

YOUTH SPORTS FACILITY AGREEMENT
City of Bryan
Parks and Recreation Department

This **YOUTH FACILITY SPORTS AGREEMENT** ("Agreement") is made and entered into as of the Effective Date by and between the **CITY OF BRYAN**, ("City") a Texas home rule municipality and **NATIONAL LITTLE LEAGUE** ("Licensee"), a Texas non-profit corporation, by and through their respective authorized representatives.

RECITALS

WHEREAS, City, through its Parks and Recreation Department, has developed public parks and recreational facilities for use by individuals and organized groups for recreational purposes including, but not limited to, competitive amateur youth sports; and

WHEREAS, Licensee provides a form of recreation through youth sports leagues for the youth of the City and the Brazos Valley; and

WHEREAS, City desires to assist Licensee in providing such form of recreation to area youth by coordinating and facilitating the planned activities of Licensee in an effort to provide the youth with an opportunity to participate in a quality amateur sport program on or in quality athletic facilities;

NOW, THEREFORE, for and in consideration of the promises, covenants, terms, and conditions herein contained, City and Licensee agree as follows:

Article I
Term

1.1 Initial Term: The Term of this Agreement shall commence on January 1, 2018, and shall terminate on December 31, 2018 ("Initial Term"), unless terminated earlier or extended as provided herein.

1.2 Term Extensions: This Agreement may be extended for up to four (4) additional one (1) year renewal terms ("Renewal Term") upon Licensee providing City written notice earlier than October 1 and not later than December 1 prior to the end of the then current Term of Licensee's desire to extend the term of this Agreement for the immediately subsequent Renewal Term. Licensee may only extend the term of this Agreement for one Renewal Term at a time.

Article II
Definitions

The following words and phrases as used in this Agreement shall have the following meanings unless the context clearly indicates a different meaning:

Business day means Monday through Friday, excluding City holidays.

City means the City of Bryan, Texas, a Texas home rule municipality.

Code of Ordinances means the Code of Ordinances of the City of Bryan, Texas, as amended, inclusive of any amendments enacted after the Effective Date.

Days means calendar days unless otherwise specified.

Director means City's Director of Parks and Recreation or his or her designee.

Effective Date means the date this Agreement becomes effective and enforceable between the parties, which date shall be the date authorized representatives of all of the parties have signed this Agreement.

Fields means collectively the Game Fields and Practice Fields.

Game Fields means the three (3) enclosed baseball/softball fields located at Bob Bond Little League Complex, 1700 E. 25th Street.

Licensee means National Little League, Inc., a Texas non-profit corporation.

Permitted Use means holding practices and games conducted by teams organized by Licensee for spring and/or fall youth baseball and spring and/or fall youth softball leagues and activities customarily associated with operation of a youth amateur baseball and softball leagues.

President means the chief executive officer of Bryan National Little League, regardless of title. The *Vice President* means the officer entitled to replace or substitute for the President.

Team means a youth baseball team or youth softball team registered with and acknowledged by Licensee as being part of Licensee's leagues.

Article III

Grant of Non-Exclusive License; Priority Scheduling; Time for Use

3.1. Grant of License: Subject to the provisions of this Agreement, City hereby grants to Licensee the non-exclusive right to use the Fields for the Permitted Use. During scheduled games, the right to use Game Fields will be exclusive.

3.2. Coordination meeting: City will host a coordination meeting in November between representatives of the Licensee (including the President or authorized representative) and the City Parks Department.

3.3. Use Schedule: Licensee and Teams may occupy and use the Fields as follows:

- a. **Games:** Prior to the beginning of each season, Licensee will provide a written league schedule to the Director, which shall include proposed game times and

make up times. The schedule must be approved by the Director. Licensee may use the Game Fields for conducting games between the Teams in accordance with said schedule.

- b. **Amendments:** For purposes of notification to the City, in the event that Licensee desires to amend the schedule due to inclement weather, or other reasonably unforeseeable conflict, notice of such amendment must be submitted to the Director, or their designee, in writing as soon as the amended schedule is approved by the Licensee.
- c. **Season:** For the purposes of this Agreement, the season is considered to be from the first date of a scheduled game until the end of All Star Play.

3.4. City Right to Suspend Use: City reserves the right, but does not have the obligation, to suspend the right of Licensee and the Teams from using one or more of the Fields for a particular day or time if the Director determines that the weather is sufficiently inclement that injury to person or property is reasonably likely to occur, including, but not limited to, extraordinary damage to the Field turf, if the practice or game is conducted.

Article IV Licensee's Obligations

4.1. Compliance with laws: Licensee shall observe and comply with all federal, state, and local laws, statutes, and Ordinances. Licensee's rules, regulations, and by-laws for participants shall be in compliance with City ordinances and Parks regulations, including but not limited to the prohibition of glass beverage containers and alcoholic beverages in City parks.

4.2. Utility Usage: As the City is providing utilities at its own cost, Licensee agrees to use its best efforts to minimize the utility costs incurred by the City by communicating with and educating its participants, teams, and coaches, and adhering to the following:

- a. Ballfield lights will not be turned on unless teams are on site and ready to play. Ideally lights should be turned on approximately ten (10) to fifteen (15) minutes before dusk.
- b. Ballfield lights should not be used for non-team practicing. Practice times should be limited to daylight hours, to the extent possible.
- c. Ballfield lights for each field should be turned off no later than five (5) minutes after the last game played on that field. Any infield raking done after the game should be done with minimal lights on.
- d. Ballfield lights must not be turned on and off in rapid succession.

- e. Water consumption can be reduced by reporting to the Director any leaks in buildings, bathrooms, or irrigation systems as soon as possible. Check park restrooms to see that all water valves are shut off and not leaking after the last game.
- f. Shut off lights other than lights serving for security purposes during non-use hours.
- g. Turn off air conditioning units during off season unless needed to preserve equipment.

4.3. Representative Information: Prior to the start of each season, Licensee shall deliver to the Director the name, contact address and phone number for Licensee's president and vice-president of Licensee, each of whom shall have independent authority to make binding agreements and decisions on behalf of Licensee related to this Agreement. Licensee shall notify the Director of any changes of officers initially identified as soon as reasonably possible after the change occurs.

4.4. Additional Required Information. Not later than the tenth (10th) business day following the Effective Date, Licensee shall deliver to City the following:

- a. Eligibility requirements for players who may register to play on a Team;
- b. Rules that will govern league play;
- c. A copy of Licensee's current (i) certificate of formation or articles of incorporation, (ii) bylaws, and (iii) any other documents (e.g. associational constitution or by-laws) governing Licensee's conduct of its activities; and
- d. A letter warranting and representing that all coaches have been certified by Licensee and that Licensee has performed all required criminal background checks on all coaches in accordance with applicable state law and City's policies and standards regarding the conduct of youth recreational programs.
- e. List of Board Members, titles or positions held.

4.5. Game Equipment. Licensee and/or Licensee's Team members shall be solely responsible for providing, installing, and/or all equipment necessary for the conduct of practices and games including, but not limited to balls, bats, gloves, masks, public address systems, portable pitching mounds, and other supplies and equipment customarily required to conduct a youth baseball or softball practice or game. Licensee shall be solely responsible for the proper and safe installation and use of all equipment in relation to the conduct of practices and games on the Fields **and agrees to indemnify, defend, and hold harmless City, its officers, employees, agents, and representatives for claims made for damages to property or injury to person, including death, related to the design, installation, use, or removal of any equipment brought onto the Fields by Licensee, its officers, employees or agents, or anyone entering upon the Fields under the authority of this Agreement ("the Indemnitors"), regardless of whether or not such injury is caused by the negligent act or omission of any one or more of**

the Indemnitors. Unless otherwise authorized in writing by the Director, all of Licensee's supplies and equipment shall not be installed on the Fields earlier than three (3) days prior to each Season and must be removed from the Fields not later than one (1) week following the date of the last game played each Season.

4.6. Trash Removal. Licensee shall collect substantially all trash and rubbish from the Fields, surrounding areas, and dug outs, following the conclusion of each practice and game day and place such trash and rubbish in solid waste collection receptacles provided for such purpose and supplied by Licensee. Licensee shall notify the Director if at the beginning of a practice or game day the Fields are found to be littered with unreasonable amounts of trash not generated from use of the Fields by Licensee or any Team. It shall be presumed that trash and rubbish appearing on the Fields during, or immediately following, scheduled games and practices was generated by Licensee's activities if Licensee fails to provide the foregoing notification to the Director.

4.7. Responsibility for City Property Use. At all times while Licensee is using the Fields in association with the conduct of practices and games as authorized by this Agreement, Licensee shall also be primarily responsible for the proper use and care of the Fields and related fences, scorekeeper's benches, bleachers, dugouts covers, restrooms, and parking areas in accordance with City's ordinances, regulations, and policies related to park and recreational facility use. If, after reasonable attempts by Licensee or its representative to obtain compliance with City's ordinances, regulations, or policies from one of Licensee's participants or an attendee of one of Licensee's league game, Licensee is unable to obtain such compliance without risking a breach of the peace or injury to person or property, Licensee shall contact the Director or designee or, if damage to City's property or a person is reasonably anticipated, City's police department, to assist in enforcement of said ordinances, regulations, or policies. If Licensee is able to identify a person responsible for damage to City property while in the control of Licensee, Licensee shall provide to City as much identifying information as known to Licensee about the person responsible for such damage not later than one (1) business day after the date of the incident or the date the person causing the damage becomes known to Licensee.

4.8. Field Maintenance. Licensee will be responsible for maintaining the skinned clay areas of Fields during the scheduled season. The City recommends that the skinned clay areas be weed and grass free condition, and that "lips" that develop on the grass edge with a height exceeding two inches (2"), be removed. Licensee will be responsible for maintaining outfields to include seeding/sod, fertilization, weed control, topdressing, aeration, ant-abatement, basic irrigation repairs, and maintaining irrigation controller watering frequencies. Licensee will be responsible for marking and layout of Fields during the season, and will provide, store, and apply marble dust or paint as needed. Licensee may assume responsibility for minor repairs at the Fields, but any major repair needs must be reported to the Director as soon as possible. Special maintenance requests will be reviewed and considered but not necessarily approved dependent on budget and/or staff availability.

4.9. Not a City Affiliate. At no time shall Licensee, its officers or representatives, represent to any person the Licensee is affiliated with or in any manner controlled by City or the Department.

Article V City Obligations

5.1. Pre-season Maintenance. Before each season begins, the City will meet with Licensee to discuss maintenance issues and may assist, or take responsibility for repairs or improvements to City owned fields and facilities.

5.2. Field and Building Maintenance. During the season, and year round, City will be responsible for mowing the infields, outfields and general surrounding park areas and making repairs to City-owned buildings. While the City will cooperate with Licensee and attempt to address concerns, the City will maintain City owned/leased Fields as it deems appropriate in its sole discretion. Special maintenance requests will be reviewed and considered in the same manner as set out in section 4.8 above.

5.3. Utilities. The City will provide electricity and water (water, waste water and solid waste) for all Fields and related facilities.

Article VI Sponsor Signs

6.1. Generally. Subject to the provisions of this Agreement, Licensee shall have the right to sell the right to place signs on the outfield fences of the Game Fields. Signs will be of a vinyl banner type and will be restricted in size to the existing outfield fence. Signs must be maintained in such a manner that they do not become dilapidated and/or unsightly and it shall be Licensee's responsibility to fix or remove any such signs. Signs placed pursuant to this Agreement may not be put in place any more than five (5) days prior to the start of a season and must be removed within five (5) days after the end of a season.

6.2. Sign Specification and Location. All signs sold and installed pursuant to this Article VI shall comply with the following:

- a. Graphics on the sign front (facing inward toward the field of play) must be on a white background.
- b. No sign shall contain any electronic messages, internal or external lighting, or moving parts of any kind.
- c. Signs may only be located on the outfield fence of each Game Field.
- d. Signs must be professionally lettered and generally of a neat and attractive nature.

6.3. Sign Installation and Maintenance. Licensee shall be solely responsible for installing, maintaining, repairing, replacing, and removing signs sold by Licensee pursuant to this Article VI at Licensee's sole cost and subject to the following:

a. Signs shall be attached to the fence in such a manner as to prevent movement of the sign but without causing any alteration or damage to the fence, any fence component.

b. Licensee shall regularly inspect all signs for necessary repairs.

c. Broken or torn signs or sign anchoring systems shall be repaired, replaced, or removed by Licensee within two (2) business days of receipt of notice from the Director or Director's designee that such action is required.

d. City shall have the right to immediately remove any sign, at Licensee's expense, that the Director determines in the Director's sole discretion poses an imminent risk of injury to person or damage to property if allowed to remain in place before Licensee can act to repair or replace the sign.

e. Unless otherwise authorized by the Director in writing, signs shall not be installed earlier than the first day of the Spring Season during each calendar year during the term of this Agreement and must be removed not later than thirty (30) days after the last day of the Fall Season during each calendar year during the term of this Agreement.

f. Without notice to Licensee, City shall have the right to remove signs not removed in a timely manner as required by Paragraph e., above, and store such signs at Licensee's expense. If Licensee fails to claim the signs removed by City pursuant to this Paragraph f. within ten (10) days after receiving notice from City to pick up the signs, title to such signs shall transfer to City and City shall have the right to dispose of such signs in a matter determined at the sole discretion of City.

Article VII Insurance; Indemnification

7.1 Indemnification. CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE USE OF THE FIELDS BY LICENSEE, ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, OR THOSE PARTICIPATING IN THE PERMITTED USE PURSUANT TO THIS AGREEMENT. LICENSEE AGREES TO INDEMNIFY AND SAVE HARMLESS CITY, ITS OFFICERS, EMPLOYEES, AND AGENTS (COLLECTIVELY "INDEMNITIES") FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY OCCURRING DURING OR OTHERWISE RELATING TO THE PERSON'S PARTICIPATION IN THE PERMITTED USE, INCLUDING, BUT NOT LIMITED TO, ANY INJURY OR DEATH CAUSED IN

WHOLE OR IN PART BY THE NEGLIGENT ACT OR OMISSION OF LICENSEE, ITS OFFICERS, EMPLOYEES, AGENTS, LICENSEES, INVITEES, GUESTS, COACHES, OR GAME OFFICIALS. IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST ANY ONE OR MORE OF THE INDEMNITIES IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, LICENSEE, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT LICENSEE'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY. LICENSEE'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY LICENSEE UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

7.2 Insurance. During the term of this Agreement, Licensee shall maintain at Licensee's sole cost in full force and effect a Commercial General Liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to Licensee's conduct of the Permitted Use on the Fields with the following minimum coverage:

- a. \$250,000 per person and \$500,000 per occurrence for injury to persons (including death); and
- b. \$100,000 per occurrence for property damage.

All insurance shall (i) be endorsed to name City, its officers, agents and employees as additional insureds as to all applicable coverage, (ii) provide for at least thirty (30) days prior written notice to City for cancellation, non-renewal, or material change of the insurance; (iii) provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service, or approved by the City Manager. Licensee shall have issued to Director a certificate of insurance evidencing the purchase of the insurance with endorsements as required by this section prior to the first practice date.

7.3 No Waiver of Immunity: Nothing in this Agreement, or in any exhibit or attachment hereto, shall be construed to affect, alter, or modify the immunity of City under the Texas Civil Practice and Remedies Code §§101.001 et seq. It is expressly understood and agreed that in the execution of this Agreement, City does not waive, nor shall be deemed to waive, any immunity or defense that would otherwise be available to City against claims arising in the exercise of governmental powers and functions.

Article VIII Termination

This Agreement may be terminated prior to the end of the term set forth in Article I as follows:

- a. By mutual written agreement of the parties at any time.

b. By either party providing not less ninety (90) days written notice to the other party.

c. By City not less than ten (10) days after providing written notice of Licensee's failure to comply with the provisions of this Agreement and Licensee has failed to cure the default described in the notice provided by City to Licensee prior to the date of termination set forth in the notice.

Article IX Miscellaneous

9.1 Notices. When notice is permitted or required by this Agreement, it shall be in writing and shall be deemed delivered when delivered in person or on the date when placed, postage prepaid in the United States mail, certified return receipt requested, and addressed to the parties at the address set forth below. Either party may designate from time to time another and different address for receipt of notice by giving notice of such change or address.

City of Bryan, Texas
Attn: Parks Director
P.O. Box 1000
Bryan, TX 77805-1000

National Little League
Attn: Julie Neideffer, President
700 East 24th Street
Bryan, TX 77803

9.2 Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

9.3 Assignment. Licensee shall not assign or transfer its rights or obligations under this Agreement in whole or in part to any other person or entity without the prior written consent of City.

9.4 Severability. In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be enforceable and shall be enforced as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

9.5 Governing Law. The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in a State Court of competent jurisdiction in Brazos County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

9.6 Entire Agreement. This Agreement embodies the entire Agreement between the parties and supersedes all prior Agreements, understandings, if any, relating to the Property and the matters addressed herein and may be amended or supplemented only by written instrument executed by the party against whom enforcement is sought.

9.7 **Recitals.** The Recitals to this Agreement are incorporated herein as part of this Agreement.

9.8 **Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.


9.9 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

9.10 **Headings.** The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereto.

9.11 **Successors and Assigns.** This Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. Licensee shall not assign this Agreement without the written approval of the City Council.

Executed to be effective this 21st day of March, 2018.

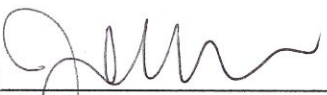
CITY OF BRYAN, TEXAS

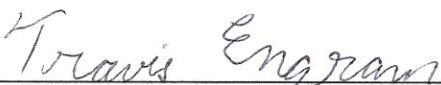

Kean Register, City Manager

APPROVED AS TO FORM:


for Janis K. Hampton, City Attorney

BRYAN NATIONAL LITTLE LEAGUE

By: 
[Julie Neideffer], President


[Travis Engram], Vice President