

# Memo

Carmichael



RECREATION AND  
PARK DISTRICT

**To:** Advisory Board of Directors

**From:** Mike Blondino, District Administrator  
Alaina Lofthus, Recreation Services Manager

**Date:** February 17, 2022

**Subject:** Facility Use Agreement with California Breeze Softball, Inc.

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***Introduction/Background:***

California Breeze Softball, Inc. is a nonprofit competitive travel softball organization started in 1985 in the greater Sacramento area. For years, the organization has raised funds so there is no charge to participants. This gives those who can not afford to pay traditional travel softball expenses an opportunity to play. The California Breeze 14 and under team is the first team to have several alumni from Carmichael Girls Softball and is coached by a former board member, Joe Leavitt. The coaching staff are focused on developing young softball athletes as complete and responsible people striving to empower young women into the leaders of tomorrow.

***Discussion:***

California Breeze Softball, Inc, working with Carmichael Girls Softball, were able to identify practice days and times in which at least one field at Carmichael Park was not going to be used by Carmichael Girls Softball. Adjustments to field use will be made to the Carmichael Girls Softball Facility Use Agreement to formalize the availability of certain fields on particular days and times. Staff have drafted an agreement with California Breeze Softball, Inc. (attached) which outlines specific responsibilities of each organization. The term of the agreement shall commence February 18, 2022, through June 30, 2022.

Below are some key points in the agreement

- **Field Use:**
  - Wednesdays, Field #2, 5:30pm – 8:30pm
  - Sundays, Field #4, 9am – 12pm
  - No parking near Field #1 during Sunday Farmers' Market Hours (8am – 2pm)
- **Exclusions:**
  - None of the following are permitted in the agreement: inflatables, snack bar use, alcoholic beverages, vendor booths/tents, banners, and generators.
- **Player Fee:** \$8.00 per player fee will be charged and is consistent with player fees charged for other youth organizations using the fields at Carmichael Park. California Breeze Softball, Inc. will provide the necessary reports for the district to complete the calculations and submit an invoice.

- Maintenance Fees: A fee of \$26 per week (1 day of use) or \$52 per week (2 days of use) will be charged based on a monthly field use schedule submitted to the Recreation Service Manager.

The agreement was made in collaboration with staff and representatives from the California Breeze Softball, Inc. The agreement has been reviewed by County Counsel and County Risk Management.

***Recommendation:***

Staff recommends that the Carmichael Recreation and Park District Advisory Board of Directors approve the terms and conditions of the Facility Use Agreement with California Breeze Softball, Inc. for the softball fields at Carmichael Park, effective February 18, 2022 to June 30, 2022, as presented and authorize Mike Blondino, the District Administrator, to sign the Agreement (FUA).

**FACILITIES USE AGREEMENT  
BETWEEN PERMITTEE AND CARMICHAEL RECREATION  
AND PARK DISTRICT FOR FIELD USE**

THIS FACILITIES USE AGREEMENT (hereinafter referred to as “Agreement”) is effective this 18<sup>th</sup> day of February, 2022 (“Effective Date”) by and between the CALIFORNIA BREEZE SOFTBALL, INC., a public benefit non-profit corporation, (hereinafter referred to as “PERMITTEE”) and the CARMICHAEL RECREATION AND PARK DISTRICT, a recreation and park district existing under authority of Public Resources Code § 5780 et seq, hereinafter referred to as (“DISTRICT”).

**RECITALS**

**WHEREAS**, DISTRICT is the owner and operator of Carmichael Park located at 5750 Grant Avenue Carmichael, California 95608 (“Facility”); and

**WHEREAS**, the DISTRICT desires to provide for the citizens of the DISTRICT youth sports programs, and is willing to allow youth sports organizations to provide youth sports activities, and various special events on DISTRICT facilities; and

**WHEREAS**, the DISTRICT does not have employees within its work force who can provide all the needed coaching/administration/instruction/leadership: and

**WHEREAS**, the Advisory Board of Directors has indicated its desire for the DISTRICT to allow youth sports organizations with individuals possessing the appropriate backgrounds and experience to give coaching/administration/instruction/leadership in various youth sports programming areas; and

**WHEREAS**, the PERMITTEE is a competent and experienced organization in a particular youth sport activity and is willing to provide program coaching/administration/instruction/leadership for citizens of the DISTRICT; and

**WHEREAS**, this Agreement outlines the PERMITTEE’s obligations relating to program coaching/administration/instruction/leadership to be performed in consideration for using portions of DISTRICT’s Facility.

*(Remainder of page intentionally left blank)*

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the facts of the above, the parties do mutually agree as follows:

### **I. SERVICES TO BE PERFORMED BY PERMITTEE**

- A. PERMITTEE shall perform the following services:
  - 1. Teach softball to youth within the boundaries of their softball program, which includes a portion of the DISTRICT. DISTRICT facility used by PERMITTEE for scrimmages/or practices is: CARMICHAEL PARK – Field #2 & #4 at 5750 Grant Avenue, Carmichael, CA 95608

### **II. TERM**

- A. The term of this Agreement shall commence February 18, 2022 through June 30, 2022.

### **III. TERMINATION**

- A. PERMITTEE may terminate the Agreement hereto by 30 days' written notice to the DISTRICT. Notice of termination by DISTRICT shall be given, with or without cause, upon 30 days' written notice. In the event the PERMITTEE terminates without the advance notice to the District Administrator and Recreation Manager required by this paragraph, the PERMITTEE is responsible for any financial loss incurred by the DISTRICT pursuant to this Agreement.

### **IV. CAREGIVER OF FACILITIES**

- A. PERMITTEE shall, throughout the period of this Agreement, act as caregiver to the DISTRICT facilities in use by keeping facilities safe, welcoming, game ready (fields), and free of debris.
- B. PERMITTEE is responsible for the Facility being free of trash or debris caused by PERMITTEE usage.
- C. PERMITTEE is required to report any and all damage or acts of vandalism to the DISTRICT immediately.

### **V. MODIFICATIONS TO FACILITY**

- A. PERMITTEE may perform minor maintenance and repairs with DISTRICT approval. Maintenance and repairs are defined as routine, recurring, usual work, and minor repainting for preservation or protection of DISTRICT owned facility.
- B. PERMITTEE is not to make any changes to the permanent structures or add any permanent structures to the facilities.
- C. Any facility malfunctions or damage is to be reported to DISTRICT. The party responsible for labor and payment for repair will be determined.
- D. PERMITTEE is not allowed to designate the name of a field, or any portion of the Facility, without prior approval from the DISTRICT.

- E. No storage units may be placed on Facility without written permission by DISTRICT only, and units are the responsibility of the PERMITTEE. The DISTRICT assumes no liability or responsibility for any equipment or property kept in the storage areas. Storage units must be in good condition at all times and any vandalism or breakage must be repaired immediately. PERMITTEE must maintain the storage facility in a clean manner at all times. PERMITTEE must provide keys to DISTRICT for all storage units, locked closets and fenced areas. *Any/all flammable and/or toxic substances are strictly prohibited in storage containers.*

## **VI. GENERAL INFORMATION AND MAINTENANCE**

### **A. FIELD USE**

1. PERMITTEE has the first right of refusal for leagues and tournaments throughout the year at the following times:
  - a) Wednesdays                      Field #2                      5:30pm – 8:30pm
  - b) Sundays                              Field #4                      9:00am – 12:00pm
2. Any time the aforementioned ballfields are not scheduled for use by PERMITTEE, the DISTRICT reserves the right to schedule other activities on the ballfields including field rentals. DISTRICT will communicate with PERMITTEE on field use requests and impact on fields.
3. The DISTRICT retains priority use of the fields for DISTRICT sponsored programs and events. Events that have priority use and may impact PERMITTEE include, but are not limited to, the following:
  - Sunday Farmers Market – 8am – 2pm – Parking at Clubhouse and Field 1
4. Field use is for practices and informal scrimmages only. No tournament or game use.
5. PERMITTEE is prohibited from subleasing the field to other organizations (youth or adult) including PERMITTEE organization coaches performing clinics, camps, and lessons in which individual coaches are monetarily compensated.

### **B. PARKING**

1. PERMITTEE is responsible for coordinating parking and traffic within the park during use.
2. PERMITTEE is responsible to provide a sufficient number of staff/volunteers to assist with parking and traffic control if needed. Parking is allowed in designated areas only.
3. PERMITTEE must observe and comply with any and all local parking rules and regulations applicable with the park.
4. Nothing herein is intended to authorize PERMITTEE to override the normally applicable parking regulations, nor to override the authority of official designated parking enforcement personnel of the County.

### **C. INFLATABLES**

1. No inflatables are to be used by PERMITTEE.

D. RESTROOMS/TOILETS

1. PERMITTEE is responsible to provide and pay for additional portable restrooms/toilets during the season.
2. DISTRICT is responsible for the upkeep and maintenance of the restrooms at Carmichael Park.

E. SNACK BAR

1. PERMITTEE shall not enter or use the snack bar space.

F. NO ALCOHOLIC BEVERAGES POLICY

1. No alcoholic beverages allowed in or around the softball facility or any other park sites located within the Carmichael Recreation and Park District without an authorized permit, insurance, and security.

G. BOOTHS/TENTS

1. No Food Booths or Vendor Booths may be set up or organized by PERMITTEE.

H. BANNERS

1. No banners may be placed on or near fields by PERMITTEE.

I. GENERATORS

1. Generator use is prohibited by PERMITTEE.

J. MAINTENANCE

1. DISTRICT will be responsible for repairs to the park's irrigation system, plant materials, tree hazards, and fences. Repairs of items will be determined by staff for safety, need and budget.
2. DISTRICT agrees to maintain turf area of all (5) fields, including mowing, aerating, and weed abatement. The frequency of this work will be based on a turf schedule and funding determined by the DISTRICT.
3. PERMITTEE will be responsible for infield maintenance during use which includes proper field and equipment use, preparation, and grooming.
4. PERMITTEE is responsible for inspecting fields, score boxes, and bleachers (before and after practices), for any hazardous conditions or clean-up required. Any hazardous conditions that need DISTRICT attention will be communicated to the DISTRICT'S Recreation Service Manager. PERMITTEE shall cease use and restrict access to any identified hazardous/unsafe scoreboxes, bleachers or areas until the DISTRICT completes an inspection and/or repair.
5. PERMITTEE shall pay a fee of \$26 per week (1 day of use) or \$52 per week (2 days of use) for 2022 to the DISTRICT for maintenance costs. PERMITTEE must submit a field use schedule prior to field use each month to the Recreation Services Manager. Notification of changes to this schedule must be made to the Recreation Services Manager.

K. NOTIFICATION OF CHANGES

1. PERMITTEE is responsible for providing the DISTRICT with an updated Contact List with contact(s) information including phone number(s) and email address(es).

2. PERMITTEE is responsible for contacting the DISTRICT'S Recreation Services Manager regarding any changes to the contact list throughout the course of the Agreement.
3. PERMITTEE is responsible for contacting the DISTRICT'S Recreation Services Manager regarding any field use changes.

## **VII. ADVERTISEMENT**

- A. PERMITTEE to not allowed to solicit memberships or conduct fundraisers during field use.

## **VIII. YOUTH PLAYER FEES**

- A. In consideration of DISTRICT'S promise to allow PERMITTEE use of the ballfields, PERMITTEE agrees to pay the Youth Player Fees set forth herein. The Youth Player Fees will go towards water costs, repairs and other expenses the District incurs from owning the facility.
  1. A fee per player per main season involved in organized sports programs that utilize DISTRICT athletic fields will be assessed the following amount:

2022 Seasons = \$8.00 per player
  2. The PERMITTEE'S main season is Spring (February through July).
- B. When the PERMITTEE submits its team rosters, the DISTRICT will then submit an invoice for the player fee.
- C. Full payment is due to Carmichael Recreation & Park District, 5750 Grant Avenue, Carmichael, CA 95608, within 30 days of receiving an invoice from the DISTRICT.

## **IX. LEAGUE ROSTER**

- A. Within 30 days of the conclusion of PERMITTEE registration periods, or within 30 days of the signing of this Agreement, whichever occurs last, the PERMITTEE is to provide the DISTRICT with a list of participants, including age, gender identity, and address. The roster data will be used by the DISTRICT for statistical purposes and to verify the total Youth Player Fee for each Permittee. The roster data will not be disclosed, given or sold to any person or business for any reason, to the extent that non-disclosure is allowed under the California Public Records Act.
- B. Player fees are required for access to all District Facilities.
- C. Submit rosters to the Recreation Services Manager either by email or 5325 Engle Rd, Suite 100, Carmichael, CA 95608.
- D. Current and future field permits are contingent upon accurate rosters and payments.

## **X. SUBMITTAL OF PAYMENT**

- A. Payments are to be submitted to the DISTRICT'S Recreation Services Manager responsible for the oversight of said services at 5750 Grant Avenue, Carmichael, CA 95608.

## **XI. ASSIGNMENT**

- A. This Agreement is for PERMITTEE activities only and cannot be assigned to another individual or entity.

## **XII. INDEPENDENT AGENCIES**

- A. Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint ventures of one another. PERMITTEE is not an employee of the DISTRICT and is not entitled to any of the rights, benefits or privileges of DISTRICT employees.
  
- B. PERMITTEE acknowledges that all personnel furnished by PERMITTEE to perform services pursuant to this Agreement shall be agents of the PERMITTEE and shall at all times be subject to the direct supervision and control of the PERMITTEE. PERMITTEE shall be solely liable for any and all injuries resulting to its agents, which may arise out of or in the course of the administration/performance of this Agreement. The DISTRICT and the County of Sacramento shall not be liable for any workers' compensation or other benefits accruing under federal or state law to any agents/employees of the PERMITTEE to administer/perform services pursuant to this Agreement. If Permittee has any employees, then Permittee agrees that it will, at all times during the term of this Agreement, at its own expense, obtain and keep in full force and in effect, workers' compensation insurance as required by law with coverage extending to all of PERMITTEE employees, whether permanent, temporary or seasonal.
  
- C. The services PERMITTEE administers and performs pursuant to this Agreement are intended to have the result of improving softball skills and abilities to area youth in a fun, safe, healthful and encouraging manner through softball team practices, games, and/or special events. Any vending by PERMITTEE is done independently from the DISTRICT, and the PERMITTEE assumes responsibility for all related permits, health regulations, taxation, and auditing related to vending.

## **XIII. INDEMNIFICATION**

To the fullest extent allowed by law, Permittee shall indemnify, defend, and hold harmless the DISTRICT and the County of Sacramento, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents, (collectively "Indemnified Parties") from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the Permittee, its officers, agents, employees, or contractors, or the acts or omissions of anyone else directly or indirectly acting on behalf of the Permittee, or for which the Permittee is legally liable under law regardless of whether caused in part by an Indemnified Party. Permittee shall not be liable for any Claims



arising from the sole negligence or willful misconduct of an Indemnified Party where such indemnification would be invalid under Section 2782 of the Civil Code.

- A. This indemnity obligation shall not be limited by the types and amounts of insurance or self-insurance maintained by PERMITTEE.
- B. Nothing in this indemnity obligation shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.
- C. The provisions of this indemnity obligation shall survive the expiration or termination of the Agreement.

#### **XIV. INSURANCE**

Without limiting PERMITTEE'S indemnification, PERMITTEE shall maintain in force at all times during the term of this Agreement and any extensions or modifications thereto, insurance as specified in Exhibit A. It is the responsibility of PERMITTEE to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in Exhibit A. It is understood and agreed that PERMITTEE shall not have access to the fields until DISTRICT is satisfied that all insurance required by this Agreement is in force. Failure to maintain insurance as required by the Agreement may be grounds for termination of the Agreement.

#### **XV. NONDISCRIMINATION**

PERMITTEE shall not discriminate with respect to race, color, religion, religious creed, national origin, ancestry, citizenship, physical or mental disability, medical condition, genetic information, marital status, sex, pregnancy, gender, gender identity, gender expression, sexual orientation, veteran and/or military status, protected medical leaves, domestic violence victim status, political affiliation, and any other status protected by state or federal law pursuant to this Agreement. In addition, prohibits retaliation against a person who engages in activities protected by this section. Reporting, or assisting in reporting, suspected violations of this section.

#### **XVI. AMENDMENTS**

This Agreement sets forth all of the promises, conditions and understandings between DISTRICT and PERMITTEE relating to the Facility. There are no promises, conditions and understandings, either oral or written, between DISTRICT and PERMITTEE other than those set forth in this Agreement. No subsequent modification or Agreement with respect to the terms of this Agreement shall be effective, unless such subsequent modification or agreement is in writing executed by both DISTRICT and PERMITTEE. No oral representation, whenever made, by any official or employee of DISTRICT shall be effective to modify the provisions of this Agreement. This Agreement shall be binding upon the parties hereto, their successors and assigns.

**XVII. WRITTEN COMMUNICATION AND NOTICE**

All notices from either party to the other under this Agreement shall be in writing and sent by nationally recognized overnight delivery service or by United States certified or registered mail, postage prepaid with receipt obtained, addressed to the other party at the address provided below, or such other address as the party to receive the notification may subsequently designate by written notice to the other:

To DISTRICT at:

Carmichael Recreation and Park District  
5750 Grant Avenue  
Carmichael, CA 95608  
Phone: (916) 485-5322

To PERMITTEE at:

California Breeze Softball, Inc.

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**XVIII. SIGNATURE AUTHORITY**

Each of the persons signing below represents and warrants that he/she has the authority to legally bind the party on whose behalf he/she signs.

**XIX. PARAGRAPH HEADINGS**

The paragraph headings contained herein are for convenience and reference only and are not intended to define or limit the scope of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

**DISTRICT/PERMITTEE:**

**CARMICHAEL RECREATION AND PARK DISTRICT,**

a recreation and park district existing under authority of  
Public Resources Code § 5780 et seq

By: \_\_\_\_\_

Mike Blondino, District Administrator  
Carmichael Recreation and Park District  
"DISTRICT"

**CALIFORNIA BREEZE SOFTBALL, INC**

By: \_\_\_\_\_

Don Mashburn, General Manager  
California Breeze  
"PERMITTEE"

**CARMICHAEL RECREATION AND PARK DISTRICT**  
**INSURANCE REQUIREMENTS FOR**  
**CALIFORNIA BREEZE SOFTBALL, INC**  
**FACILITY USE AGREEMENT**

Without limiting PERMITTEE's indemnification, PERMITTEE shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the PERMITTEE, its agents, representatives or employees. DISTRICT shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of the DISTRICT Risk Manager, insurance provisions in these requirements do not provide adequate protection for DISTRICT and for members of the public, DISTRICT may require PERMITTEE to obtain insurance sufficient in coverage, form and amount to provide adequate protection. DISTRICT's requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

**I. VERIFICATION OF COVERAGE**

PERMITTEE shall furnish the DISTRICT with certificates evidencing coverage required below. **Copies of required endorsements must be attached to provided certificates.** The DISTRICT Risk Manager may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the Risk Manager, the interests of the DISTRICT and the general public are adequately protected. All certificates, evidences of self-insurance, and additional insured endorsements are to be received and approved by the DISTRICT before performance commences. The DISTRICT reserves the right to require that PERMITTEE provide complete copies of any policy of insurance offered in compliance with these specifications.

**II. MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- A. GENERAL LIABILITY: Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by the DISTRICT Risk Manager.
- B. AUTOMOBILE LIABILITY: Insurance Services Office's Commercial Automobile Liability coverage form CA 0001.
  - 1. Commercial Automobile Liability: auto coverage symbol "1" (any

auto) for corporate/business owned vehicles. If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply.

2. Personal Lines automobile insurance shall apply if vehicles are individually owned.
- C. WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability Insurance.
- D. UMBRELLA or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.
- E. SEXUAL ABUSE OR MOLESTATION (SAM) LIABILITY: If the work will include contact with minors, and the General Liability policy referenced above is not endorsed to include affirmative coverage for sexual abuse or molestation, Contractor shall obtain and maintain a policy covering Sexual Abuse and Molestation.

### III. **MINIMUM LIMITS OF INSURANCE**

PERMITTEE shall maintain limits no less than:

- A. General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate:	\$2,000,000
Products Comp/Op Aggregate:	\$2,000,000
Personal & Adv. Injury:	\$1,000,000
Each Occurrence:	\$2,000,000

- B. AUTOMOBILE LIABILITY:

1. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$1,000,000 Combined Single Limit.
2. Personal Lines Automobile Liability for Individually owned vehicles, \$100,000 per person, \$300,000 each accident, \$50,000 property damage.

- C. WORKERS' COMPENSATION: Statutory.
- D. EMPLOYER'S LIABILITY: \$1,000,000 per accident for bodily injury or disease.
- E. SEXUAL ABUSE OR MOLESTATION (SAM) LIABILITY: \$1,000,000 per occurrence or claim.

#### IV. **DEDUCTIBLES AND SELF-INSURED RETENTION**

Any deductibles or self-insured retention that apply to any insurance required by this Agreement must be declared and approved by the DISTRICT.

#### V. **OTHER INSURANCE PROVISIONS**

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provision:

##### A. All Policies:

1. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII. The DISTRICT Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of the DISTRICT and the general public are adequately protected.
2. MAINTENANCE OF INSURANCE COVERAGE: The PERMITTEE shall maintain all insurance coverages and limits in place at all times and provide the DISTRICT with evidence of each policy's renewal within ten (10) days after its anniversary date.

PERMITTEE is required by this Agreement to immediately notify DISTRICT if they receive a communication from their insurance carrier or agent that any required insurance is to be canceled, non-renewed, reduced in scope or limits or otherwise materially changed. PERMITTEE shall provide evidence that such cancelled or non-renewed or otherwise materially changed insurance has been replaced or its cancellation notice withdrawn without any interruption in coverage, scope or limits. Failure to maintain required insurance in force shall be considered a material breach of the Agreement.

#### VI. **COMMERCIAL GENERAL LIABILITY AND AUTOMOBILE LIABILITY**

- A. ADDITIONAL INSURED STATUS: The DISTRICT and the County of

Sacramento, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents (each an "Additional Insured," and collectively "Additional Insured Parties") are to be endorsed as additional insureds as respects: liability arising out of activities performed by or on behalf of the PERMITTEE; products and completed operations of the PERMITTEE; premises owned, occupied or used by the PERMITTEE; or automobiles owned, leased, hired or borrowed by the PERMITTEE. The coverage shall contain no endorsed limitations on the scope of protection afforded to the Additional Insured Parties.

- B. PRIMARY INSURANCE: For any claims related to this Agreement, the PERMITTEE's insurance coverage shall be endorsed to be primary insurance as respects the Additional Insured Parties. Any insurance or self-insurance maintained by the DISTRICT, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents shall be excess of the PERMITTEE's insurance and shall not contribute with it.
- C. SEVERABILITY OF INTEREST: The PERMITTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- D. SUBCONTRACTORS: PERMITTEE shall be responsible for the acts and omissions of all its subcontractors and additional insured endorsements as provided by PERMITTEE's subcontractor.

## **VII. WORKERS' COMPENSATION**

Workers' Compensation Waiver of Subrogation: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the Additional Insured Parties, which might arise by reason of payment under such policy in connection with performance under this Agreement by the PERMITTEE. Should PERMITTEE be self-insured for workers' compensation, PERMITTEE hereby agrees to waive its right of subrogation against the Additional Insured Parties.

## **VIII. NOTIFICATION OF CLAIM**

If any claim for damages is filed with PERMITTEE or if any lawsuit is instituted against PERMITTEE, that arise out of or are in any way connected with PERMITTEE's performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect DISTRICT, PERMITTEE shall give prompt and timely notice thereof to DISTRICT. Notice shall be prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.