



USE AGREEMENT

COUNTY OF MCLENNAN

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STATE OF TEXAS

THIS AGREEMENT is made the 26 day of January, 2024 by and between the CITY OF BELLMEAD, a municipal corporation, acting by and through its Parks and Recreation Manager, hereinafter referred to as the "CITY" and LYBSA hereinafter referred to as "LUBSA" or "USER" or "CONTRACTOR". The "CITY" and LUBSA will individually be known as "PARTY" and will be collectively known as "PARTIES".

I. RECITALS

For and in consideration of the mutual covenants and agreements herein contained, it is mutually agreed as follows: The importance of the duties delegated to the USER makes it imperative that the USER be a formal organization with clearly delineated lines of authority. By entering into this AGREEMENT, the USER pledges that it is a legitimate organization with clearly delineated lines of authority with officers, board members, or other legally responsible individuals who are authorized to represent and speak for USER. USER will be required to submit proof of official charter or sanctioning upon request by the CITY. The USER shall have written operating procedures and/or bylaws which shall be furnished to the CITY. CITY is only permitting nonexclusive use of the Area, and CITY is not transferring an interest in property to USER.

II. AREA

The CITY hereby agrees to allow the USER to use real property described in EXHIBIT "A" (the "Area"), attached hereto and incorporated herein for all purposes. USER will utilize the Area to operate Baseball & Softball (Youth) to benefit the citizens of the City of Bellmead. No other use of this Area shall be permitted by the USER without the expressed written permission of the CITY.

III. TERM

The term of this AGREEMENT shall begin on 26 Jan, 2024 and end 12/31/2024. The PARTIES agree that the CITY has the right to terminate said AGREEMENT prior to the end of the term of the AGREEMENT, provided written notice is given at least thirty (30) days prior to said termination. The PARTIES further agree that USER shall have

the right to terminate this AGREEMENT, provided written notice is given at least thirty (30) days prior to its intent to terminate. The CITY may temporarily suspend the USER's rights to use the Area within three (3) days' notice in order to protect public health, safety, and welfare. This suspension is not grounds to terminate the AGREEMENT, unless the suspension lasts more than thirty (30) days.

IV. NON-DISCRIMINATION/ANTI-BULLYING

USER shall not allow bullying or discrimination against any person due to race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, pregnancy, veteran status, or any other legally protected status under applicable federal, state, and local laws.

USER shall not allow bullying of any person on social media platforms. USER or any official representatives shall not make false and/or defaming statements against the city or any city official.

V. UTILITIES

CITY shall be responsible for electricity, water, refuse collection and/or gas utility costs.

USER shall ensure that all utilities are properly secured and turned off when not in use. If CITY finds that USER has failed to properly secure or turn off utilities when not in use on two (2) or more occasions during the term of this AGREEMENT, then CITY may terminate this AGREEMENT immediately without further notice to USER or bill the USER \$250 per occurrence.

VI. IMPROVEMENTS

If USER desires to make any capital improvements to the Area, USER must request in writing and receive in writing the CITY's approval prior to implementation of any proposed capital improvements. The CITY assumes no financial responsibility or obligation for such capital improvements. All such improvements shall be the financial responsibility and obligation of USER. Title in any and all capital improvements shall vest in the City of Bellmead, Texas.

If USER desires to install any signage to the Area, USER must request in writing and receive in writing the CITY's approval prior to implementation of any proposed signage improvements. The CITY assumes no financial responsibility or obligation for such signage improvements. All such improvements shall be the financial responsibility and obligation of USER. Title in any and all improvements shall vest in the City of Bellmead, Texas.

VII. MAINTENANCE

USER shall be responsible for maintenance and repair of all facilities in the Area as well as maintenance of the grounds in accordance with the terms and conditions of the Maintenance Schedule, a copy of which is attached hereto as **EXHIBIT "B"** and fully incorporated by reference for all purposes. USER shall comply with all federal and state laws and regulations relating to use of pesticides, fertilizers, and other chemicals as they apply to maintenance of the grounds covered under the terms of this AGREEMENT. USER maintenance activities that result in significant alteration to the grounds or facilities (including but not limited to turf removal or electrical changes beyond light bulbs) require written approval from the CITY.

USER shall not allow parking in any area other than on improved parking surfaces during USER events. Parking on the grass is prohibited. USER shall notify the Parks and Recreation Manager within 24 hours of any damage to the facility. USER will be responsible for all damage other than normal wear and tear that occurs to the facility.

USER shall keep area clear of all debris. All equipment will be properly stored inside the approved storage area. All non-functioning equipment must be removed from the facility.

VIII. INSURANCE AND INDEMNIFICATION

USER agrees to be bound by the Indemnification and Employee Litigation Requirements attached hereto as **EXHIBIT "F"** and the terms thereof are incorporated herein by reference as though fully copied and set forth at length. USER further agrees to keep in full force and effect during the term of this AGREEMENT insurance in the types and minimum amounts required by the City of Bellmead as set forth at length in **EXHIBIT "F"** which is incorporated by reference. As evidenced by **EXHIBIT "G"**, USER has provided the CITY with documentation of insurance coverage that satisfies the requirements of **EXHIBIT "F"**.

IX. DRUG-FREE WORKPLACE

USER shall be subject to the drug-free workplace requirements as set forth in **EXHIBIT "C"**.

X. DEFAULT

A breach or violation of any provision of this AGREEMENT by the USER shall automatically result in default. Unless otherwise provided herein, the USER shall have twenty (20) days from the receipt of a notice of default to cure the default. If the USER fails to cure the default within the twenty (20) day period, the CITY may terminate this AGREEMENT immediately.

XI. BACKGROUND CHECKS

USER shall ensure that each coach, trainer, instructor, and volunteer has passed a criminal background check prior to participating in any practices or games. Background checks shall be

administered through the Texas Amateur Athletic Federation (TAAF), or other comparable organization to be approved by CITY by request. All requests for alternate background check organizations must be in writing and accompanied by the parameters utilized by the company to qualify/disqualify applicants.

Two weeks prior to the first practice, USER shall provide CITY a certified list provided by TAAF of each coach, trainer, instructor, or volunteer who has passed a background check and USER shall certify to CITY that each coach, trainer, instructor, and volunteer that is participating in their programming has passed a background check.

Failure to obtain background checks from TAAF or an alternate approved organization will result in suspension and/or termination of the contract.

USER shall adopt and enforce reasonable rules and procedures to ensure that each coach, trainer, instructor, or volunteer that is involved with participants, either at practices or games, has passed a background check as outlined in this AGREEMENT. Any appeals of any findings of background checks shall be handled with TAAF, or other organization that conducted the background check, and not with CITY.

USER shall not allow any person who has not passed a background check to coach, train, instruct, or volunteer, or allow any person who has not passed a background check on fields or areas where players may be present.

XII. REPRESENTATIVES

An official representative and the official representative's address shall be designated in writing by each PARTY to the other PARTY. All dealings concerning this AGREEMENT shall be by and through the official representatives. The USER shall provide the following information to the Parks and Recreation Department Manager, or designee, for his/her review:

Due to Parks and Recreation – January 31:

- Completed Annual Report (Form attached hereto as **EXHIBIT "D"**).
- Maintenance Requests.
- Provide a listing of organization board members and officers, or other legally responsible members, and complete contact information, including email and phone number.
- Provide a copy of organization bylaws, articles of incorporation, constitution, written policies, and procedures, and/or charter documents.
- Present an annual financial statement and be prepared to discuss pertinent issues.
- A copy of the Insurance Certificate for the USER (Art. VIII).
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Two weeks prior to first practice of each season:

- Documentation of all coaches, trainers, instructors, and volunteers passing a criminal background check.

- Fully executed Waiver by participants or parents/legal guardians of participants.
- Practice schedules
- Game schedules

Other reports may be required to be submitted to the Parks and Recreation Department regarding operation of the league during the term of this AGREEMENT.

XIII. FIELD AND CONCESSION

USER shall have possession and control of the field and concession area during the designated and city approved field usage times only. The city reserves the right to utilize the fields and concession areas for any and all purposes at all times that practices and games are not scheduled and approved by the city. The USER shall receive all proceeds from concession sales for each period of possession and control.

XIV. LEGAL COMPLIANCE

Prohibited Use. USER may not use or permit any part of the Area to be used for:

- (1) any activity which is a nuisance, offensive, or dangerous; or
- (2) any activity that violates any state or federal law, regulation, City ordinance, or this AGREEMENT.
- (3) The USER shall not prevent or forbid the use of the Area when the USER is not using the Area.
- (4) USER shall not assign or sublet the rights or benefits provided under this AGREEMENT to any league, single game, or tournament (excluding inter-league play) to be held on the Area with participants outside the league without Parks and Recreation Director or designee approval. Any attempt to assign or sublet the rights or benefits provided under this AGREEMENT will result in the immediate termination of this AGREEMENT.

XV. ACCESS BY CITY

CITY may enter and inspect the Area for any reasonable purpose at any time.

XVI. MOVE-IN CONDITION

USER has inspected the Area and accepts the Area (including all improvements thereon) in its present condition "AS IS, WHERE IS" with all faults. CITY and CITY's agents do not

make and have not made any express or implied warranties as to the condition of the Area or Property.

XVII.

MOVE-OUT CONDITION AND FORFEITURE OF USER'S PERSONAL PROPERTY

1. Move Out. Upon termination of this AGREEMENT, USER will surrender the Area in the same condition as when received, normal wear and tear excepted. All permanent improvements shall remain upon the land and be surrendered to the CITY without cost to CITY. USER will not cause damage to the Area and/or add hazardous materials or environmental contaminants.

2. Personal Property. If USER leaves any personal property in the Area after USER surrenders possession of the Area, the CITY may: (2) require USER, at USER'S expense, to remove the personal property by providing written notice to USER; or (3) retain such personal property as if USER forfeited property to CITY.

XVIII.

EXAMINATION OF RECORDS

1. All contracts, papers, correspondence, copies, books, accounts, and other information relating to USER's program described by this AGREEMENT, or to the expenses incurred therein will be open to inspection and examination by an authorized representative of the CITY at all reasonable times.

2. The CITY will have the right to perform periodic audits by hiring a qualified auditor to collect and examine the records stated in Article XVIII, Section 1, above. If the audit reveals material discrepancies, the audit will be paid for by the USER. If audit does not reflect material discrepancies, the audit will be paid for by the CITY.

XIX.

RELEASE OF LIABILITY REQUIRED BY ALL PROGRAM PARTICIPANTS

1. USER hereby agrees to require all program participants, team members, or other athletic event participants to sign a release and waiver of liability, hold harmless, or other exculpatory agreement prior to allowing participation in any athletic event, including team practice, or other fitness exercise or activity. Said release or other exculpatory agreement shall specifically name the City of Bellmead and release and protect the City of Bellmead, its employees, agents, and servants, from any claims, demands, and causes of action as provided in Article VIII herein. Copy of release is attached.

2. All releases, waivers, or other exculpatory agreements required by USER must be signed by the program participant's parent or legal guardian if under the age of 18. A copy of all releases, waivers, or other exculpatory agreements will be provided to the City of Bellmead.

XX.

LIGHTNING GUIDELINES

USER must have a lightning detector on the Area at all times. Detectors must have the ability to track approaching storms up to thirty (30) miles away. Lightning guidelines as recommended by the National Weather Service are attached hereto as **EXHIBIT "E"**.

XXI. MISCELLANEOUS

All exhibits described in this AGREEMENT are attached hereto and incorporated herein by reference for all purposes.

Misspelled words shall be read so as to have the meaning apparently intended by the PARTIES.

This AGREEMENT constitutes the entire AGREEMENT between the CITY and USER, and all negotiations and all understandings between the PARTIES are merged herein.

The USER shall not assign or transfer any right or interest in the AGREEMENT, in whole or in part, without prior written approval of the CITY.

This AGREEMENT shall bind, and the benefits thereof shall inure to the respective PARTIES hereto, their legal representative, executors, administrators, successors, and assigns.

No amendment, modification, or alteration of the terms herein shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the PARTIES hereto.

The rights and remedies provided by this AGREEMENT are cumulative, and the use of any one right or remedy by either PARTY shall not preclude or waive its rights to use any or all other remedies. Said rights and remedies are given in addition to any other rights the PARTIES may have by law, statute, ordinance, or otherwise.

No waiver by the PARTIES hereto of any default or breach of any term, condition, or covenant of the AGREEMENT shall be deemed to be a waiver of any other breach of the same or any other term, condition, or covenant contained herein.

The laws of the State of Texas shall govern this AGREEMENT. Venue on any dispute arising out of this AGREEMENT shall be in McLennan County, Texas, the place where performance is primarily to occur.

If any provision of this AGREEMENT is held to be illegal, invalid, or unenforceable under present or future laws effective during the duration of this AGREEMENT, such provision shall be automatically deleted and the legality, validity, and enforceability of the remaining provisions of this AGREEMENT shall not be affected thereby, and shall be construed as if such illegal, invalid, or unenforceable provision had never been contained herein.

The PARTIES acknowledge that they have reviewed, authorized, and mutually drafted this

AGREEMENT. Accordingly, the PARTIES agree that the exculpatory and indemnity clauses contained herein shall be construed in favor of the PARTY seeking the benefit thereof.

SIGNED this 26th day of January 2024.

By: 

CITY OF BELLMEAD, TEXAS

By: 
Karen Evans, Assistant City Manager

APPROVED AS TO FORM & LEGALITY

By: 
City Attorney

EXHIBIT "B"

MAINTENANCE

TASK	IN-SEASON RESPONSIBILITY	OFF-SEASON RESPONSIBILITY
Gameday Field Preparation	League	NA
Maintain Proper Level of Service Material on Infield	League	NA
Mowing	League	COB
Litter Control	League	COB
Inspect Bleachers	League	COB
Fertilize	COB	COB
Pre-Season Field Preparation	League	COB
Provide, Install, & Maintain Bases, Home Plates, & Pitching Rubbers	League	NA
Maintain Scoreboards & Scoreboard Components, including Lightbulbs	League	NA
Maintain Public Announcement System	League	NA
Maintain Concession Equipment	League	NA
Irrigation Repair	COB	COB
Provide Refuse Containers	COB	COB
Repair Fencing & Bleachers	COB	COB
Repair Plumbing on Restrooms and Concession Building	COB	COB
Repair Electrical & Lighting	COB	COB
Irrigation/Water Conservation	COB	COB
Turf Aeration	COB	COB
Pesticides	COB	COB
Service Facility Restrooms & Stock Supplies	League	NA

Please refer to Section XVII Move-Out Condition and Forfeiture of User's Personal Property

EXHIBIT "C"

DRUG-FREE WORKPLACE ACT CERTIFICATION

1. The **USER** certifies that they will provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that unlawfully manufacturing, distributing, dispensing, possessing, or using a controlled substance in the **USER's** workplace is prohibited and specifying the actions that will be taken against employees for violation of such prohibition.
 - (b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The **USER's** policy of maintaining a drug-free workplace;
 - (3) Any drug counseling, rehabilitation, and employee assistance programs that are available; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - (c) Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (a).
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the contract the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction.
 - (e) Notifying the City of Bellmead within ten (10) days after receiving notice under subparagraph (d)(2), from an employee or otherwise receiving actual notice of such conviction.
 - (f) Taking one of the following actions, within thirty (30) days of receiving notice under subparagraph (d) (2), with respect to any employee so convicted:

- (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

2. The USER's headquarters are located at the following address. The addresses of all other workplaces maintained by the USER are provided on an accompanying list.

Name of USER: Samuel Romero
Street Address: 2417 Harrison
City: Belton
County: McLennan
State: TX
Zip Code: 76705

SIGNED BY:

Samuel Romero President
Print Name and Title

1-26-2024
Date

EXHIBIT "D"
End of Year/Annual Report

Requested Term Dates Beginning Date _____ Ending Date _____

Practice/Season Dates Beginning Date _____ Ending Date _____

Requested Location(s) _____

Organization _____ Contact Person _____

Daytime Phone # _____ Cell Phone # _____ Email _____

Address _____ City _____ State _____ Zip _____

How many years in existence? _____

How many participants? _____ How many teams? _____

What Age or grade levels?

What was the cost per participant? \$ _____ Team \$ _____ Total Revenue \$ _____

Identify needs of the organization that the City of Bellmead can help with? (Use additional pages if needed)

Please provide:

Letter stating the organizations intent to renew the AGREEMENT with the City of Bellmead.

Provide listing of organization board members and contact information.

Provide a copy of organization bylaws and constitution.

Present an annual financial statement and be prepared to discuss pertinent issues.

As organizer, I have read, understand, and certify the information is correct and accurate.

Signature

Date

EXHIBIT "E"

Lightning Kills--Play It Safe

It's a common situation, a thunderstorm is approaching or nearby. Are conditions safe, or is it time to head for safety? Not wanting to appear overly cautious, many people wait far too long before reacting to this potentially deadly weather threat.

Each year across the United States, thunderstorms produce an estimated 25 million cloud-to-ground flashes of lightning -- each one of those flashes is a potential killer. Based on cases documented by the National Weather Service over the past 30 years, an average of 55 people are killed by lightning each year and hundreds more are injured, some suffering devastating neurological injuries that persist for the rest of their lives. A growing percentage of those struck are involved in outside recreational activities.

Officials responsible for sports events and other outdoor activities often lack an adequate knowledge of thunderstorms and lightning to make educated decisions on when to seek safety. Without knowledge, officials base their decisions on personal experience and, sometimes, on the desire to complete the activity. Due to the nature of lightning, however, personal experience can be misleading. While many people routinely put their lives in jeopardy when thunderstorms are nearby, few are actually struck by lightning. This results in a false sense of safety. Unfortunately, this false sense of safety has resulted in numerous lightning deaths and injuries during the past several decades because people made decisions that unknowingly put their lives or the lives of others at risk.

For organized outdoor activities, the National Weather Service recommends that organizers have a lightning safety plan, and that they follow the plan without exception. The plan should give clear and specific safety guidelines in order to eliminate errors in judgment. These guidelines should answer the following questions:

- When should activities be stopped?
- Where should people go for safety?
- When should activities be resumed?
- Who should monitor the weather and who is responsible to make the decision to stop activities?
- What should be done if someone is struck by lightning?

In addition, prior to an activity or event, organizers should listen to the latest forecast to determine the likelihood of thunderstorms. A NOAA Weather Radio is a good source of up-to-date weather information. If thunderstorms are forecast, organizers should consider canceling or postponing the activity or event. In some cases, the event can be moved indoors. Once people start to arrive at an event, the guidelines in the lightning safety plan should be followed. Below is some information to consider when making a lightning safety plan.

When should activities be stopped?

The sooner that activities are stopped, and people get to a safe place, the greater the level of safety. In general, a significant lightning threat extends outward from the base of a thunderstorm

cloud about 6 to 10 miles. Therefore, people should move to a safe place when a thunderstorm is 6 to 10 miles away. Also, the plan's guidelines should account for the time it will take for everyone to get to safety. Here are some criteria that could be used to halt activities:

- **If you see lightning.** The ability to see lightning varies depending on the time of day, weather conditions, and obstructions such as trees, mountains, etc. In clear air, and especially at night, lightning can be seen from storms more than 10 miles away, provided that obstructions don't limit the view of the thunderstorm.
- **If you hear thunder.** Thunder can usually be heard for a distance of about 10 miles, provided that there is no background noise. Traffic, wind, and precipitation may limit the ability to hear thunder to less than 10 miles. If you hear thunder, though, it's a safe bet that the storm is within ten miles.

In addition to any of the above criteria, activities should be halted if the sky looks threatening. Thunderstorms can develop directly overhead, and some storms may develop lightning just as they move into an area.

Where should people go for safe shelter?

There is no place outside that is safe in or near a thunderstorm. Consequently, people need to stop what they are doing and get to a safe place immediately. **Small outdoor buildings including dugouts, rain shelters, sheds, etc., are NOT SAFE.**

Substantial buildings with wiring and plumbing provide the greatest amount of protection. Office buildings, schools, and homes are examples of buildings that would offer good protection. Once inside, stay away from windows and doors and anything that conducts electricity such as corded phones, wiring, plumbing, and anything connected to these.

In the absence of a substantial building, a hard-topped metal vehicle with the windows closed provides good protection. Occupants should avoid contact with metal in the vehicle and, to the extent possible, move away from windows.

When should activities be resumed?

Because electrical charges can linger in clouds after a thunderstorm has passed, experts agree that people should wait at least 30 minutes after the storm before resuming activities.

Who should monitor the weather and who is responsible to make the decision to stop activities?

Lightning safety plans should specify that someone be designated to monitor the weather for lightning. The 'lightning monitor' should not be the coach, umpire, or referee, as they are not able to devote the attention needed to adequately monitor conditions. The 'lightning monitor' must know the plan's guidelines and be empowered to assure that those guidelines are followed.

What should be done if someone is struck by lightning?

Most victims can survive a lightning strike; however, medical attention may be needed immediately -- have someone call for medical help. Victims do not carry an electrical charge and should be attended to at once. In many cases, the victim's heart and/or breathing may have

stopped and CPR and/or an AED may be needed to revive them. The victim should continue to be monitored until medical help arrives; heart and/or respiratory problems could persist, or the victim could go into shock. If possible, move the victim to a safer place away from the threat of another lightning strike.

EXHIBIT "F"
City of Bellmead Insurance & Indemnification Requirements
Basic (05/01/2023)

Insurance Requirements:

A contractor's financial integrity is of interest to the City. Therefore, subject to a contractor's right to maintain reasonable deductibles, a contractor shall obtain and maintain in full force and effect for the duration of the contract, and any extension hereof, at contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized to do business in the State of Texas that are rated A- or better by A.M. Best Company and/or otherwise acceptable to the City in the following types and amounts:

Type	Amount
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000/\$1,000,000/\$1,000,000
Commercial General Liability Including: <ul style="list-style-type: none"> • Premises/Operations • Independent Contractors • Products Liability/Completed Operations • Personal & Advertising Injury • Broad form property damage, to include fire legal liability 	\$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
Business Automobile Liability <ul style="list-style-type: none"> a. Owned/leased vehicles b. Non-owned vehicles c. Hired vehicles 	\$1,000,000 per occurrence or its equivalent on a combined single limit (CSL basis).
Participant Accident	\$25,000.00 per participant

Modification of Insurance Requirement: The City reserves the right to review these insurance requirements during the effective period of the contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager or designee, based upon changes in statutory law, court decisions, or circumstances surrounding this contract.

Proof of Insurance Required and When to Submit:

Examination & Approval. All insurance policies shall be subject to the examination and approval of the City for their adequacy as to form and content, form of protection, and financial status of insurance company.

When to Submit. Prior to the execution of the contract by the City of Bellmead and before commencement of any work under this contract, a contractor shall furnish proof of insurance to the City's Risk Manager which is clearly labeled with the contract name and City department. The proof will include completed/current Certificate(s) of Insurance, endorsements, exclusions, and/or

relevant extracts from the insurance policy, or copies of policies. Thereafter, new certificates, policy endorsements, exclusions, and/or relevant extracts from insurance policies, or policies shall be provided prior to the expiration date of any prior certificate, endorsement, or policy. No officer or employee other than the City's Risk Manager or designee shall have authority to waive this requirement.

Additional Insured. Except for Workers' Compensation and Employers' Liability, the City, its elected officials, officers, servants, agents, volunteers, and employees shall be named as additional insureds. No officer or employee, other than the City Risk Manager or designee, shall have authority to waive this requirement.

Other-Insurance Endorsement -- All insurance policies are to contain or be endorsed to state that an "Other Insurance" clause shall not apply to the City where the City is an additional insured shown on the policy.

Agent Information. The certificate(s) or other proof of insurance must be completed by the broker of record and must be signed and include the agent information including the agent's name, title, and phone number. The proof of insurance shall be sent directly from the insurance agent to the City's Risk Management Office by U.S. Postal Service or by delivery service to City of Bellmead, ATTN: Risk Manager, 3015 Bellmead Drive, Bellmead, Texas 76705. To send by email, please contact the Risk Management Office at 254-412-7501 to obtain the email address.

Precondition to Performance & Basis for Termination. The City shall have no duty to pay or perform under the contract until such certificate(s), policy endorsements, exclusions, and/or relevant extracts from the insurance policy have been delivered to and approved by the City's Risk Manager. The contractor understands that it is the contractor's sole responsibility to provide this necessary information to the City and that failure to timely comply with these insurance requirements shall be a cause for termination of a contract. If the City determines that it will deny payment, not perform, or terminate the contract because of the failure to provide certain information or documents, the City shall give the contractor notice of that determination and allow contractor fifteen (15) days to correct the deficiency.

Waiver of Subrogation. All liability policies will provide a waiver of subrogation in favor of the City.

Notice of Cancellation, Non-renewal, Material Change. The Contractor shall provide written notification to the City of the cancellation, non-renewal, or material change of any insurance required herein. The Contractor shall provide such written notice within five (5) business days of the date the Contractor is first aware of the cancellation, non-renewal, or material change, or is first aware that the cancellation, non-renewal, or material change is threatened or otherwise may occur, whichever comes first. Contractor shall provide the City with a replacement certificate(s) of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy either before the cancellation, non-renewal, or material change is effective, if it knew in advance of such, or within ten (10) business days of first learning of the cancellation, non-renewal, or change if it did not learn of that such action in advance.

INDEMNIFICATION.

A CONTRACTOR EXECUTING A CONTRACT WITH THE CITY AGREES TO ASSUME FULL RESPONSIBILITY AND LIABILITY FOR THE SERVICES RENDERED PURSUANT TO THE CONTRACT AND AGREES TO INDEMNIFY,

PROTECT, DEFEND, AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, AGENTS, AND SERVANTS, OF AND FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTIONS OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, PERSONS AND ANY LOSSES FOR DAMAGES TO PROPERTY CAUSED BY OR ALLEGED TO BE CAUSED, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, EITHER DIRECTLY OR INDIRECTLY, OR IN CONNECTION WITH, THE SERVICES TO BE RENDERED HEREUNDER, WHETHER OR NOT SAID CLAIMS, DEMANDS, CAUSES OF ACTIONS ARE CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND A PARTY TO THIS AGREEMENT, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND SOME OTHER THIRD PARTY.

Employee Litigation: In any and all claims against any party indemnified hereunder by any employee (or the survivor or personal representative of such employee) of the contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the work, or anyone for whose acts any of them may be liable, the indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for contractor or any such subcontractor, supplier, or other individual or entity under workers' compensation or other employee benefit acts.

EXHIBIT "G"
COVER PAGE

(DOCUMENTATION REQUIRED IN ARTICLE VIII AND EXHIBIT "F" ATTACHED)

**EXHIBIT "H"
COVER PAGE**

(FIELD USAGE SCHEDULE)

FIELD USAGE SCHEDULE

Term of Usage: **Start Date** _____ **End Date** _____

Days of Usage _____

Start Time _____ **End Time** _____

Certified By: _____

RELEASE AND HOLD HARMLESS AGREEMENT

I, _____, hereby state that I am a Participant, or that I am the parent or guardian of a minor Participant, in an athletic program known as La Vega Baseball and Softball Association (hereafter called "Participant"), which is being at offered at the Bellmead Lion's Park, 3900 Parrish Street, Waco, Texas.

1. Participant understands that with all fitness programs there is a risk of injury or other physical condition may arise during strenuous exercise, including, but not limited to, sprains, tears, broken bones, heat related complications, elevated blood pressure, cardiac strain, heart attack, or stroke, or, in severe cases, death. Participant hereby accepts any and all risk of injury (including death) that may result from participating in this program.

2. In consideration of the City of Bellmead providing the site and facilities for the USER program, Participant hereby forever releases and agrees to hold harmless and to defend, from all liability for any injuries, physical harm, claims, causes of action, proceedings, suits or charges, (including, but not limited, to, attorney's fees), the City of Bellmead, Texas, including, but not limited to, its past, present, and future agents, servants, volunteers, employees, attorneys, and elected and appointed officials ("the Released Parties"). The releases, waivers and indemnities contained in this Agreement shall apply regardless of whether the claims to be released, waived or indemnified against arise, or are alleged to arise, from negligence (whether sole, joint or concurrent), gross negligence, negligence per se, and/or strict liability of the Released Parties; personal injury, death or property damage; acts of any other persons or guests; theft, burglary, assault, or other crimes; fire, water, wind, rain and/or smoke and /or any other risks and hazards associated with Participant's entry into and participation in the La Vega Baseball and Softball Association's activities, including, but not limited to, the general conditions of the premises, and the operation of any vehicles, whether belonging to Released Parties or to other persons. In addition, and without limiting the foregoing, Participant agrees to INDEMNIFY the Released Parties for any claims for injuries or harm, both to any minors under Participant's care and control and for any claims asserted by, through or under Participant, arising from or related to the entry into and participation in La Vega Baseball and Softball Association by Participant or any minors under Participant's care and control, REGARDLESS OF WHETHER SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED, OR IS ALLEGED TO BE CAUSED, IN WHOLE OR IN PART BY THE NEGLIGENCE OF ANY INDEMNITEE, IT BEING THE EXPRESSED INTENT OF THE PARTICIPANT TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE INDEMNITEES FROM THE CONSEQUENCES OF THEIR OWN NEGLIGENCE, As used herein, "INDEMNIFY" means to agree to assume the Released Parties' liability in a situation, thereby relieving them of responsibility, and/or reimbursing the Released Party for claims asserted against them.

3. Participant understands that this Agreement shall be binding on Participant's heirs, executors, successors and assigns; that the Agreement will be governed by the laws of Texas; and that jurisdiction and venue for resolution of any dispute regarding this Agreement shall lie in the Courts of McLennan County, Texas. If any part of this Agreement is determined to be invalid or unenforceable, it does not affect the validity of the remainder of this Agreement.

Participant agrees to the terms and conditions above and acknowledges receipt of this Agreement.

PARTICIPANT

DATE

PARENT/GUARDIAN (If Participant is under age 18)

DATE

WITNESS _____

DATE