-owned automobile liability;
 - c. The policy shall include coverage for liability undertaken by contract covering, to the maximum extent permitted by law, League's obligation to indemnify the Indemnitees as required under Section 6 of the Agreement;
 - d. The policy shall not exclude coverage for Completed Operations Hazards or Athletic or Sports Participants; and,
 - e. The City of Culver City, members of its City Council, boards & commissions, officers, agents and its employees will be named as additional insureds in an endorsement to the policy, which shall be provided to the City and approved by the City's City Attorney.
 2. Business Automobile Liability Insurance in the minimum amount of one million dollars (\$1,000,000) each occurrence, with not less than two million dollars (\$2,000,000) in annual aggregate coverage.

3. Professional Liability Insurance in the minimum amount of one million dollars (\$1,000,000) per occurrence, with the following requirements:
 - a. The policy shall provide that defense costs are not included within the policy limits;
 - b. The policy shall include coverage for separate "personal injury" alleged to have been committed in the course of rendering professional services.
 4. Workers' Compensation limits as required by the Labor Code of the State of California with Employers' Liability limits of one million dollars (\$1,000,000) per accident.
- B. City may waive one or more of the coverages listed in Section A., above. This waiver must be express and in writing, and will only be made upon a showing by the League that its operations in and with respect to City are not such as to impose liability within the scope of that particular coverage.
- C. Additional insurance requirements:
1. All insurance listed in Section A., above, shall be issued by companies licensed to do business in the State of California, with a claims paying ability rating of "BBB" or better by S&P (and the equivalent by any other Rating Agency) and a rating of A:VII or better in the current Best's Insurance Reports;
 2. League shall provide City with at least thirty (30) days' prior written notice of any modification, reduction or cancellation of any of the policies required in Section A., above ;
 3. City may increase the scope or dollar amount of coverage required under any of the policies described in Section A., above, upon prior written notice to League.
- D. City may increase the dollar amount of coverages under any of the policies described in Section A., above, upon prior written notice to League.

EXHIBIT D

CITY OF CULVER CITY AGREEMENT

WITH: CULVER CITY LITTLE LEAGUE

FOR: USE OF CULVER CITY PARK BASEBALL FIELDS

UNITED STATES FLAG DISPLAY ETIQUETTE

The following sets forth basic etiquette for the outdoor display of the flag of the United States of America at the Facility. A complete listing of the Official U.S. Flag Code can be found at www.usflag.org.

- A. It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four hours a day if properly illuminated during the hours of darkness.
- B. The flag should not be displayed on days when the weather is inclement, except when an all weather flag is displayed.
- C. The flag should be hoisted briskly and lowered cautiously. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. When flags of States, cities or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. No other flag or pennant may be placed above the flag of the United States or to its right.
- D. The flag, when flown at half-staff, should be first hoisted to the peak of an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only then raised to the top of the staff.
- E. The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.
- F. The flag should never touch anything beneath it, such as the ground, the floor, water or merchandise or be used as a costume or athletic uniform.
- G. The flag should never be fastened, displayed, used or stored in such manner as to permit it to be easily torn, soiled or damaged in any way. When the flag is in such condition that it is no longer a fitting emblem or display, it should be destroyed in a dignified way, preferably by burning.