

Cooperative Agreement
Regarding Cook Park Facility Use
Between the City of Tigard
and Tigard Little League

This Agreement is made and entered into by and between the City of Tigard ("City"), an Oregon municipal corporation and Tigard Little League ("TLL"), a non-profit corporation, all hereinafter collectively referred to as the "Parties."

RECITALS

The Parties agree upon the following recitals:

- A. WHEREAS, in 1998, the City entered into an agreement with Atfalati Recreation District, Inc. ("ARD"), an Oregon non-profit corporation, ("1998 Agreement") whereby ARD contributed \$150,000 towards the purchase of the Gray/Lamb Cook Park Addition ("Property") over a ten-year period and received priority scheduling at the Cook Park fields.
- B. WHEREAS, the 1998 Agreement was amended twice in April 2003 ("Second Amendment"). The Second Amendment extended the time period in which ARD had to repay the financial contribution to 2013, established credits against that amount for acquisition and development of the Property, allowed ARD to apply to the City for community event grants, and allowed ARD to operate a concession stand on the Property.
- C. WHEREAS, the 1998 Agreement was amended in May 2010 ("Third Amendment") to assign ARD's interest to TLL and Southside Soccer Club, modify the termination process, and add working together to develop operating parameters for the use of the Property facilities as a goal of the 1998 Agreement.
- D. WHEREAS, in 2013, SSC and Tigard Little League each fulfilled their obligation to repay the City their original \$150,000 contribution, for a total of \$310,045.86 collectively paid to the City.
- E. WHEREAS, the City terminated the 1998 Agreement, as amended, and in accordance with the process established in the Third Amendment, in March 2013 and effective in October 2013.
- F. WHEREAS, the City recognizes the historical partnership it has with TLL regarding the use and maintenance of the sport fields at Cook Park as well as TLL's overall contribution to youth sports in the community. The Parties, through this Agreement, wish to continue this relationship.
- G. WHEREAS, the Parties wish to jointly and finally resolve all issues between them regarding the ownership of the Property by acknowledging that the City has full ownership of the Property.
- H. WHEREAS, in recognition of TLL's contributions to the City, the Parties now wish to develop a new Agreement which reflects the relationships of the Parties, preserves TLL's priority scheduling, and establishes the Parties' obligations regarding use of the Cook Park Sports Fields.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed by and between the Parties as follows:

1. COOK PARK SPORT FIELDS. This Agreement shall apply to the sport fields located at Cook Park ("Sport Fields"), as more particularly illustrated in the attached Exhibit A.
2. TERM. This Agreement shall be effective upon final execution of all Parties and shall remain in effect for a period of fifteen (15) years, ending September 1, 2030. This Agreement may be renewed for two (2) additional five-year periods if such an amendment is mutually agreed to, in writing, by the Parties. At the Annual Meeting prior to the expiration of this Agreement, TLL shall meet with the City Manager or the City Manager's designee and the Parties shall determine if they wish to renew the Agreement.
3. ANNUAL MEETING. The City will offer to TLL an optional annual meeting in November of each year for the Parties. The purpose of the annual meeting is to discuss:
 - a. The dates which TLL wishes to reserve the Sport Fields ("Playing Season"), as well as any proposed dates for tournaments. TLL may use the Sport Fields at no charge for practices and games during the Playing Season according to the schedule approved in advance by the City and for one tournament. Fees for additional tournaments shall be charged in accordance with Section 9 of this Agreement.
 - b. Any issues or concerns related to this Agreement.
 - c. Proposed improvements or operational capital projects, consistent with the City's Cook Park Master Plan.
 - d. The dates which the Sport Fields are available for use by TLL.
 - e. Other topics of mutual interest to the Parties.
4. CITY OBLIGATIONS. The City agrees to:
 - a. Provide garbage collection, including refuse cans and dumpsters, and electrical, water, and sewer service to Cook Park.
 - b. Maintain Cook Park, including the Sport Fields, facilities, and appurtenances located thereon at a base level. This includes, but is not limited to, mowing, watering, and fertilizing the fields and keeping structures in good repair. TLL acknowledges that the City's ability to provide base level maintenance is contingent upon sufficient funding, as determined in the City's annual budget process. The City will notify TLL if the budget process does not fund adequate maintenance for the upcoming year.
 - c. Consider facility improvement requests from TLL pursuant to Section 11 of this Agreement.
 - d. Provide two small equipment storage rooms to be shared by TLL and Southside Soccer Club.
 - e. Provide TLL with access to the existing outdoor electrical outlets for use during its Playing Season.
 - f. Maintain sports field irrigation systems.
 - g. Maintain basic infrastructure (including bleachers, irrigation, dugouts, fences, picnic shelters, etc.).
 - h. Maintain baseball fields, including:
 - i. Turf area maintenance:

1. Mowing, watering/irrigating, weeding, fertilizing, applying herbicides/pesticides.
 2. Annual reconditioning of the outfield, including fertilizing, seeding, applying a top dressing, and aerating as needed.
 3. Regular mowing of infield and infield turf to maintain a playable surface.
 4. Edging of warning track and infield dirt edge.
 - ii. Dirt infield areas:
 1. Pre-season and mid-season leveling using an eyeball-level standard.
 2. Laser leveling, at least every three years.
 3. Dragging fields once a week, typically on Thursday or Friday morning, during the TLL's Playing Season.
5. TLL OBLIGATIONS. TLL agrees to:
- a. Submit field reservation requests to the City prior to December 1 for Sport Field reservations for the upcoming year.
 - b. Chalk and apply base lines, as desired by TLL, and furnish the machinery/equipment required to perform this work.
 - c. Provide and apply Turface, as desired by TLL.
 - d. Install bases.
 - e. Furnish the machinery/equipment required to perform its responsibilities including chalking equipment, wheelbarrows, etc.
 - f. Collect and dispose of litter in designated trash receptacles after TLL's use of fields, especially after games.
 - g. Maintain the storage room and adjacent facilities in a neat and clean manner.
 - h. Rake/brush after games:
 - i. Fill holes at bases; and
 - ii. Replace soil and turf
 - i. Bring any requests, issues or feedback to the attention of the City Manager or the City Manager's designee so the items may be placed on the agenda for the Annual Meeting.
 - j. Comply with all current Park Rental and Use Regulations and the City's annual Park Calendar in effect at the time the reservation was made.
 - k. Ensure that the Sport Fields are in substantially the same condition after TLL use as it was before. TLL will be financially responsible to City for the costs of repairs necessitated by TLL's use of Cook Park, but not including normal maintenance resulting from everyday wear-and-tear.
6. SPORTS FIELD AND FACILITY CLOSURES. The City may, at its sole discretion, close Cook Park or any facilities therein, including Sport Fields, if the condition of the facilities is rendered unsuitable for its intended purpose, unsafe, or if the use of the facility will create conditions which will render the facility unsuitable for use in the future. TLL will not use the Sport Fields for practice or games before the City has opened the Sport Fields or after the City has closed the Sport Fields for the season or on dates the City has closed the Sport Fields due to field condition. Generally, the Sport Fields will not open prior to March 1 and will close October 31.
7. CONCESSION STAND. The City authorizes TLL to operate one concession stand during its Playing Season. The City shall approve the type and placement of any concession stand or temporary structure. The existing concession stand has been designated for use by TLL during its Playing

Season. TLL agrees that it will adhere to all applicable state and local laws and codes and will obtain all necessary permits. The City Manager, or the City Manager's designee may, at his or her sole discretion, revoke the authority of TLL operate a concession stand at Cook Park.

8. PRIORITY USE OF SPORT FIELDS.

- a. TLL shall have priority in scheduling the Sport Fields for requests submitted prior to December 1 of the previous year. Scheduling requests must be made to the City on the City's Field Use Application form.
- b. TLL shall only submit a scheduling request to the City for TLL's actual, planned field use for practices, games, and rain delays. TLL shall not request additional use of the Sport Field above TLL's projected actual usage.
- c. TLL's priority scheduling is subject to compliance with all current Park Rental and Use Regulations in effect at the time the reservation was made or at the time the rental takes place.
- d. Within the Park Rental Season, TLL acknowledges that the City is free to rent Cook Park sport fields and facilities to other park users when those fields and facilities have not been rented by TLL.
- e. TLL shall notify the City as soon as practicable of any days which TLL had reserved and which it will not need. Upon notice to the City, TLL releases its reservation for that scheduled time.
- f. At the Annual Meeting, TLL will provide the City with a schedule of preferred days and times for the City to conduct renovations of the Sport Fields. The City will make a good faith effort to accommodate the preferred dates, but has sole discretion over closures, including but not limited to Sport Field closures for renovations. In the event the City must close a field for emergency repairs on a day which has been reserved by TLL, the City shall provide notice to TLL as soon as practicable. The City is not liable for any damages as a result of the cancellation.
- g. Notwithstanding TLL's priority scheduling, City sponsored events shall have priority for the use of Cook Park, including all fields, parking lots, and covered structures. The City will attempt to avoid scheduling City events on the dates TLL has reserved the Sport Fields if doing so will exceed the capacity of Cook Park.

9. TOURNAMENTS.

- a. TLL may schedule one tournament each season at no cost. The date(s) for the tournament must be submitted with the reservation for the regular season. In the event the date of the tournament needs to change, TLL will notify the city as soon as practical and the city will accommodate the date change based on field and park availability.
- b. TLL will comply with the current Park Rental and Use Regulations for all tournaments, at the time the application is made
- c. Additional tournaments may be requested at any time during the season using the City's reservation forms. TLL will be charged a tournament fee and TLL's request will be approved based on field and park availability. TLL must have an account in good standing in order to make additional reservations for tournaments.
- d. All fees due, and other requirements such as insurance, must be paid 30 days in advance of the tournament or the tournament will be cancelled.

10. PROGRAM OPERATION. TLL is responsible for the cost and operation of its programs. TLL is not eligible for City grant funds or subsidies for program operating expenses or tournaments held as

part of a regular season. Notwithstanding, TLL may request special event funds for regional, state, or national tournaments held outside of TLL's regular season. Requests for special event funding must follow the City's application process.

11. FACILITY IMPROVEMENTS. TLL may request facility improvements by the City at any time. The City will consider the requested improvements on a case-by-case basis and will consider such factors as whether the improvement is consistent with the Cook Park Master Plan, whether funds are available, and whether the improvement will be included in the Parks Division budget request for the upcoming year.
12. TIGARD MEMBERSHIP. TLL agrees that the majority of its participants are residents of the City of Tigard. Upon request by the City, TLL shall provide evidence of such to the City. Failure to provide such documentation to the City or failure to maintain a majority of Tigard residents as participants is a breach of this Agreement and grounds for termination pursuant to Section 17 of this Agreement.
13. MUTUAL RELEASE OF CLAIMS. TLL acknowledges that the City is the sole owner of the Property. The Parties forever waive, release, and covenant not to sue another Party, heirs, executors, assigns, agents, and employees with regard to any and all claims, damages, and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of the ownership interest in the Property or Sport Fields, or which could have been filed in any action or suit arising from said subject matter.
14. INSURANCE. TLL agrees to comply with all City insurance requirements in effect at the time the reservation was made or at the time the rental takes place. TLL will maintain, in full force and effect during its Playing Season, insurance that meets the City's requirements for sport field rentals. Failure to maintain adequate insurance shall be grounds for the City to deny reservations to TLL, or cancel existing reservations, and may be grounds for termination of this Agreement.
15. INDEMNIFICATION. TLL agrees to indemnify, defend, and hold harmless the City and its officers, agents, employees, and volunteers against all liability, loss, and costs arising from actions, suits, claims or demands attributable in whole or in part to the acts or omissions of TLL and TLL's officers', agents', and employees' use of Cook Park.
16. DISPUTE RESOLUTION.
 - a. If a dispute arises between the City and TLL regarding this Agreement, the Parties shall attempt to resolve the dispute first through an in-person meeting between the City Manager or the City Manager's designee and an official representative of TLL. The Parties may have legal assistance at any of the meetings in this process.
 - b. The Parties may agree to mediate at any stage of the dispute resolution process.
 - c. The informal dispute resolution steps in subsection a. above are required prior to either Party pursuing arbitration or a court action.
17. TERMINATION OF AGREEMENT.
 - a. At any time, the Parties may mutually agree to terminate this Agreement.

- b. If TLL breaches this Agreement and fails to cure the breach within sixty (60) calendar days' notice from the City, the City may terminate the Agreement immediately following the time to cure.
- c. If at any time TLL ceases to be a Tigard-based non-profit, primarily benefiting Tigard youth, this Agreement shall immediately terminate.
- d. Any reservations on the books after the date of termination of this Agreement shall be void. In the event TLL wish to use any Sport Field or facility following termination of this Agreement, they may do so pursuant to the City's Park Rental and Use Regulations.

18. INABILITY OF CITY TO SATISFY OBLIGATIONS. In the event City is unable to satisfy its obligations pursuant to Section 4 of this Agreement for an extended period of time, whether due to budgetary constraints, natural disaster, or other unforeseen circumstance, City shall notify TLL in writing. Within 60 days of such notice, the Parties shall meet to determine an appropriate response. City and TLL agree to negotiate an outcome in good faith.

- 19. AMENDMENTS. Amendments to this Agreement must be made in writing and approved by all Parties.
- 20. NO PARTNERSHIP. The City and TLL are not partners or joint venturers. None of the parties is responsible for the actions of the others in the use of City property or facilities.
- 21. NON-ASSIGNMENT. This Agreement may not be assigned by any of the Parties without written consent of the other Parties.
- 22. NO SUBLETTING. TLL shall not sublet use of the Sport Fields without the prior written consent of the City.
- 23. NON-DISCRIMINATION. The Parties agree to comply with all applicable requirements of federal and state civil rights and rehabilitation statues, rules, and regulations. Parties also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.
- 24. AUTHORITY TO EXECUTE. The City and TLL respectively represent that the person signing this Agreement has authority to do so, that the Parties had the opportunity to seek legal counsel regarding this Agreement, and that the Parties understand their responsibilities and obligations under the Agreement.
- 25. ENTIRE AGREEMENT. This Agreement incorporates by reference Exhibit A attached hereto as part of this Agreement and constitutes the entire agreement between the Parties.
- 26. SEVERABILITY. The Parties agree that, if any term of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms will not be affected.
- 27. NOTICES. The Parties must send any notices, invoices, or other written communications required by this Agreement through the United States Mail, first-class postage paid, electronic mail ("e-mail"), or personally delivered to the addresses below. TLL is responsible for notifying the City of any changes to the addresses below within seven (7) calendar days of the change.

The City is not responsible for any communications not received by TLL as a result of failure to maintain to current addresses.

CITY
Mailing Address:
City Manager
13125 SW Hall Boulevard
Tigard, OR 97223

Tigard Little League
Kim Kelleher
PO Box 230359
Tigard, OR 97281

E-mail: Marty@tigard-or.gov

E-mail: kimkell6@gmail.com

APPROVED BY:

CITY

TLL

Signature

Signature

Name

Name

Title

Title

Date

Date