

KELLER SPORTS PARK OPERATING POLICIES

SECTION I STATEMENT OF PURPOSE

ARTICLE 1 The following is an agreement for use of athletic facilities at Keller Sports Park to insure that these facilities are utilized efficiently and safely. The City of Keller Parks and Recreation Department will work with various individuals, groups, and organizations to provide high quality sporting opportunities for the Keller community.

SECTION II PARTICIPATION AND USAGE

ARTICLE 1 City sponsored Parks and Recreation Department activities will have priority in scheduling matters. The Parks and Recreation reserves all rights in assigning teams to respective sites of play in order to facilitate program scheduling. The City will give first consideration on scheduling for non-profit groups providing programs for youth who primarily live in Keller. Among the youth, priority will be given to the local recreational youth associations, Keller Youth Association and Keller Soccer Associations, Alliance Rugby Club, Keller Lacrosse Association, and churches respectively. Second consideration shall be given to non-profit groups providing programs for adults who primarily live in Keller. Among the adults, priority will be given to the local non-profit adult associations, churches, and corporations respectively. Third consideration shall be given to for-profit groups whose primary membership consists of participants living outside of the city limits of the City of Keller and select teams/organizations.

ARTICLE 2 No fees may be charged without prior approval of the Parks and Recreation Board for any event. An event is defined as an occasion or an activity which brings a group of people together for a contest, competition or exhibition. Each event will be considered separately. User shall not sub-lease facilities or collect fees from any other user.

ARTICLE 3 The User's rules and regulations concerning "conduct" must include or incorporate the guidelines listed in Appendix I in order to use City Keller Sports Park. The User shall make National Youth Sports Coaching Association certification and/or other coaching clinics available to all coaches.

ARTICLE 4 It shall be the responsibility of the User to staff each User sponsored activity with the appropriate emergency, medical, and security staff. The

City will not assume responsibility of these staff at User sponsored activities.

ARTICLE 5 Long term users shall pay the city a non-resident fee of \$30.00 per player per sport season to recover a portion of the maintenance and operation costs of athletic fields and facilities. Non-resident fees shall be capped at \$90.00 per family, per season. Fees are due to the city within four weeks of the beginning of the season unless other provisions are approved by the City effective with the Spring 2014 sport season.

ARTICLE 6 Long term users shall pay actual utilities cost for fields. Short term users shall pay actual cost plus an additional usage fee as established in the addendum set by City Council.

SECTION III SCHEDULING

ARTICLE 1 The following SPECIFIC SPORT SEASONS have been established as a necessary discipline in planning and allocating athletic facilities:

SPECIFIC SPORT SEASONS

<u>Sport</u>	<u>Season Start</u>	<u>Season End</u>
Spring Softball	March 1	August 15
Fall Softball	August 15	November 15
Spring Baseball	March 15	August 15
Fall Baseball	September 1	November 30
Spring Football	March 15	May 30
Fall Football	September 1	November 30
Spring Soccer	February 15	June 15
Fall Soccer	August 1	November 30
Spring Rugby	January 15	June 1
Summer Rugby	May 15	August 30
Spring Lacrosse	January 1	June 30
Fall Lacrosse	August 1	November 30

ARTICLE 2 The User requiring facilities for practice and/or league games will submit their needs for the approaching SPECIFIC SPORT SEASON at least 60 days prior to the start of the season (this is defined as the deadline for submission of needs). Said submission shall be on a form supplied by the Parks and Recreation Department.

ARTICLE 3 Prior to 10 days before the SPECIFIC SPORT SEASON, a meeting of all Users will be conducted by the Parks and Recreation Department.

- ARTICLE 4 Any group or individual may schedule an athletic facility through the Parks and Recreation Department when available. First priority will be given to those individuals, teams and groups whose members live in Keller. Consideration will also be given to those who attend K.I.S.D., work and/or worship in Keller.
- ARTICLE 5 The User shall furnish to the Parks and Recreation Department a full schedule for the specific season and a written report, which includes the total number of participants, including a breakdown of resident and non-resident participant and their addresses. The report and full schedule shall be submitted at least one week prior to start of league play. Any revisions must be submitted within three weeks of start of play. Any additional revisions shall be submitted within one week after the completion of the season.
- ARTICLE 6 In addition to a schedule of regular league play, the User will provide a detailed schedule of activities, tournaments, camps, instructional workshops, maintenance, or other activities scheduled on City facilities at least three weeks in advance of the activity to be approved by the Parks and Recreation Department.
- ARTICLE 7 User must notify the Parks and Recreation Department at least 24 hours in advance of make-up or rescheduled games and receive approval from the Parks and Recreation Department prior to rescheduling.
- ARTICLE 8 The Parks and Recreation Department reserves all rights to approve schedules including times and fields of play and other activities at all city facilities. User will have full responsibility to administer league schedule and activities.
- ARTICLE 9 Use of fields shall be as follows: (a) all soccer fields will be utilized for soccer use only, (b) all baseball fields will be utilized for baseball use only, (c) all softball fields will be utilized for softball only, (d) multi-use fields will be utilized for football, baseball and rugby, (e) **lacrosse field will be utilized for boys lacrosse program (Keller Lacrosse Association) only**. The Parks and Recreation Department shall consider all requests for facilities in the best interest of the total city. Use of the multi-use fields will be determined by the following factors:
- a) Consideration will be given to past program needs by the User. Likewise, consideration will be given to new programs by both existing and new Users.
 - b) Where necessary, considerations will be given to expanded facility usage such as extended hours, etc.
 - c) All requests will be reviewed, balanced and facilities allocated as the Parks and Recreation Department can best determine. The

Parks and Recreation Department may place more than one User on a given facility for the same sport.

ARTICLE 10 Soccer and baseball fields at Keller Sports Park may not be used for practice. They are designated for league play only. Any exception to the use of these fields must be approved at least one (1) week in advance by the Parks and Recreation Department.

ARTICLE 11 Multi-use fields may not be reserved for practices during the designated sport seasons. Practices may only be scheduled during the off seasons. The fields will be scheduled on a "first-come-first-served" basis for single reservations only. All fields **MUST** be reserved through the Parks and Recreation Department. A non-refundable use fee of \$15 is required for all resident reservations and \$45 for non-resident reservations for each 2 hour rental. Utility fee is additional.

ARTICLE 12 Playing fields may be reserved for games only. Exception: Softball fields may be reserved for practices by City of Keller and/or Keller Youth Association registered teams only. The fields will be scheduled on a "first-come-first-served" basis when available. All fields **MUST** be reserved through the Parks and Recreation Department. A non-refundable use fee of \$25 is required for all resident reservations and \$100 for non-resident reservations for each 2 hour rental. Utility fee is additional.

ARTICLE 13 The facility may be used for tournaments and special uses. User shall be charged a flat fee in order to guarantee the City's cost would be recovered. For profit organizations flat fee shall be greater than that of a non-profit organization flat fee.

ARTICLE 14 User will abide by the hours of operation as set by the City for that activity. City parks close at 10:00 P.M. as set by the City Ordinance. Any exception to the park closing time must be approved in advance by the Parks and Recreation Department.

SECTION IV USERS OBLIGATION

Maintenance Obligation:

ARTICLE 1 User shall be responsible for daily game day policing of all litter on their field(s) to include playing areas, dugouts, fences, backstops, bleachers, concession stands and adjacent grounds. All litter shall be placed in the bins, cans, and receptacles provided by City.

ARTICLE 2 User shall be prohibited from performing any maintenance to any turf or infield areas without permission from the City.

Long Term or Multi-Reservation General Obligation:

ARTICLE 1 User must comply with procedures, policies, and restrictions and all pertinent ordinances of the City.

ARTICLE 2 User shall ensure that all secured areas remain locked and/or are locked at the completion of each daily activity. The City will provide the User necessary keys.

ARTICLE 3 User shall close fields at the completion of each daily activity including turning off lights, locking restroom facilities, and securing equipment.

ARTICLE 4 User shall provide related equipment necessary for play and storage for such.

ARTICLE 5 Maintenance and supervision of equipment owned or rented by user shall be the sole responsibility of the user. Alteration in design or type of equipment may be required by City to ensure safety; however, the City shall not be held to ensure the safety of any User owned or rented equipment. All equipment owned by the User must be removed by the end of this agreement.

ARTICLE 6 User shall place equipment for each game. User will be responsible for removal and storage of equipment following completion of each day's play/activity.

ARTICLE 7 Scoreboard control boxes shall be distributed through the City Parks and Recreation Office before the activity or season begins. User is responsible for maintenance of boxes. Repairs will be charged to the user. If User fails to make payment within ten (10) days of the billing date, field contract will be terminated. Boxes are to be returned to the Parks and Recreation office within one week of the activity or season's completion.

ARTICLE 8 User shall provide officials and assume expense of same.

ARTICLE 9 Although the City will make every effort to correct any problems discovered with the playing area, the User accepts this contract and the playing areas described herein as is and understands that it is the User's obligation to notify the City by way of the City Manager or as designated Director of Parks and Recreation's office in writing of any unsafe playing conditions upon discovery.

- ARTICLE 10 User shall submit a written request to the City Manager or as designated Director of Parks and Recreation for approval for any installation or construction of temporary or permanent structures, signs, equipment, or other related items. Permanent structures shall become the property of the City.
- ARTICLE 11 User must provide the City a copy of the User's rules and regulations, charters, constitution, by-laws, and directory of officers including names, addresses and phone numbers.
- ARTICLE 12 User shall furnish the City with the number of players by age and division and zip code within three weeks following Opening Day of each season. The listing should also include a breakdown of resident and non-resident participants.
- ARTICLE 13 User shall be responsible for the collection of all participation/facility usage fees levied by the City. These fees should be paid within four weeks of the beginning of the season unless other provisions are approved by the City.
- ARTICLE 14 User shall agree to waive all claims, release, indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action which may arise by reason of injury to property or persons occasioned by error, omission or negligent act of User, its officers, agents, employees, invitees or other persons, arising out of or in connection with this agreement or any and all activity or use pursuant of this agreement, or on or about the Property; and User will, at its own cost and expense, defend and protect City from any and all such claims and demands. Also, User agrees to and shall indemnify, defend and hold harmless User and all of its officials, officers, agents and employees, from and against any and all claims, losses, damages, causes of all expenses of litigation, court costs and attorneys fees for injury to or death of any person or for damage to any property arising out of or in connection with this agreement or any and all activity or use pursuant indemnity shall apply whether the claims, losses, damages, causes of action suits or liability arise from the negligence of the User, its officers, officials, agents or employees and whether said negligence is contractual comparative negligence, concurrent negligence, gross negligence or any other form of negligence. City is responsible only for City's sole negligence.
- ARTICLE 15 Insurance Requirements: (Note: Please see Multi-Use Policy for requirements related to equine sports.)

The requirements noted below are designed and intended to be applicable only to formal organizations and leagues who sponsor and control organized continuing athletic activities on a seasonal basis. The insurance requirement is not applicable to individual citizens or groups of citizens who desire to use athletic fields on a one time basis.

User shall maintain minimum insurance requirements as follows:

- a. Commercial General Liability: \$500,000 combined single limit per occurrence with a General Aggregate for death, bodily injury, personal injury and property damage. This policy shall have no coverages removed by exclusions. This policy shall provide coverage for all activities or uses arising out of or in connection with this agreement, or occurring on the Property during User's use.
- b. Workers' Compensation and Employers' Liability Statutory. Employers Liability policy limits of \$100,000 for each accident, \$100,000 disease - each employee, \$500,000 disease - policy limit. The insurer shall agree to waive all rights of subrogation against City, its officials, employees and volunteers for losses arising from the activities under this contract.
- c. User shall insure that the insurance carrier adds City as a named additional insured on the commercial general liability described above.
- d. User shall notify City immediately in the event User's insurance coverage shall be suspended, voided, canceled, and/or reduced in coverage or in limits.
- e. Insurance is to be placed with insurers with a Best Rating of no less than A:VII. The company must also be duly authorized to transact business in the State of Texas.
- f. Certificates of Insurance and endorsements affecting coverage required by this clause shall be forwarded to the City Manager or as designated Director of Parks and Recreation .

ARTICLE 16 User shall mark all field lines before each regular scheduled game day.

Short Term or Single Reservation General Obligation:

ARTICLE 1 User must comply with procedures, policies, and restrictions and all pertinent ordinances of the City.

- ARTICLE 2 User shall ensure that all secured areas remain locked and/or are locked at the completion of each daily activity. The City will provide the User necessary keys.
- ARTICLE 3 User shall close fields at the completion of each daily activity including turning off lights, locking restroom facilities, and securing equipment.
- ARTICLE 4 User shall provide nets and all other related equipment necessary for play and storage for such.
- ARTICLE 5 Maintenance and supervision of equipment owned or rented by user shall be the sole responsibility of the user. Alteration in design or type of equipment may be required by City to ensure safety; however, the City shall not be held to ensure the safety of any User owned or rented equipment. All equipment owned by the User must be removed by the end of this agreement.
- ARTICLE 6 User shall place equipment for each game. User will be responsible for removal and storage of equipment following completion of each day's play/activity.
- ARTICLE 7 Scoreboard control boxes shall be distributed through the City Parks and Recreation office before the activity or event begins. All Users will be required to submit a \$250 deposit for each box. The security deposit is refundable if the control box is returned in good working condition. Payment of the security deposit does not release the user from responsibility for damages. Any damages incurred resulting in a repair fee equal to an amount greater than the deposit will be charged to the User. Boxes are to be returned to the Parks and Recreation office the next working day after the activity's completion.
- ARTICLE 8 User shall provide officials and assume expense of same.
- ARTICLE 9 Although the City will make every effort to correct any problems discovered with the playing area, the User accepts this contract and the playing areas described herein as is and understands that it is the User's obligation to notify the City by way of the City Manager or as designated Director of Parks and Recreation 's office in writing of any unsafe playing conditions upon discovery.
- ARTICLE 10 User shall submit a written request to the City Manager or as designated Director of Parks and Recreation for approval for any installation or construction of temporary or permanent structures, signs, equipment, or other related items. Permanent structures shall become the property of the City.

ARTICLE 11 User must provide the City a list of the User's event/activity coordinators including names, addresses and phone numbers. At least two names shall be provided.

ARTICLE 12 User shall furnish the City with the expected number of players for the event/activity at least two weeks prior to the event/activity.

ARTICLE 13 User shall be responsible for the collection of and remittance to the City of all participation/facility usage fees levied by the City. These fees should be paid at least two weeks prior to the event/activity unless other provisions are approved by the City. Reservations can not be confirmed unless payment is received.

ARTICLE 14 User shall agree to waive all claims, release, indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action which may arise by reason of injury to property or persons occasioned by error, omission or negligent act of User, its officers, agents, employees, invitees or other persons, arising out of or in connection with this agreement or any and all activity or use pursuant of this agreement, or on or about the Property; and User will, at its own cost and expense, defend and protect City from any and all such claims and demands. Also, User agrees to and shall indemnify, defend and hold harmless User and all of its officials, officers, agents and employees, from and against any and all claims, losses, damages, causes of all expenses of litigation, court costs and attorneys fees for injury to or death of any person or for damage to any property arising out of or in connection with this agreement or any and all activity or use pursuant indemnity shall apply whether the claims, losses, damages, causes of action suits or liability arise from the negligence of the User, its officers, officials, agents or employees and whether said negligence is contractual comparative negligence, concurrent negligence, gross negligence or any other form of negligence. City is responsible only for City's sole negligence.

ARTICLE 15 User shall mark all field lines before each regular scheduled game day.

SECTION V CITY'S OBLIGATION

Maintenance Obligation:

- ARTICLE 1 City shall maintain all turf areas on the fields to include mowing, weed control, pest control, and fertilizing.
- ARTICLE 2 City shall perform all turf maintenance to include field lines. The City shall also provide sand, soil, etc. to be used in leveling or backfilling low areas when deemed necessary.
- ARTICLE 3 City shall build pitcher's mound if needed.
- ARTICLE 4 City shall drag infields daily, weather permitting for official scheduled games only.
- ARTICLE 5 City shall maintain all bleachers, fences, dugouts, backstops, and gates in a safe and secure condition.
- ARTICLE 6 City shall provide and maintain all area and field lighting systems.
- ARTICLE 7 City shall be responsible for the maintenance of any field irrigation system and watering of the fields.
- ARTICLE 8 City shall be responsible for the maintenance of any adjacent park irrigation systems and the watering of the non-athletic turf areas.
- ARTICLE 9 City shall maintain the restrooms in a safe and sanitary condition.
- ARTICLE 10 City shall be responsible for off-season winterizing of plumbing fixtures.

General Obligation:

- ARTICLE 1 City shall issue two (2) sets of keys seasonally only to the president/leader of the User group. A \$50.00 fees will be assessed for the replacement of keys lost or not returned.
- ARTICLE 2 City shall be responsible for all public scoreboards and the lines leading to the scoreboards.
- ARTICLE 3 City shall appoint members to the Appeals Committee to serve one calendar year.
- ARTICLE 4 City shall provide and empty litter receptacles.
- ARTICLE 5 City shall provide nets, goals, bases, plates and pitching rubbers and properly maintain.

SECTION VI
ENFORCEMENT OF CONTRACT

- ARTICLE 1 The administration of this contract shall be the responsibility of the Parks and Recreation Department. The Parks and Recreation Department shall report regularly to the Parks and Recreation Board on the effectiveness and difficulties of administering this contract.
- ARTICLE 2 Enforcement of this contract will be through periodic monitoring by the Parks and Recreation Department.
- ARTICLE 3 The term of a use agreement shall be the length of the specific sport season.
- ARTICLE 4 Upon termination of this agreement, the User shall have the right of first refusal to enter into a new contract. If the User fails or refuses to enter into a new contract at least sixty (60) days prior to the usual start of their season, City shall have the right to enter into an agreement for use of the facility with another User. The former User shall have thirty (30) days to remove its own movable equipment which is not a permanent nature, upon termination of this agreement.
- ARTICLE 5 Violation of this contract will be brought to the attention of an Appeals Committee appointed by the City Council.
- ARTICLE 6 Should the User use the facilities in violation of Section III, Article 10 they will be fined \$50 and shall forfeit their right to use the facility until fine is paid to the City.
- ARTICLE 7 Should the User use the facilities in violation of Section VII Article 1, they will be fined \$75 and shall forfeit their right to use the facility and any fees paid pending a hearing by the Appeals Committee.
- ARTICLE 8 Failure of a User group to provide an effective procedure for enforcing conduct guidelines, hereto shall constitute grounds for cancellation of this contract.
- ARTICLE 9 Failure to comply with all of the provisions set forth in this contract shall result in this contract being revoked by the City and all privileges set forth being terminated. Such revocation of said contract shall be made without refund of any paid fees. This is binding upon any User of said contract.

ARTICLE 10 Any appeals to the revocation of this contract should be made in writing to the City Secretary within 10 days after contract is revoked. Appeals will be reviewed by City Council.

SECTION VII

CITY PROCEDURES FOR ATHLETIC FIELD CLOSURE

ARTICLE 1 The Parks and Recreation Department will check the game sites in advance and render a decision relative to scheduled games for that date when inclement weather conditions exist. The City has the absolute authority to close the parks and facilities in the event of inclement weather, wet grounds, or any other "act of God" which would cause questionable playing conditions.

ARTICLE 2 Reasons for Athletic Field Closure include:

- a) It is raining at game time.
- b) Playing fields are too wet.
- c) Athletic fields need to be closed in the interest of participant safety and/or preservation of good playing surfaces.
- d) Maintenance and/or repair
- e) Lightning

ARTICLE 3 City procedures for Athletic Field Closure during the WEEKDAYS:

- A. The primary responsibility for making field closure decisions rests with the City Parks Supervisor responsible for athletic field maintenance.
- B. The User shall designate a field manager representative and one alternate. The User's field manager has the responsibility to inform the User's representatives and participants about the field closure decision.
- C. City will inspect athletic fields by 3:00 PM on game day.
- D. City will make a decision based upon field conditions or weather.
- E. The decision of the City will be final.
- F. City will inform designated field manager or the alternate.
- G. After games have begun and inclement weather becomes a factor, the umpires and or User officials shall make a decision for cancellation or postponement after inspection of the athletic fields.
- H. A red flag will be raised to indicate which fields are closed.

ARTICLE 4 City procedures for Athletic Field Closure on WEEKENDS:

The same procedures for weekday field closure should be followed with the following exceptions:

A. City will inspect all fields by 3:00 PM on Friday and 7:00 AM on Saturday.

B. If a decision at 3:00 PM on Friday is not possible, a Parks Department employee will monitor the weather and field conditions throughout the weekend and make decisions on field closures as needed.

SECTION VIII

OPERATION OF CONCESSION STAND

ARTICLE 1 The City shall advertise for Request For Proposals (RFP's) to operate the concession stand for one calendar year, January through December. From the proposals submitted, the City will select a concessionaire to operate the concession stand at all scheduled activities for a calendar year. Concessionaire will be chosen based on variety of products; past references; compliance to city, state, county and federal codes and laws; and provision of payment to the City. Priority will be given to Keller Youth Association and Keller Soccer Association and other local non-profit organizations. The successful applicant will be required to enter into a formal written contract with the City to furnish all equipment, materials, supplies, labor, permits and licenses as necessary to provide a high quality service to the public.

ARTICLE 2 Equipment required for concession operation will be provided by the Concessionaire. Concessionaire shall be responsible for maintenance and repair of equipment. Concessionaire agrees to maintain all equipment in a sanitary and clean condition and must be approved and acceptable by the City. The Concessionaire shall be responsible for inventory of all equipment and supplies of the concessions.

ARTICLE 3 Concessionaire covenants will be an independent contractor and not an officer, agent, servant or employee of the City. Concessionaire shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors, and consultants.

ARTICLE 4 Concessionaire will, at its own expense, keep and maintain the Premises in good condition, but only during the period of Concessionaire's use of the Premises. Concessionaire will do all work and make all repairs reasonably necessary or advisable to keep the premises from deteriorating in value or

condition and to restore and maintain the Premises, with the exception of normal wear and tear and aging consistent with normal usage and time. Concessionaire agrees to maintain the Premises and any other areas used by Concessionaire in a clean, neat, sanitary, safe and orderly manner and free of waste, rubbish and debris at all times.

ARTICLE 5 City shall have the right and privilege, through its agents and officials to make inspections of the Premises and thereafter to make recommendations to Concessionaire for any repairs that in City's opinion are reasonably necessary to be performed by Concessionaire upon the Premises. Concessionaire agrees and covenants that it shall commence repairs within fourteen (14) days from the date that such recommendations are made. In the event that Concessionaire shall fail to commence such recommended repairs within the time provided, it is understood and agreed that City may, within its discretion, make such repairs as it deems necessary for and on behalf of Concessionaire; and, in such event, the cost of such repairs shall be paid by Concessionaire within ten (10) days following the completion of said repairs.

ARTICLE 6 Concessionaire agrees to be solely responsible for the inspection of the Premises during the period of Concessionaire's use of the Premises and will notify the City Manager or as designated Director of Parks and Recreation of any existing or developing hazardous or dangerous condition on the Premises.

ARTICLE 7 Concessionaire will pay actual costs of utilities for each concession stand operated to cover the cost of utilities. Fee payment shall be due prior to the 10th day of each month the concession facilities are used by the Concessionaire.

ARTICLE 8 Concessionaire will provide the City with the names, addresses and phone numbers of individuals managing concession stands.

ARTICLE 9 The City has the right to enter into a contract granting a particular vendor exclusivity (i.e. a particular drink sponsor). City will negotiate for best contract. Concessionaire shall comply with all requirements of the contract.

ARTICLE 10 City, its officers, agents and representatives shall have the right to enter into and upon any and all parts of the Premises at all reasonable hours to: (a) inspect Premises or clean or make repairs or alterations or additions as City may deem necessary (but without any obligation to do so); or (b) show the Premises to prospective tenants, purchasers or lenders.

SECTION IX
MISCELLANEOUS

- ARTICLE 1 User must provide the City with a designated primary and secondary person to communicate with City Staff. In an attempt to maintain effective communications, only these designated individuals shall contact the City Manager or as designated Director of Parks and Recreation in regards to any of their concerns or needs.
- ARTICLE 2 There is limited storage facilities for Users' maintenance and/or sport equipment. It is recommended that User be prepared to supply their own storage. User may put a portable storage facility and store equipment on site only after approval of City Manager or as designated Director of Parks and Recreation .
- ARTICLE 3 All Users with youth sports programs operating within the structure of the Keller Parks and Recreation Department and/or using City facilities shall make available National Youth Sports Coaching Association Certification and/or other coaches clinics to all coaches.
- ARTICLE 4 Any funds generated by activities scheduled into City parks and facilities will be subject to an audit by the City upon demand. Failure to comply will result in contract being invalidated and considered null and void.
- ARTICLE 5 In accordance with Ordinance #1306, it shall be unlawful for any person owning, possessing or keeping an animal or animals, whether vaccinated or unvaccinated, licensed or unlicensed, to allow such animal or animals to be within the sidelines and/or fences of the league sports playing fields or spectator areas of said fields. Spectator areas are defined as the perimeter of the concession stands located at the baseball and softball fields measuring out forty-five (45) feet and the perimeter of the soccer and football field sidelines measuring out twenty (20) feet.
- ARTICLE 6 In accordance with Ordinance #1307, smoking in municipal buildings or facilities; bleachers in public parks; or grounds or facilities at Keller Sports Park except in the parking lots is prohibited.

APPENDIX I

CONDUCT GUIDELINES

THESE GUIDELINES HAVE BEEN ESTABLISHED IN THE INTEREST OF THE CITIZENS OF KELLER WHO WISH TO PARTICIPATE IN PROGRAMS AND ACTIVITIES PROVIDED BY THE SPONSORING USER IN KELLER SPORTS PARK.

"Participant" in these guidelines may include, but not be limited to players, coaches, spectators, and/or officials.

1. User groups shall establish a Review Board to consider allegations of violations of these conduct guidelines. The Review Board shall be empowered to take whatever action is needed, including expulsion from the program, to effectively enforce these guidelines. The Review Board shall submit to the Parks and Recreation Appeals Committee a written report of all complaints considered by the Board and action taken in response thereto, within 10 days after the complaint is filed.
2. A participant may be ejected from a game or game site at the discretion of the official for fighting, displaying abusive language, displaying unnecessary roughness, harassment of officials, or for any other flagrant act of misconduct which deters from the competitive or recreational objective of the program.
3. For grossly severe acts of misconduct, expulsion from the program shall be immediate.
4. Any ejected participant who is instructed to leave the game and thereafter causes a disturbance of any nature, shall be ordered by the official or league officers to leave the game site.
5. Any participant that holds, pushes, shoves, curses, strikes, or attacks an official is automatically suspended (restricted from participation in any manner) for the remainder of the current season. Additional discipline may be administered as deemed appropriate by the Review Board.
6. Conduct After the Game/Activity While on City Property: Any participant who continues to display conduct which deters from the recreational objectives of the program, after the game/activity, will result in disciplinary action being taken against that individual.
7. Tobacco usage in/on the playing field shall not be permitted by any participant.

8. No participant shall be allowed to participate while intoxicated or under the influence of drugs.
9. NYSCA certification and/or other coaches clinics is encouraged for all youth coaches utilizing city facilities.

**KELLER SPORTS PARK
CONCESSIONAIRE CONTRACT**

This concessionaire contract (hereinafter referred to as "Contract") is made and entered into on this the _____ day of _____, 19____, by and between _____, (hereinafter referred to as "Concessionaire"), and the CITY OF KELLER, TEXAS, a municipal corporation of the State of Texas, (hereinafter referred to as "City"), acting by and through its City Manager or his designee.

For and in consideration of the prompt and timely delivery of concession services as specifies herein and in consideration of the mutual covenants, responsibilities and duties herein contained, the parties hereto do mutually agree as follows:

**Section I
Grant of License**

Concessionaire shall use the Premises only for the operation of a food and beverage concession. This contract does not include authority for concessionaire to sell other merchandise in conjunction with the concession, and Concessionaire shall not sell other merchandise without the prior written consent of the City.

It is expressly understood and agreed by Concessionaire that City reserves the right to authorize any additional concessions other than those granted to Concessionaire in the event City determines that such additional concession operation are in the public interest.

Concessionaire covenants and agrees it will not engage in any business or activity on the Premises or do anything in connection therewith which shall be in violation of any existing State, Federal or local law, or to use the Premises in such manner as to constitute a common nuisance.

The City has the right to enter into a contract granting a particular vendor exclusivity (i.e. a particular drink sponsor). City will negotiate for best contract. Concessionaire shall comply with all requirements of the contract.

**Section II
Term**

This Contract shall commence on ___ day of _____, 19____, and terminate on the _____ day of _____, 19____, unless terminated earlier in accordance with this Contract. Concessionaire will have the right to operate the concession operation on the Premises from _____ a.m./p.m. to _____ a.m./p.m.. The use of the Premises by Concessionaire will be limited to such times as shall not be in conflict with use by the City. The City Manager or as designated Director of Parks and Recreation reserves the right to regulate the hours that Concessionaire may use the Premises.

Section III Consideration

In consideration of the rights and privileges herein granted, non-profit concessionaires shall pay to City the actual costs of utilities for each day the concession stand is in use. Such payment shall be made to the City Manager or as designated Director of Parks and Recreation on or before the 10th day of the following month. For profit organizations will pay actual cost of utilities and also an operational fee as may be negotiated.

Section IV Variety and Pricing of Food and Beverage Items

Concessionaire is authorized to sell food and beverage items for which there shall be a reasonable demand. Concessionaire shall not sell alcoholic beverages on the Premises. Should City approve the sale of alcoholic beverages on the Premises and Concessionaire desires to sell alcoholic beverages, this contract must be renegotiated and approved by the City to establish guidelines for such sales.

It is the desire of the City to permit Concessionaire flexibility and control in the day-to-day merchandising and pricing of food and beverage items. City, however, reserves the right to advise Concessionaire on the variety of and retail selling price of food and beverage items in the best interest of the citizens of Keller. The City may require the sale of certain food and beverage items which it considers essential to the concessions operation based on the demand of the citizens of Keller. Concessionaire shall submit a list to the City Manager or as designated Director of Parks and Recreation of those food and beverage items proposed for sale and their prices prior to beginning the concession operation. Thereafter, Concessionaire shall update and resubmit the list as necessary. In the event the City chooses to limit prices or require certain food and beverage items, notice of same shall be furnished to Concessionaire, who shall have ten (10) calendar days from receipt of notice to decide whether to comply. Failure to comply may be a basis for termination of this contract.

Vending machines shall not be used in conjunction with the concession operation.

Section V Personnel

Concessionaire agrees to operate the concession operation with a sufficient number of staff and to be responsible for the supervision of those staff members.

**Section VI
Utilities**

Water, sewer, and electrical utilities to the Premises shall be provided by City. Payment of utilities is the responsibility of the concessionaire. In the event of an utility outage, for whatever reason, City shall not be responsible for any loss sustained by Concessionaire.

**Section VII
Sanitation and Cleanliness**

Concessionaire agrees to conduct the concession operation and to maintain the Premises in a sanitary and clean condition during Concessionaire's use of the Premises. Concessionaire shall at all times comply with existing ordinances and County, State and Federal law regarding food establishments. Concessionaire further agrees that its Premises and services shall at all times be subject to inspection by City. However, City is under no duty or obligation to inspect the Premises or services.

**Section VIII
Building Improvements**

Should Concessionaire plan to construct any improvements on the Premises, all plans and specifications for improvements will be approved by City prior to the start of construction. All construction will be in compliance with the relevant codes of City and other federal, state and local laws, ordinances, rules and regulations.

**Section IX
Maintenance**

Concessionaire covenants and agrees that it will, at its own expense, keep and maintain the Premises in good condition, but only during the period of Concessionaire's use of the Premises. Concessionaire will do all work and make all repairs reasonably necessary or advisable to keep the Premises from deteriorating in value or condition and to restore and maintain the Premises, with the exception of normal wear and tear and aging consistent with normal usage and time. Concessionaire agrees to maintain the premises and any other areas used by Concessionaire in a clean, neat, sanitary, safe and orderly manner and free of waste, rubbish, and debris at all times. City shall have the right and privilege, through its agents and officials to make inspections of the Premises and thereafter to make recommendations to Concessionaire for any repairs that in City's opinion are reasonably necessary to be performed by Concessionaire upon the Premises. Concessionaire agrees and covenants that it shall commence repairs within fourteen days from the date that such recommendations are made. In the event that Concessionaire shall fail to commence such recommended repairs within the time provided, it is understood and agreed that City may, within its discretion, make such repairs as it deems necessary for and on behalf of Concessionaire, and, in such event, the cost of such repairs

shall be paid by Concessionaire within ten (10) days following the completion of said repairs.

Concessionaire agrees to be solely responsible for the inspection of the Premises during the period of Concessionaire's use of the Premises and will notify the City Manager or as designated Director of Parks and Recreation of any existing or developing hazardous or dangerous condition on the Premises.

Concessionaire agrees to accept the Premises in the condition in which it is found.

Section X Equipment and Inventory

Equipment required for concession operation will be provided by the Concessionaire. Concessionaire shall be responsible for maintenance and repair of equipment. Concessionaire agrees to maintain all equipment in a sanitary and clean condition and must be approved and acceptable by the City. The Concessionaire shall be responsible for inventory of all equipment and supplies of the concessions.

Section XI Right of Inspection

City, its officers, agents and representative shall have the right to enter into and upon any and all parts of the Premises at all reasonable hours to (a) inspect same or clean or make repairs or alterations or additions as City may deem necessary (but without any obligation to do so), or (b) show the Premises to prospective tenants.

Section XII Default

The following events shall be deemed to be events of default by Concessionaire under the Contract:

A. Concessionaire shall fail to comply with any term, provision or covenant of this Agreement or the contract, and shall not cure such failure within the following specified number of days after written notice thereof to Concessionaire:

- 1) five days if said default relates to any payments under this Contract; and
- 2) ten days if said default is of any other nature under this Contract.

Upon the occurrence of any event of default specified above, City shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

A. Terminate this contract, in which event Concessionaire shall immediately surrender the Premises to City, and if Concessionaire fails to do so, City may, without prejudice to any other remedy which it may have for possession, enter upon and take possession and expel or remove Concessionaire any other person who may be occupying said Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefor; and Concessionaire agrees to pay to City on demand the amount of any loss and/or damage which City may suffer by reason of such termination, whether through inability to relet the Premises on satisfactory terms or otherwise.

No reentry or taking possession of the Premises by City shall be construed as an election on its part to terminate this Contract, unless a written notice of such intention be given to Concessionaire.

The loss or damage the City may suffer by reason of termination of this contract or the deficiency from any reletting as provided for above shall include the expenses of repossession and any repairs or remodeling undertaken following possession. Should City at any time terminate this Contract for any default, in addition to any other remedy City may have, City may recover from Concessionaire all damages City may incur by reason of such default, including cost of recovering the Premises and reasonable attorney's fees expended by reason of default.

XIII Termination

City may, at its option and without prejudice to any other remedy it may be entitled at law or in equity, or otherwise under this contract, terminate the contract, in whole or in part, with or without cause, by giving at least thirty (30) days prior written notice thereof to Concessionaire. The parties agree that the contract shall terminate on the date specified on the notice and that Concessionaire shall be responsible for any fees due and owing up to and through the termination date specified on the notice.

XIV Vacation of Premises

It is further understood and agreed that Concessionaire will, at the end of this Contract, or upon termination of this Contract, vacate the Premises without delay and peaceably deliver up unto the City the Premises in a good state of repair, unencumbered, vacant and in good condition, ordinary wear and tear expected.

In case the Concessionaire fails to vacate the premises upon notice aforesaid of cancellation or at their termination of this contract, City shall not be responsible for any damage that might occur to Concessionaire by virtue of City's forcible entering and dispossessing concessionaire and without prejudice to any remedies which might otherwise be used for possession or for arrears of payment.

XV
Lien

Concessionaire hereby gives to City a lien upon all of concessionaire's property now or at any time hereafter placed in our upon the Premises to secure the prompt payment of the payments herein stipulated to be paid for the use of such Premises and the concession operation, all exemption of such property or any of it being hereby waived. In the event of default by Concessionaire, City is authorized to seize and hold all of the property belonging to Concessionaire on the Premises to secure such performance, to sell same at public or private sale, and to pay all amount due to City hereunder, holding the remaining balance subject to Concessionaire's order. A copy of this contract shall be the only warrant required. Concessionaire covenants and agrees that it will have no power to do any act or make any contract that creates any lien upon City property; and upon such purported lien being created or filed of record, Concessionaire, at its sole cost and expense, shall liquidate and discharge same immediately.

XVI
Applicable Laws

This contract is entered into subject to the charter and ordinances of City, as they may be amended from time to time, and is subject to and is to be constructed, governed and enforced under all applicable State of Texas and federal laws. Situs for the Contract is agreed to be Tarrant County, Texas, for all purposes, including performances and execution.

Concessionaire shall obtain and keep in effect at its own cost and expense all licenses and permits necessary for its operation hereunder.

XVII
Insurance

Concessionaire shall, at his or her own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. Concessionaire shall not commence work under this Contract until it has obtained all insurance required under the Contract and such insurance has been approved by City, nor shall Concessionaire allow any subcontractor to commence work on his/her subcontractor until all similar insurance of the subcontractor has been obtained and approved.

Contractor shall maintain the minimum insurance requirements as follows:

1. Commercial General Liability: \$500,000 combined single limit per occurrence for bodily injury, personal injury and property damage. This policy shall have no coverage removed by exclusions.

2. Worker's Compensation and Employers' Liability: statutory as required by law. Employers' Liability policy limits of \$100,000 for each accident, \$100,000 disease-each employee, \$500,000 disease-policy limit.

It is agreed by all parties to this Contract that the insurance required under this Contract shall:

1. Name the City as an additional insured on the Commercial General Liability Insurance policy. This insurance policy shall contain the appropriate additional insured endorsement signed by a person authorized by that insurer to bind coverage on its behalf.
2. Be endorse to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to City.
3. Be place with insurers with a best rating of no less that A:VII. The company must also be duly authorized to transact business in the State of Texas.
4. Waive all rights of subrogation against the City, it's officials, officers and employees for losses arising from the activities under this Contract.
5. Be written on an occurrence basis.
6. Be underwritten by contractual liability coverage sufficient to include all provisions of the contract concerning liability, duty and standards of care, together with the indemnification provision, within applicable policies.

It is further agreed that:

1. Companies issuing the insurance policies and Concessionaire shall have no recourse against City for any payment of any premiums or assessments for any deductible, as all such premiums and deductibles are the sole responsibility and risk of Concessionaire.
2. Certificate of Insurance and endorsements effecting coverages required by this section be forwarded to:

City Manager
City of Keller
PO Box 770
Keller, TX 76244

XVIII Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XIX Waiver of Liability and Indemnification

Concessionaire does hereby agree to waive all claims, release, indemnify, defend and hold harmless City and all of its officials, officers, agents and employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorney's fees including all expenses of litigation or settlement or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this contract occasioned by error, omission, or negligent act (whether said negligent act is characterized as sole, concurrent, contractual comparative, gross, joint, active, passive or any other form of negligence) of Concessionaire, its officers, agents, employees, invitees or any other persons, with regard to the performance of this Contract, and Concessionaire will at its own cost and expense defend and protect City against any and all such claims and demands.

Concessionaire agrees to and shall indemnify, defend and hold harmless City and all of its officials, officers, agents and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind including all expenses of litigation, court costs and attorney fees for death or injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with the performance of this contract. Such indemnity shall apply whether the claims, losses, damages, causes of action, suits or liability arise in whole or in part from the negligence of City, its officers, officials, agents or employees. It is the express intention of the parties hereto, both Concessionaire and City, that the indemnity provided for in this paragraph is indemnity by Concessionaire to indemnify and protect City from the consequences of City's own negligence, whether that negligence is the sole or concurring cause of the injury, death, or damage, and whether that negligence is characterized as sole, concurrent, contractual comparative, gross, joint, active, passive or any other form of negligence.

XX
Independent Contractor

Concessionaire covenants and agrees that he/she is an independent contractor and not an officer, agent, servant or employee of City; that concessionaire shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Concessionaire, its officer, agents, employees, contractor, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Concessionaire.

XXI
Successors and Assigns

City and Concessionaire will each bind themselves, their successor, executors, administrators and assigns to the other party to this Contract. Concessionaire will not assign, sublet, subcontract or transfer any interest in this Contract without the written consent of City. Not assignment, delegation of duties or subcontract under this Contract will be effective without the written consent of City.

XXII
Equal Employment Opportunity

Contractor shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, disability, ancestry, national origin or place of birth. Contractor shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, disability, ancestry, national origin or place of birth.

No person, firm, corporation, organization, association, league, or group shall be denied use of or access to the Premises or concession operation because of race, sex, color, religion, national origin or disability.

XXIII
Venue

The parties to this contract agree and covenant that this Contract will be enforceable in Keller, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Tarrant County, Texas.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first written above.

City of Keller, Texas

Concessionaire

BY _____
Mark R. Hafner
City Manager

BY _____
Signature

Printed Name

Printed Title