

AGREEMENT

This Agreement is a contract, made and entered into this _____ day of _____, 2018 by and between the City of Norman, a municipal corporation, hereinafter called the "City," and the Ball Clubs of Norman, Inc., a non-profit corporation, hereinafter called "Association."

WITNESSETH:

WHEREAS, the City is the lessee of public property in Cleveland County, Oklahoma, known as Griffin Community Park, and which was leased from the State of Oklahoma with public funds for the purpose of establishing and maintaining a public park, and

WHEREAS, the City recognizes that the said Griffin Community Park shall be used for certain recreational purposes for the further benefit of the health, safety and welfare of the residents of said City, and

WHEREAS, the Association desires to occupy and use a certain area of the Griffin Community Park for the purpose of providing a baseball and softball program for the use and benefit of its members, the youth of Norman, and the general public.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto agree as follows:

(1) The City hereby grants the right and privilege to the Association to use, for the purpose stated, the following described property, to-wit:

Those parts of the Griffin Community Park which have been developed and are known as the baseball and softball fields, as shown on the drawing which is attached hereto and made a part hereof.

More particularly described as follows: A part of the surface of the Southeast Quarter (SE/4) of Section 20, Township 9 North, Range 2 West of the Indian Meridian.

This contract shall renew automatically on an annual basis, unless terminated pursuant to the provisions set forth herein, for a maximum contract term of five years from the date above shown.

(2) The Association agrees to pay to the City for such rights and privilege the sum of one dollar (\$1.00) per year, which sum shall be payable in advance on or before the 1st day of March each year of this Agreement.

(3) The Association agrees to pay the portion of the metered electrical cost set forth below for the use of Griffin Park baseball and softball fields. Payment shall be made to the City within thirty (30) days from date of invoice.

- Year 1: 20% of the electric bill
- Year 2: 40% of the electric bill (assuming contract renewal)
- Year 3: 60% of the electric bill (assuming contract renewal)
- Year 4: 80% of the electric bill (assuming contract renewal)
- Year 5: 100% of the electric bill (assuming contract renewal)

(4) It is agreed between the parties hereto that the purpose of operating such a Baseball/Softball Association is to provide practice and playing fields, baseball/softball facilities and equipment in Norman for youth baseball/softball, to hold and arrange for baseball/softball leagues, matches and competitions for the youth of Norman, and also to provide supervised instruction and training for beginners of the sport of both baseball and softball. It is understood and agreed that the Association has adopted safety rules and regulations, a copy of which is on file with the City, and will continue to practice and enforce such rules and regulations.

(5) Equipment: The City agrees to give the baseball and softball equipment currently held by the City and listed on Exhibit A hereto to the Association in furtherance of its baseball and softball operations in Norman. The parties stipulate that the value of the equipment is \$20,000. Should this contract terminate at the end of year 1, the Association will reimburse the City \$16,000 for the equipment. Should the contract terminate at the end of year 2, the Association will reimburse the City \$12,000 for the equipment. Should the contract terminate at the end of year 3, the Association will reimburse the City \$8,000 for the equipment. Should the contract terminate at the end of year 4, the Association will reimburse the City \$4,000 for the equipment. If the agreement does not terminate prior to the completion of year 5, reimbursement for the equipment is not required.

(6) The Association agrees to indemnify and hold the City harmless from and against all liability for injuries or death to persons, legal expense or damage to property caused by the Association's use of said right and privilege or that of its agents or employees; provided, however, that the Association shall not be liable for injury, damage or loss occasioned by the sole negligence of the City, its agents or employees; and provided further that the City shall give to the Association prompt and timely notice of any claim or suit instituted, which in any way directly or indirectly, contingently or otherwise, affects or might affect the Association, and the Association shall have the right to compromise and defend the same to the extent of its own interest.

The Association shall, at its own expense, keep in force insurance of the following types, naming the City as co-insured, and in not less than the following amounts, issued by a company or companies licensed to do business in Oklahoma and is of sound and adequate financial responsibility, against all liabilities for accidents arising out of or in connection with the Association's use of said right and privilege, except when caused by the City's negligence or that

of its agents or employees, and shall furnish to the City certificates evidencing such insurance subject to the limitations set forth above in respect to the City's sole negligence and the Association shall furnish a certificate to the effect that such insurance shall not be changed or cancelled without ten (10) days prior notice to the City, said notice shall be written and shall be given by the Association, to wit:

- (A) Worker's Compensation Insurance as prescribed by State Statute, if applicable.
 - (B) Provide insurance both liability for personal injury and property damage in limits prescribed by the Oklahoma Tort Claims Act and subsequent revisions thereto.
- (7) Maintenance of Property
- (A) The Association agrees to maintain all ground areas used by it, its members or patrons in a clean and orderly manner at all times by removing all debris, of every kind, deposited upon said ground by the Association, its members or patrons, at the conclusion of each and every period of use, at its own expense. The City will provide sanitation dumpsters at three locations within Griffin Community Park for the Association's and the City's use.
 - (B) The City agrees to mow the playing surfaces at Griffin Park at rate of once per week if weather allows. The association agrees to take over mowing of playing surfaces once they are fiscally sound to do so.
 - (C) The Association agrees to apply adequate fertilizer, to be provided by the Association, and adequate water, to be provided by the City, to keep all vegetation within the described grounds viable and healthy throughout the growing season.
 - (D) The Association agrees to maintain the existing irrigation system at its own expense and agrees to return said system to the City in proper working condition at such time as this lease is terminated by either party.
- (8) Events on Property.
- (A) The Association shall schedule and periodically monitor how the premises are used. The Association shall not charge admission for regularly scheduled league games or make-ups for regularly scheduled league games. The Association shall allow the general public attendance and observation from any appropriate areas reserved for spectators to any league game without charge; provided that this contract neither authorizes nor forbids such disciplinary measures as may be necessary to maintain order at such games or functions of the Association. The

Association's enforcement of the rules of its own program are not authorized, sanctioned or endorsed by the City, and shall not serve as a basis for a suit against the City, its officers or employees.

- (B) The Association may charge an admission charge for any sanctioned tournament game or for any other sanctioned baseball or softball event only after prior approval of the charge has been given by the City of Norman Parks and Recreation Department.
- (C) Unless previously agreed by the City and the Association, all tournament proceeds shall be made payable to the Association. Third party tournament hosts shall be required to submit expenditure receipts to the Association for any proceeds derived by a tournament at the Griffin baseball or softball facilities. Said tournament proceeds may only be used for the purpose of benefiting the youth of Norman or those participating in the program. No other receipts shall be acceptable. Third party tournament organizers shall meet the same financial and tax reporting guidelines required of the Association by the City.
- (D) The Association agrees to provide concession operations for all league and tournament games.
- (E) The Association shall provide an overall schedule to the Parks and Recreation Department of regular season play, as well as dates of tournaments and other sanctioned events.
- (F) The Association agrees that all sub contractors agreements shall be designed to be financially beneficial to the Association and that a copy of all such agreements shall be provided to the City upon request.
- (G) The Association agrees that no officer or member of the Association shall be allowed a commission, refund or rebate of any kind relative to the Griffin Park baseball/softball programs or this contract.
- (H) It is further agreed that should the City receive a third party request to use the facilities the Association shall make a reasonable effort to accommodate said request, said approval not to be unreasonably withheld by the Association.
- (I) It is understood that the Association may charge a light fee to any group which, during its lease, is requesting light usage. However, the assessed fee shall not exceed the City's then current fee for the use of ball field lights. The Association shall be responsible for activating and deactivating any and all light usage at the Griffin Park Baseball and Softball Complex. It is also understood that the

Association may charge additional fees in an amount to recover any maintenance expense which might be incurred by the Association. The Association agrees that all fees charged to third party agreements shall be applied consistently.

(9) Recordkeeping and Reporting.

- (A) The Association shall supply an annual report to the City Parks and Recreation Department and the Norman Board of Park Commissioners prior to January 1st of each year. The annual report shall include a summary of all activity along with revenue and expenditure summaries for the areas of concessions, league play and tournament play for the preceding year. Documentation of concession receipts and disbursements shall be kept on a daily basis. All detailed records associated with the baseball/softball programs shall be made available for review within ten days by the Association upon request from the City of Norman. The annual report shall also include the following:
 - 1. Narrative of all baseball/softball league and tournament activity
 - 2. Organization mission statement and goals
 - 3. All league and tournament fee structure
 - 4. Number of games, teams, players, tournaments and scholarships
 - 5. Age of participants
 - 6. Breakdown of revenues and expenditures by category
 - 7. Disclosure of all commissions, refunds and rebates to the organization
 - 8. Association's beginning and ending fund balance
 - 9. Annual Association budget including revenue, maintenance and operating and capital costs
 - 10. Current record of officers including who can authorize expenditures
 - 11. Names of those responsible for maintaining books and records
- (B) The Association shall provide to the Parks and Recreation Department an estimated budget prior to the spring and fall seasons. The budgets shall include revenue and expenditure projections in the areas of concessions, league play, tournament play, capital equipment and capital improvements.
- (C) The Association agrees to maintain all financial records associated with baseball/softball for a period of seven years. These financial records shall be maintained in such detail as to account for gross receipts and expenditures for all significant organization activity. The financial recording system shall be reviewed and approved by the City's Department of Finance for the purpose of maintaining a minimum accounting standard acceptable to both parties.
- (D) Proceeds from the operation of the Griffin Park baseball/softball complex shall be used for the operation, maintenance and improvement of the complex. The City

of Norman Parks and Recreation Department shall review and report to Council annually that all necessary maintenance and improvements have been made to the complex.

(10) It is further understood and agreed between the parties that the right and privilege granted by this contract are subject to all ordinances, rules and regulations of the City governing all the activities on said Griffin Community Park, including all sanitary regulation of any governmental authority which the City may be authorized to enforce.

(11) The Association agrees that no permanent structure of any nature shall be constructed by the Association upon any area used under this contract until detailed plans have been submitted to the Parks and Recreation Department of any proposed construction and approval, in writing, has been given by said department, and any permanent structure approved by the City becomes property of the City upon termination of this contract.

(12) It is further understood that the facilities governed by this agreement are public facilities and that the Association shall be responsible for third party leases of Griffin Park baseball/softball complex when available for public use.

(13) Notice. Any notice provided pursuant to this Contract shall be mailed or delivered to such officer of the Association or other person as designated by the Association. The Association agrees to inform the City immediately after its annual election the names of its officers for the ensuing year the addresses to which such notice may be mailed or delivered. Any notice to be given to the City shall be directed to the Director of the Parks and Recreation Department of the City of Norman.

(14) Termination.

- (A) Either party shall have the right to cancel this contract for any reasons provided thirty (30) days written notice is provided to the Association. If the City is cancelling the contract, prior to the proposed effective date of cancellation, the Association shall be afforded a hearing before the Board of Park Commissioners, if requested. The results of such hearing shall not be binding on the City as constituting a limitation upon its power to cancel this contract
- (B) In the event this contract is cancelled, for any reason, the Association shall have the right to remove any movable non-permanent improvements and/or structures provided or donated entirely by the Association within ninety (90) days after cancellation of this contract, clearing all debris and litter from said property in a clean and orderly condition, to the satisfaction of the City. Any improvements or structures not moved within ninety (90) days after satisfaction of any indebtedness shall become property of the City.

(14) The Association agrees further that it will not deny membership in such Association to any person on the basis of race, religion, color, creed, sex, age, ancestry or national origin.

This Agreement shall not be assigned by the Association without prior written consent of the City of Norman, said consent not to be unreasonably withheld.

[the remainder of this page left blank intentionally]

In Witness Whereof, the parties hereunto set their hands and seals the date first above written.

BALL CLUBS OF NORMAN, INC.

BY: _____
President

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2018, personally appeared _____ to me known to be the identical person who executed the foregoing, and acknowledged to me that he/she executed the same as free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year last above written.

Notary Public

My commission expires:

CITY OF NORMAN

Approved as to form and legality this _____ day of _____, 2018.

City Attorney

By: _____
Mayor

ATTEST:

City Clerk

EXHIBIT A
Equipment List

500 Junior Batting Helmets – Black
450 Youth Batting Helmets – Black
300 Softball Face Guards
24 Junior Catcher Gear Packs – Black
24 Youth Catcher Gear Packs – Royal
4 Prep Catcher Gear Packs – Scarlet
8 Qwik Fit Catchers Set Jr. Youth
10 Girls's Catcher Gear Pack –Royal
5 Women's Catcher Gear Pack – Scarlet
10 Batting Tees