SW/vv
12/03/15
Item #24

AN ORDINANCE 2015-12-03-1026

AUTHORIZING A LICENSE AGREEMENT WITH SPORTI FOR SOCCER FIELDS AT PEARSALL PARK LOCATED IN COUNCIL DISTRICT 4 FOR A TERM OF THREE YEARS WITH TWO ONE-YEAR RENEWALS; NO CITY FUNDS ARE ASSOCIATED WITH THIS ACTION.

* * * * *

WHEREAS, Pearsall Park was dedicated as parkland in 1999 and sits upon a former landfill; and

WHEREAS, since then through land acquisitions, the park has grown to 500 acres and is currently under construction as part of the voter approved 2012 Bond; and

WHEREAS, through the Bond, $7.5 million was appropriated for improvements to Pearsall Park consistent with the park's master plan and input from the community which includes amenities such as Family Fun and Fitness Challenge Zones, pavilions, a new playground facility, splash-pad, and skate-park; and

WHEREAS, this transformation of Pearsall Park into the next regional destination will be complete in the summer of 2016; and

WHEREAS, concurrent to implementation of the Pearsall Park 2012 Bond project, the City was contacted by the Free Trade Alliance on behalf of a member in their International Business Development Center, SPORTi, a for profit company; and

WHEREAS, SPORTi has a soccer model whose mission is one of social responsibility to educate people in sports as a habit for the integral development of families in a safe, healthy, and fun environment; and

WHEREAS, SPORTi submitted a development concept to the Parks and Recreation Department focused on the use of existing soccer fields at the park since improvements to these amenities were not being addressed through the 2012 Bond; and

WHEREAS, at no cost to the City, the concept plan will add lighting and irrigation improvements to the soccer fields and other onsite amenities such as spectator seating in order to program and activate this immediate area of the park; and

WHEREAS, proposed programming by SPORTi will serve males and females, youth and adults, and special needs participants on a weekly basis; and

WHEREAS, the proposed agreement with SPORTi will license the existing soccer fields allowing for the improvements and programming of the premises; and

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WHEREAS, SPORTi will be solely responsible for all operational, maintenance, and improvement costs of the premises, which will be available to the public when not in use by SPORTi for its own activities; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee, or the Director of the Parks and Recreation Department or his designee, is authorized to negotiate and execute a license agreement with SPORTi for soccer fields at Pearsall Park located in Council District 4 for a term of three (3) years with two one-year (1) renewals. A copy of the license agreement, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I.**

SECTION 2. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 3. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 3rd day of December, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

for Martha G. Sepeda, Acting City Attorney

Agenda Item:	**24**
Date:	12/03/2015
Time:	10:20:55 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing a license agreement with SPORTi for soccer fields at Pearsall Park located in Council District 4 for a term of three years with two one-year renewals; no City funds are associated with this action. [María D. Villagómez, Assistant City Manager; Xavier D. Urrutia, Director, Parks & Recreation]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				x
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9	x					
Michael Gallagher	District 10		x				

SPORTS LICENSE AGREEMENT
(Name of Organization)

This Sports License Agreement (the "Agreement") is made and entered into as of the _____ day of _____, 20__, by and between the CITY OF SAN ANTONIO, a Texas municipal corporation, acting by and through its City Manager or her designee, pursuant to Ordinance No. _____, dated _____, 20__ ("City"), and ***(name of League*** , a Texas non-profit corporation ("League");

PREAMBLE

The City licenses park property to Leagues that operate under nationally organized sports groups. Leagues are granted priority use of the park property and City waives fees that are normally charged to reserve sports fields. In exchange, Leagues agree to maintain the Premises in a condition that meets or exceeds the requirements of this License Agreement at all times. Leagues are permitted to sell concessions and establish fees to help offset the cost of maintaining their licensed areas.

1. WITNESSETH:

1.1 WHEREAS, City desires to maintain its fields in the best condition possible while at the same time conserving its resources; and

1.2 WHEREAS, League is a 501(c)(3) non-profit and covenants and agrees to maintain such status throughout the term of this Agreement; and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, for and in consideration of the mutual benefits to City and League and the observance of the terms and conditions set forth hereinafter, the parties hereto agree to the following:

2. USE OF PREMISES BY LEAGUE

2.1 For so long as League maintains its non-profit and 501(c)(3) status and operates a nationally organized sports League, City, for and in consideration of the mutual benefits to City and League and the observance of the terms and conditions set forth in this Agreement, grants to League permission to enter and use, without payment of City's established field use fee, the Premises described in EXHIBIT A in _____ Park each year during the term of this Agreement for the period of ***(insert months of use here; if full year, should be the 12 months following the commencement date)*** ("Program Period").

2.2 League shall have priority use of the Premises which shall be occupied by League for recreational purposes including but not necessarily limited to organized athletic team activities and food and beverage concessions. At those times during which League is not utilizing the Premises, with the exception of any building(s) containing League equipment and League-operated concession stand(s), the Premises shall be open to the general public for park and recreation purposes.

2.3 League agrees that its members and any other individuals under its control shall abide by, conform to and comply with all applicable municipal, state and federal laws, ordinances, rules and regulations and that it will not do or permit to be done anything in violation hereof. If the

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attention of League is called to any such violation, League or those under its control will immediately desist from and correct such violation.

2.4 League acknowledges and agrees that it has been informed that it has obligations to the general public under the terms of the Americans with Disability Act of 1990 as codified In 42 U.S.C. § 12101(a)(1) and (2) and as amended from time to time. League covenants and agrees that it will comply with all the terms and obligations, and, as part of its indemnification of the City, indemnify, hold harmless and defend City from all claims which might arise from League's activities under this Agreement.

2.5 League is authorized to establish fees and charges for its membership and admission fees to games, and to collect and retain such fees and charges to defray its operating expenses and the costs of its assigned obligations and duties. League shall not charge or attempt to charge any general public user of the Premises. The above notwithstanding, League may allow short term use of the Premises by other amateur youth sports groups and policies and fees associated with the use of the Premises by other groups will be consistently and fairly applied to all other users. These use fees ("Use Fees") shall be reasonable and customary and the Use Fees will be used by League to offset the cost of operation and maintenance of the Premises. League shall be fully responsible for all maintenance obligations outlined in this Agreement and shall not transfer or assign any maintenance obligations to short term users of the Premises. League will remain at all times during the term of this Agreement the primary user of the Premises and no short term use by one or more other users may result in League not being the user the majority of the time.

3. TERM OF AGREEMENT

3.1 The term of this Agreement is _____ *(__) years*, beginning on _____ 1, 20__, ("Commencement Date"), and expiring on _____ __, 20__, if not earlier terminated according to the terms of this Agreement.

4. ACCEPTANCE AND CONDITIONS OF PREMISES

4.1 League has had sufficient time and opportunity to examine the Premises and acknowledges that there is in and about them nothing dangerous to life, limb, or health and hereby waives any claim for damages that may arise from defects of that character after occupancy. League's taking possession of the Premises shall be conclusive evidence of League's acceptance of the Premises in good satisfactory order in its present condition AS IS, WHERE IS AND WITH ALL FAULTS as suitable for the purpose for which licensed. City specifically disclaims any warranty of suitability for intended purposes of League.

4.2 League agrees that no representations respecting the condition of the Premises and no promises to decorate, alter, repair, or improve the Premises, either before or after the execution, have been made by City or its agents to League unless the same are contained herein.

5. LEAGUE'S MAINTENANCE OBLIGATIONS AND DUTIES

5.1 General Maintenance: Each year during the term of this Agreement, League shall, at its sole expense provide all manpower, supplies and materials for the purpose of providing year round (***Note: for use period of less than a full year, "year round" will be modified to state period***) maintenance to the Premises in no event less than the quality of maintenance service demonstrated in other City-owned fields and related amenities. In addition to the other

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obligations of League, League shall render the following services and perform the following duties with regard to its maintenance of all portions of the Premises, in a faithful, diligent, and efficient manner:

5.1.1 Maintain all sports fields at or better than an acceptable standard for play, including watering, mowing, trimming, seeding, leveling, and fertilizing;

5.1.2 Maintain all areas within the Premises other than sports fields, including mowing and trimming in a frequency necessary to maintain the area in an attractive manner. Vegetation must be mowed and trimmed at the fence line.

5.1.3 Trash pickup and removal service in a frequency sufficient to keep the Premises free from litter and debris;

5.1.4 Provide pest control services as frequently as needed;

5.1.5 Keep all areas within the Premises free of graffiti.

5.1.6 Maintain all improvements and structures, including concession buildings, restrooms, bleachers, parking lots, utility connections, lighting that benefits the Premises, and other structures in good condition, and repair as needed (if applicable);

5.1.7 Maintain and replace, as needed, the irrigation piping and sprinkler heads within the Premises (if applicable);

5.1.8 Provide such other maintenance tasks and chores as may be required to sustain the Premises in good, clean, well maintained and attractive condition.

5.2 League shall promptly repair any damage to the Premises. Notwithstanding any contrary provisions, should the Premises be damaged by fire, tornado or other casualty, City shall be under no obligation to rebuild or repair the Premises.

5.3 As the maintenance of the Premises in good condition is the primary consideration of this Agreement, City may elect to make frequent inspections of the Premises to evaluate the effectiveness and consistency of League's maintenance program. Failure to provide the required maintenance, as outlined in this Section, may result in the termination of this Agreement.

5.4 No parking is allowed in any area other than the designated parking areas. (***Modify to reflect correct language for specific League)*** Parking on the fields is strictly prohibited and will be seen as a violation of this License Agreement and subject to default.

5.5 League shall use reasonable efforts to recycle materials such as plastic bottles and aluminum cans used during its use of the Premises and concession operation. League agrees to comply with any recycling programs established and implemented during the term of this Agreement by City for the Park where the Premises are located.

5.6 League shall not plant or remove any trees without the prior written approval of City and any approved removals must be in compliance with all applicable laws and ordinances.

6. UTILITIES

6.1 ***If City pays for field lights, insert language here***

6.2 League may utilize existing irrigation equipment within the Premises for purposes of irrigation and use of this equipment will obligate League to maintain the lines and sprinkler heads, as outlined in 5.1.7 above. It is the intent of City that irrigation, whether by an irrigation system or other means, occurs in a manner, amount and frequency that is consistent with efforts to conserve

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water resources. City has the right to establish, implement and modify irrigation policies and practices during the term of this Agreement. If City elects to allow League to control any irrigation system, League agrees to do so in compliance with City's irrigation policies and practices. City shall pay for the cost of water associated with irrigation so long as City irrigation policies and practices are adhered to by League.

6.2.1 League must comply at all times with the City's Conservation Ordinance, including year round restrictions, drought restrictions, and charity car wash restrictions. In the event fines or penalties are imposed for non-compliance with the City's Conservation Ordinance or any watering restrictions due to the actions of League, League shall be responsible for the payment of those fines or penalties. League shall coordinate and request through City any irrigation variances of the Conservation Ordinance.

7. CONCESSIONS

7.1 League shall have the right to operate concessions for the sale of food, non-alcoholic beverages, and similar consumable items within the Premises. League shall have the exclusive use of any concession stand(s) within the Premises as well as stocks of items supplied by League. No fee for the right to operate concessions shall be payable to City; provided however, that all profits generated from the concession program ("Concession Revenue") shall be applied to the operation and maintenance of League. League shall obtain and maintain at its sole expense, all permits or licenses required for its concession operations.

7.2 League's concessions rights shall not apply during general public use of the Premises as may occur pursuant to paragraph 2.3.

7.3 The above notwithstanding, League acknowledges that licensed mobile vendors have the right to offer for sale prepared and packaged food items and soft drinks in public parks, parking areas and streets.

8. IMPROVEMENTS

8.1. League may, subject to having first obtained the written approval of the Director, install and/or construct facilities and improvements within the Premises suitable for team activities; said facilities and improvements to include, but not necessarily be limited to fields, concession stands, utilities, fencing, and parking areas. During any period of construction or installation, League, its members, employees, agents, and Leagues shall ensure that the performance of the construction or installation does not cause or result in damage to City property or adjoining property.

8.2. League shall present, for review and written approval, all designs, plans, and specifications to the Director of Parks and Recreation ("Director") and applicable City boards prior to commencing any construction or installation upon the Premises. All costs for design and construction and related activities shall be borne solely by League. City reserves the right to enter the Premises at any time to inspect construction in progress and/or to determine the condition of field and facilities so as to insure League's compliance with this Agreement.

8.3. League agrees that it shall obtain at their cost any and all plans approvals, necessary permits, and clearances relative to its improvements from appropriate local, state, and federal regulatory agencies, including FAA, if applicable. A copy of all permits or clearances shall be provided to

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the Director prior to the start of any construction, upon request by City. League covenants that it shall not bind, or attempt to bind, City for payment of any money in connection with any construction authorized hereunder and that it will fully indemnify and hold harmless the City against any and all claims, liens, suits, or actions asserted on account of labor, materials, or services furnished to League during the performance of any said construction and against any claim for injury to person or property.

8.4. Any improvements installed by League which can be removed without damage to the Premises may be removed at the sole expense of League at the termination of this Agreement without payment being made by City. If the improvements are not removable without damage to the Premises, then the improvements will become the property of the City. Temporary structures, if present, shall be removed from the Premises at the sole expense of League at the termination of this Agreement without payment being made by City. In the event that League removes temporary structure(s) prior to the termination of this Agreement, the underlying property may, at the election of the City, become excluded from the licensed Premises.

9. DEFAULTS AND TERMINATION RIGHTS

9.1 Default by League: Any of the following events shall constitute default by League under this Agreement:

9.1.1 League shall fail to maintain its non-profit or 501(c)(3) status and operate a nationally organized sports League; or

9.1.2 League shall fail to keep, observe, or perform any material covenant, agreement, term, or provision of this Agreement to be kept, observed, or performed by League, and such default shall continue for a period of ten (10) days after notice by City to League, or if such default cannot be cured within ten (10) days, then such additional period as shall be reasonable provided that League has commenced to cure such default.

9.2 Remedies of City: Upon the occurrence of an event of default by League as specified in this Agreement, City shall be entitled to terminate this Agreement. After such termination, League shall have no further rights to access the Premises, shall immediately cease all activities thereon and City shall have no further obligation under the terms of this Agreement.

9.3 Default by City: City shall be in default under this Agreement if City fails to keep, observe, or perform any material covenant, agreement, term, or provision of this Agreement to be kept, observed, or performed by City, and such default shall continue for a period of thirty (30) days after notice thereof by League to City, or if such default cannot be cured within thirty (30) days, then such additional period as shall be reasonably provided that City has commenced to cure such default.

9.4 Remedies of League: Upon the occurrence of an event of default as specified in this Agreement hereof, League shall be entitled to terminate this Agreement and shall have such other rights at law or equity to which it may be entitled.

9.5 Either City or League, with or without cause, may cancel this Agreement by giving six (6) months written notice thereof to the other party.

10. INDEMNIFICATION

10.1 League covenant and agree to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and

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representatives of the City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to League's activities under this Agreement, including any acts or omissions of League, any agent, officer, director, representative, or employee, of League, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, it's officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT LEAGUE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

10.2 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. League shall advise the City in writing within 24 hours of any claim or demand against the City or League known to League related to or arising out of League's activities under this Agreement and shall see to the investigation and defense of such claim or demand at League's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving League of any of its obligations under this paragraph.

11. INSURANCE REQUIREMENTS

11.1 Prior to the commencement of any work under this Agreement, League shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Parks and Department, which shall be clearly labeled "*insert name of project/contract*" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Parks and Recreation Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

11.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

11.3 A League's financial integrity is of interest to the City; therefore, subject to League's right to maintain reasonable deductibles in such amounts as are approved by the City, League shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension

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hereof, at League's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory $500,000/$500,000/$500,000
3. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations *b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability f. Sexual Abuse/Molestation g. Damage to property rented by you	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage g. $100,000
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicle c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence
5. Property Insurance: For physical damage to the property of LESSEE, including improvements and betterment to the Leased Premises	Coverage for replacement value with a minimum co-insurance factor of eighty percent (80%) of the cost of Contractor's property

12.4 League agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of League herein, and provide a certificate of insurance and endorsement that names the League and the CITY as additional insureds. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become

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a part of the contract for all purposes.

12.5 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). League shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. League shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: Parks and Department – Contract Services Division
P.O. Box 839966
San Antonio, Texas 78283-3966

12.6 League agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

12.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, League shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend League's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

12.8 In addition to any other remedies the City may have upon League's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order League to stop work hereunder, and/or withhold any payment(s) which become due to League hereunder until League demonstrates compliance with the requirements hereof.

12.9 Nothing herein contained shall be construed as limiting in any way the extent to which League may be held responsible for payments of damages to persons or property resulting from League's or its subcontractors' performance of the work covered under this Agreement.

12.10 It is agreed that League's insurance shall be deemed primary and non-contributory with respect

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to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

12.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

12.12 League and any Subcontractors are responsible for all damage to their own equipment and/or property.

12. REPORTS

12.1 On or before _____ ***(insert date)*** each year, League must provide to City the number of participants and their ages for the League's previous Program Period.

12.2 League is obligated to inform City within fifteen (15) days of a change in the following:

12.2.1 Changes in officers of the League: the name, position, and contact information must be provided.

12.2.2 Amendments to League's constitution, by-laws, and/or articles of incorporation: copies of the amended documents must be provided to City along with the notification.

12.3 If requested by City, League will provide all or a portion of the following information within fifteen (15) days after receipt of written request from City.

12.3.1 Starting and ending date of League activity;

12.3.2 Description of tournaments and special events;

12.3.3 Description and value of the physical improvements placed on the Premises and/or any planned physical improvements;

12.3.4 Gross receipts from each of the following: a) Concession Revenue, as defined in 7.1, b) Use Fees, as defined in 2.7, c) advertising, d) cash donations, and all other sources of League revenue. League shall track Concession Revenue and Use Fees separately from other revenue sources.

12.3.5 An accounting of the expenditure of all Concession Revenue and Use Fees for operational and maintenance costs of League. League shall track the expenditure of Concession Revenue and Use Fees separately in order to ensure that they are expended only for operational and maintenance expenses of League.

13. SIGNS

13.1 League hereby agrees not to install or display any permanent sign(s) upon the Premises without the prior written approval to install or display said sign(s) by the City through the Director. Temporary signs used for sponsorship recognition may be installed from time to time within the Premises without sign approval by the City as long as standard design of the sign has been approved in advance. For purposes of this agreement, temporary signs shall be defined as any sign or banner that is placed on the Premises before the game begins, and removed at the conclusion of the game. Signs which advertise businesses, sponsors, products, services, logos, or non-League events must be installed facing inward toward the field(s). League agrees it will not

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install any signs that advertise or promote any political campaigns or religious affiliations, alcohol use, tobacco use or sexually oriented businesses or any other matter inappropriate for a youth sports League. League further agrees to comply with such design criteria as may be established and amended from time to time by duly authorized City authority and to comply with established sign review procedures for proposed new signs. In order to ensure public safety, certain sign installations, especially signs that require a pole with concrete, may require the use of a licensed and bonded sign contractor.

14. ASSIGNMENT

14.1 This Agreement is personal to League. It is non-assignable, and any attempt to assign this Agreement will terminate all privileges granted to League.

15. RELATIONSHIP OF PARTIES

15.1 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between parties hereto. It is understood and agreed that no provision contained in this Agreement nor any acts of the parties create a relationship other than the relationship of Licensor and Licensee.

16. CONFLICT OF INTEREST

16.1 League acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined therein, from having a financial interest in any contract with the City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, material, supplies, or services, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee, or his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market values of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

17. SEPARABILITY

17.1 The parties agree that if any clause or provision of this Agreement is determined to be illegal, invalid or unenforceable under any present or future federal, state, or local law, including, but not limited to, the City Charter, City Code, or City ordinances of the City of San Antonio, Texas, effective during the term of this Agreement, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

18. NOTICES

18.1 Notices to City required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered or mailed, registered or certified mail, postage prepaid, addressed to:

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City of San Antonio
Parks and Recreation Dept
Contract Services Division
P.O. Box 839966
San Antonio, Texas 78283-3966

or to such other address as may have been designated in writing by City from time to time. Notices to League shall be deemed sufficient if in writing and hand delivered or mailed, registered or certified mail, postage prepaid, addressed to League at:

_____, President
Organization
Address
San Antonio, Texas 782__

19. TEXAS LAW TO APPLY

19.1 **THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

20. GENDER

20.1 Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

21. NON-DISCRIMINATION

21.1 League covenants that it, or its agents, employees or anyone under its control, will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin, or handicap, in employment practices or in the use of or admission to the Premises, which said discrimination League acknowledges is prohibited.

22. CAPTIONS

22.1 The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.

23. HOLDING OVER

23.1 . League shall have no right to hold over after the end of the term of this License Agreement.

24. ENTIRE AGREEMENT/AMENDMENT

24.1 This Agreement, together with its attached exhibits and the authorizing ordinance, in writing, constitutes the entire Agreement between the parties, any other written or parole agreement with City being expressly waived by League.

24.2 No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties.

24.3 It is understood that the Charter of the City requires that all contracts with the City be in writing and adopted by ordinance. All amendments also need approval evidenced by an ordinance.

25. AUTHORITY

DRAFT

25.1 The signer of this License Agreement for League hereby represents and warrants that he or she has full authority to execute this Agreement on behalf of League.

IN WITNESS WHEREOF, we have affirmed our signatures this ___day of _____20__.

CITY:

CITY OF SAN ANTONIO, a Texas Municipal Corporation

_____

Sheryl Sculley

City Manager

ATTEST:

_____

City Clerk

LEAGUE:

a Texas Non-profit Corporation

By:_____

Title:_____

APPROVED AS TO FORM: _____, City Attorney

DRAFT