

Memo

Carmichael



RECREATION AND
PARK DISTRICT

To: Advisory Board of Directors

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

Date: December 19, 2019

Subject: Facility Use Agreement with Carmichael Girls Softball

Introduction/Background:

Carmichael Girls Softball is a volunteer non-profit softball league for youth ages 4 – 17. They were founded in 1969 and strive to provide opportunities for every player to develop softball skills, have respect for teammates and competitors, and achieve individual goals. They work on teaching life lessons and pride themselves on creating a fun and positive environment. Carmichael Recreation and Park District has enjoyed a strong relationship with Carmichael Girls Softball at Carmichael Park. They have access to a total of five (5) fields and a snack bar and serve approximately 225 players and their families throughout the year.

Discussion:

Carmichael Girls Softball current agreement expires December 31, 2019. Staff have drafted a new agreement (attached) which outlines specific responsibilities of each organization. The term of the agreement shall commence January 1, 2020 through December 31, 2022.

The agreement not only outlines specific responsibilities to care and maintain the facilities but also includes some of the following changes from the current agreement:

- **Modification to Facility:** Added and clarified details regarding maintenance, repair, and changes to permanent structures.
- **Field Use:**
 - Described in more detail start and end times for each day of the week.
 - Added language prohibiting subleasing.
- **Inflatables:** Described in more detail inflatable restrictions and requirements.
- **Banners:** Added this section to describe in more detail banner locations, installation, removal, time limitations, content, language, specifications, and liability.
- **Player Fee:** Adjusted expiring agreement amount per player to \$7.00 for 2020, \$7.00 for 2021, and \$8.00 for 2022. Each season Carmichael Girls Softball will provide the necessary reports for the district to complete the calculations and submit an invoice. These fees are charged to Carmichael Girls Softball league players only and not to teams that play on our fields against them (i.e. league games or tournaments).

- Utility and Maintenance Fees: Continued the same 3% annual escalation from expiring agreement.

The changes to the agreement were made in collaboration with staff and representatives from the Carmichael Girls Softball Board. The agreement has been reviewed by County Counsel.

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 Carmichael Girls Softball for the softball fields at Carmichael Park, effective January 1, 2020 to December 31, 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 AND SNACK BAR USE**

THIS FACILITIES USE AGREEMENT (hereinafter referred to as “Agreement”) is effective this 1st day of January, 2020 (“Effective Date”) by and between the CARMICHAEL GIRLS SOFTBALL (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

Ownership. DISTRICT is the owner and operator of Carmichael Park located at 5750 Grant Avenue Carmichael, California 95608.

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,

(Remainder of page intentionally left blank)

AGREEMENT

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

I. SERVICES TO BE PERFORMED BY PERMITTEE

- A. PERMITTEE shall perform the following services under the guidelines of the youth softball program:
 - 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 games and/or practices is: CARMICHAEL PARK – 5 Fields and snack bar at 5750 Grant Avenue, Carmichael, CA 95608

II. TERM

- A. The term of this agreement shall commence January 1, 2020 through December 31, 2022.

III. TERMINATION

- A. PERMITTEE may terminate the agreement hereto by thirty-30 day's 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 contract, act as caregiver to the DISTRICT facilities in use by keeping facilities safe, welcoming, field's game ready, 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 repair with DISTRICT approval. Maintenance and repair is 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) Mondays – Thursdays 2:30pm – 9:30pm
 - b) Fridays 2:30pm – 10pm (except BF 1 & 2 is 2:30pm – 6pm)
 - c) Saturdays & Sundays 6:30am – 10pm
2. Anytime the 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 is not limited to the following:
 - Egg Hunt (Saturday before Easter Sunday) – Ball Field 1 and 2 and parking area from 6am to 12pm
 - Founders Day (Saturday in September) – 7am – 5pm
 - First Thursday of the month for Food Trucks – Parking only
 - Concerts in the Park – June through August – Parking impact
 - Sunday Farmers Market – 8am – 2pm – Parking at Clubhouse and field 1
4. All tournaments need to be scheduled with the DISTRICT in advance due to limited parking and events scheduled in the Clubhouse and Veteran’s Building. PERMITTEE is required to pay DISTRICT for any additional staff needed at tournaments to help with trash and bathrooms.
5. The DISTRICT has priority use on ball field 1 and 2 on Fridays after 6pm (February – December) for Adult Softball with the understanding that additional days may be added in the future. DISTRICT will communicate with PERMITTEE regarding potential additional days.
6. 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 the season.
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. PERMITTEE shall ensure that Inflatable companies provide the DISTRICT with liability insurance endorsed to name the DISTRICT as an additional insured and shall include primary and non-contributory language in favor of the DISTRICT.
2. Inflatables are restricted to four walled jump houses, slides and obstacle courses. Inflatables with water features and/or bungee jumps are not allowed.
3. DISTRICT does not provide electricity or access to generators.
4. PERMITTEE must provide adequate supervision so that use is in compliance with the manufacturer's recommendations and reflects safe levels of operation.
5. PERMITTEE must ensure inflatable(s) are secured to park grounds effectively.

D. RESTROOMS/TOILETS

1. PERMITTEE is responsible to provide and pay for additional portable restrooms/toilets during the season. Depending upon the expected attendance, duration of the event, and the availability of public restrooms, PERMITTEE may need to rent portable toilets to accommodate participants. DISTRICT requires one toilet for every 250 people, or portion thereof. For every four portable toilets rented for your event, one must be ADA approved to meet specific guidelines set forth by the American with Disabilities Act of 1990. The number of toilets required is based upon the maximum number at your event during peak time.
2. DISTRICT is responsible for the upkeep and maintenance of the restrooms at Carmichael Park.

E. SNACK BAR

1. PERMITTEE is responsible to control and maintain full responsibility for the snack bar operations.
2. PERMITTEE is responsible to obtain a yearly health department permit and inspection.
3. PERMITTEE is responsible to comply with Sacramento County Health codes and regulations in regard to the preparation, selling, and consuming of food at DISTRICT facilities.
4. PERMITTEE shall pay a fee of \$529.44 (480 sq. ft) for 2020 to the DISTRICT for electricity for the snack bar building with a 3% increase for 2021 and a 3% increase for 2022.

5. DISTRICT will maintain the electrical between walls.
6. Any modifications, alterations, or changes to the snack bar building must be approved by the DISTRICT.
7. The phone service and building alarm and security systems are the responsibility of the PERMITTEE.
8. PERMITTEE shall maintain the inside of the snack bar, including the storage area and roof in accordance with DISTRICT standards. The DISTRICT will maintain the building shell.

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. Food Booths
 - a) A Business Operation Tax Certificate and County Health Permits are required to sell, expose or for sale, or offer for sale any goods, wares, or merchandise within the facility. PERMITTEE must abide by all Sacramento County Metropolitan Fire Department regulations that apply to booths and tents.
2. Vendor Booths
 - a) Vendor booths are usually similar in construction to food booths but are meant for retail sale of non-food items. A Business Operation Tax Certificate is required to sell, expose or for sale, or offer for sale any goods, wares, or merchandise within the parks. PERMITTEE must abide by all fire department regulations that apply to booths and tents.

H. BANNERS

1. Location, Installation, and Removal
 - a) PERMITTEE may display banners at Carmichael Park on ball fields 1-5.
 - b) No permanent structures can be erected for the purpose of supporting banners.
 - c) Banners placed on ball fields are restricted to the outfield fence (must face the inside of the ball field) and backstops.
 - d) PERMITTEE must space banners evenly across the fence to create a uniform pattern.
 - e) PERMITTEE must center banners between posts on fences with the bottom of the banner placed no less than two feet above the ground.
 - f) Banners must be tied with zip ties only.
 - g) Banners may not be hung from any bleachers or dugouts.
 - h) It is the sole responsibility of the PERMITTEE to put up and take down banners.
2. Time Limitations

- a) PERMITTEE may display banners up to two weeks prior to the start of the main season and removed no later than two weeks after the end of the main season.
 - b) PERMITTEE may not display banners year-round.
 - c) Banners advertising league registration may be requested by PERMITTEE to be posted at one site location for a period of time that does not exceed 14 days. Approval will be based on DISTRICT availability.
3. Banner Content and Language
 - a) No inappropriate language or message may be displayed. DISTRICT has final approval on content.
 - b) The message and graphics must be done professionally and be maintained in a neat and clean manner throughout the season.
 - c) Banners should be for team and/or field sponsorship purposes only. Any other types/purpose of banners must be approved by the DISTRICT prior to display.
 4. Banner Specifications
 - a) Banners must be vinyl and may not exceed the dimensions of 4 feet high by 6 feet long.
 5. Defective Banners
 - a) Any defect in a banner which could cause possible injury, damage to property or a traffic hazard, will be removed by the DISTRICT without prior notification.
 - b) PERMITTEE shall be responsible for the cost to repair any damage to DISTRICT owned property that results from the hanging or suspension of defective banners.
 6. Liability
 - a) Banners are the property of the PERMITTEE. The DISTRICT is not responsible for the disappearance of or the damage to banners from any cause including but not limited to wind, weather, theft, or vandalism.
 7. Interpretation and Removal
 - a) The DISTRICT reserves the right to remove banners at any time for reasons including but not limited to content, language, location, time, limitations, specifications, or appearance.
 - b) The PERMITTEE is responsible for any costs associated with repair or replacement of any banner the DISTRICT removed due to content, language, specifications, or appearance.

I. GENERATORS

1. Portable generators, if needed, should be placed in an area where attendees are unlikely to come into contact with them, and be placed at least 10 feet from any combustible materials. Generators shall be located a minimum of 20 feet from tents or canopies.

2. Refueling: When refueling a portable generator, you must wait until the generator cools, and then refill it from a self-closing safety can.
3. A portable fire extinguisher, minimum 2A 10B: C size, with a current Fire Marshall tag attached must be on-hand and easily accessible at all times.

J. MAINTENANCE

1. DISTRICT and PERMITTEE will complete an annual “walk-through” (January) to address safety concerns and to communicate planned projects for the year.
2. 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.
3. 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.
4. PERMITTEE will be responsible for infield maintenance which includes adding soil amendments and grooming.
5. PERMITTEE will be required to have one workday per calendar year to make improvements and repairs as needed.
6. PERMITTEE is responsible for inspecting fields, score boxes, and bleachers (before and after games and 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.
7. PERMITTEE shall pay a fee of \$546 for 2020 to the DISTRICT for maintenance costs with a 3% increase for 2021 and 3% increase for 2022.

K. NOTIFICATION OF CHANGES

1. PERMITTEE is responsible for providing the DISTRICT an updated list of Board Members including their names, phone numbers, and email addresses prior to the start of the Spring season each year.
2. PERMITTEE is responsible for contacting the DISTRICT’S Recreation Services Manager regarding any changes in Board Members throughout the course of the Spring and Fall seasons.
3. PERMITTEE is responsible for contacting the DISTRICT’S Recreation Services Manager regarding any program changes.
4. PERMITTEE is responsible for contacting the DISTRICT’S Recreation Services Manager regarding any lock (key or combination) and alarm code changes to the facilities.

VII.ADVERTISMENT

- A. DISTRICT will allow PERMITTEE to solicit memberships and conduct fundraisers for the sole purpose of enhancing or providing funding for the program, equipment and/or fields.

- B. DISTRICT will promote PERMITTEE in the printed activity guide which is mailed to approximately 25,000 residents (District Boundaries) two times per year. The location of the advertisement will be based on space availability. PERMITTEE will provide DISTRICT a written write up which must be received prior to deadline.
- C. DISTRICT and PERMITTEE will set up a web link to promote each other's programs to the general public.

VIII. YOUTH PLAYER FEES

- A. In consideration of DISTRICT'S promise to allow PERMITTEE use of the athletic fields, 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:
 - 2020 Seasons = \$7.00 per player
 - 2021 Seasons = \$7.00 per player
 - 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 95610, 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 contract, the PERMITTEE is to provide the DISTRICT with a list of participants, including age, gender, 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. 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 AND INSURANCE

- A. PERMITTEE shall indemnify, defend, and hold harmless the DISTRICT, its officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, including injury to or death of persons, and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of this Agreement, regardless of whether caused in part by a party indemnified hereunder. This indemnity obligation shall not be limited by the types and amounts of insurance or self-insurance maintained by PERMITTEE. 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. The provisions of this indemnity obligation shall survive the expiration or termination of the Agreement.
- 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 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. 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, general liability insurance with limits of not less than \$1 million occurrence and \$2 million aggregate. The PERMITTEE'S general liability insurance policy shall be endorsed to name the DISTRICT as an additional insured and shall include primary and non-contributory language in favor of the DISTRICT. PERMITTEE shall furnish DISTRICT with a certificate of insurance with the required additional insured and primary and non-contributory endorsements. It is the responsibility of PERMITTEE to notify its insurance advisor or insurance carrier regarding coverage, limits and forms specified in this Agreement. It is understood and agreed that failure to maintain insurance as required by this Agreement may be grounds for terminating the Agreement.

XIV. 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

XV. 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.

XVI. 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:

Carmichael Girls Softball

XVII. 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.

XVIII. 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”

CARMICHAEL GIRLS SOFTBALL

By: _____
Joe Leavitt, President
Carmichael Girls Softball
“PERMITTEE”